

Announcer: Yes we are! New Exxon 93 Supreme keeps your engine cleaner.
Woman #2: Clean is good.
Announcer: So it can help drive down maintenance costs.
Man #2: Could gas do that?
Announcer: New Exxon 93 Supreme can, with the power to drive down maintenance costs.
Woman #2: Gas that can save you money.
Announcer: For more reliable performance.
Woman #3: Okay, I'll try it.

[Exhibit A. Television Advertisement]

B. Announcer: There's a new gasoline. . .
Man: What's new about it?
Announcer: With the power to drive down maintenance costs.
[Video: Flashing display of consecutive words in large bold type across width of screen: WITH THE POWER TO DRIVE DOWN MAINTENANCE COSTS]
Man #2: Really?
Woman: Are you serious?
Announcer: Yes we are! New Exxon gasoline keeps your engine cleaner.
Woman #2: Clean is good.
Announcer: So it can help drive down maintenance costs.
Man #2: Could gas do that?
Announcer: New Exxon gasoline can, with the power to drive down maintenance costs.
Woman #2: Gas that can save you money.
Announcer: For more reliable performance.
Woman #3: Okay, I'll try it.

[Exhibit B. Television Advertisement]

C. Announcer: There's a hard-working gasoline. . .
Man: You sure about this?
Announcer: With the power to drive down maintenance costs.
[Video: Flashing display of consecutive words in large bold type across width of screen: WITH THE POWER TO DRIVE DOWN MAINTENANCE COSTS]
Man: Really?
Woman: Are you serious?
Announcer: Yes we are. Exxon gasoline keeps your engine cleaner.
Woman: Clean is good.

Announcer: So it can help drive down maintenance costs.
Man: Can gas do that?
Announcer: Exxon gasoline can, with the power to drive down maintenance costs.
Woman: Good idea.
Announcer: And so is this. Cash and credit prices are the same.
Woman: Okay, I'll try it.

[Exhibit C. Television Advertisement]

D. Announcer: There's a hard-working gasoline. . .
 Man: You kiddin' me?
 Announcer: With the power to drive down maintenance costs.
 Man: Really?
 Woman: Are you serious?
 Announcer: Yes, we are. Exxon 93 Supreme gasoline keeps your engine cleaner.
 Woman: Clean is good.
 Announcer: So it can help drive down maintenance costs.
 Man: Could gas do that?
 Announcer: Exxon 93 Supreme can. With the power to drive down maintenance costs.
 Woman: Gas that can save you money.
 Announcer: For more reliable performance.
 Woman: Ok, I'll try it.

[Exhibit D. Radio Advertisement]

E. Announcer: There's a hard working gasoline. . .
 Man: You sure about this?
 Announcer: With the power to drive down maintenance costs.
 Man: Really?
 Woman: Are you serious?
 Announcer: Yes, we are. Exxon gasoline keeps your engine cleaner.
 Woman: Clean is good.
 Announcer: So it can help drive down maintenance costs.
 Man: Could gas do that?
 Announcer: Exxon gasoline can. With the power to drive down maintenance costs.
 Woman: Gas that can save you money.
 Announcer: For more reliable performance.
 Woman: Ok, I'll try it.

[Exhibit E. Radio Advertisement]

5. Through the means described in Paragraph 4, including but not necessarily limited to Exhibits A and D, respondent has represented, expressly or by implication, that:

- A. Switching to Exxon 93 Supreme gasoline from other brands of gasoline will significantly reduce automobile maintenance costs for consumers generally; and
- B. Switching to Exxon 93 Supreme gasoline from lower octane grades of Exxon gasoline will significantly reduce automobile maintenance costs for consumers generally.

6. Through the means described in Paragraph 4, including but not necessarily limited to Exhibits B, C and E, respondent has represented, expressly or by implication, that switching to Exxon gasolines from other brands of gasoline will significantly reduce automobile maintenance costs for consumers generally.

7. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraphs 5 and 6, at the time the representations were made.

8. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraphs 5 and 6, at the time the representations were made. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 (a) of the Federal Trade Commission Act.

NOTICE

Notice is hereby given to the respondent hereinbefore named that the seventh day of November, 1996, at 10:00 a.m. o'clock, or such later date as determined by an Administrative Law Judge of the Federal Trade Commission, is hereby fixed as the time and the Federal Trade Commission Offices, 6th Street & Pennsylvania Avenue, N.W., Room 532, Washington, D.C., 20580, as the place when and where a hearing will be had before an Administrative Law Judge, on the charges set forth in this complaint, at which time and place you will have the right under said Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in the complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the thirtieth (30th) day after service of it upon you. An answer in which the allegations of this complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the Administrative Law Judge shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. In such answer you may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and shall authorize the Administrative Law Judge, without further notice to you, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from the record developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the public, the Commission may order such other relief as it finds necessary or appropriate.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. “Competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
2. Unless otherwise specified, “respondent” shall mean Exxon Corporation, its successors and assigns, and its officers, agents, representatives and employees.
3. “In or affecting commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of Exxon Supreme 93 octane gasoline, Exxon Plus 89 gasoline, Exxon Regular 87 octane gasoline or any other gasoline in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, that:

- A. Switching to Exxon 93 Supreme gasoline from other brands of gasoline will significantly reduce automobile maintenance costs for consumers generally;
- B. Switching to Exxon 93 Supreme gasoline from lower octane grades of Exxon gasoline will significantly reduce automobile maintenance costs for consumers generally;
- C. Switching to any Exxon gasoline from any other brand of gasoline will significantly reduce automobile maintenance costs for consumers generally; or
- D. Concerns the relative or absolute attributes of any gasoline with respect to engine performance, power, acceleration, or engine cleaning ability,

unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Provided that, nothing in this order shall prohibit respondent from truthfully representing the numerical octane rating of any gasoline.

II.

IT IS FURTHER ORDERED that respondent Exxon Corporation, and its successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

III.

IT IS FURTHER ORDERED that respondent Exxon Corporation, and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent Exxon Corporation, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less

than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

V.

IT IS FURTHER ORDERED that respondent Exxon Corporation, and its successors and assigns, shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

VI.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this Order that terminates in less than twenty (20) years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IN WITNESS WHEREOF, the Federal Trade Commission has caused its complaint to be signed by its Secretary and its official seal to be hereto affixed at Washington, D. C. this eleventh day of September, 1996.

By the Commission, Commissioner Starek recused.

Donald S. Clark
Secretary

SEAL

[Exhibits A-E attached to paper copies, but not available in electronic format.]