

# FEDERAL TRADE COMMISSION DECISIONS

## Findings, Opinions and Orders

IN THE MATTER OF

TOMY CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-3080. Complaint, Jan. 6, 1982—Decision, Jan. 6, 1982*

This consent order requires a Carson, California corporation, among other things, to cease, in connection with the advertising, distribution and sale of any doll house, accessory, or other toy product, misrepresenting that any collection of products is a set, unless all the products depicted are available for purchase as a set. The firm is prohibited from misrepresenting the availability of any product; describing two or more toys in any advertisement which cannot be purchased as a set, unless accompanied by a disclosure that such products are sold separately; and failing to distribute a copy of the order to all operating divisions, including any entity engaged in the preparation of respondent's advertising.

### *Appearances*

For the Commission: *Judith P. Wilkenfeld* and *Elaine D. Kolish*.

For the respondent: *Aaron Locker* and *Frederick Locker*, New York City.

### COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act any by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Tomy Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 901 E. 233rd St., Carson, California.

PAR. 2. Respondent is now, and has been engaged in the manufacture, packaging, advertising, offering for sale, sale and distribution of toys and related products, including a dollhouse, furniture and accessories, to the public and to distributors and retailers for sale to the public.

PAR. 3. In the course and conduct of its business, respondent now causes, and continues to cause its toy products to be packaged, sold, shipped and distributed from its place of business in the State of California or from the state of manufacture to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained, a substantial course of trade in said products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, respondent has been and is now, in substantial competition in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, with corporations, firms and individuals engaged in the sale and distribution of their respective toy products.

PAR. 5. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of certain television advertisements concerning said products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, which were broadcast by television studios located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said products in or affecting commerce.

PAR. 6. The respondent manufactures and assembles a dollhouse, doll family, furniture and accessories under the label "Smaller Home and Garden Deluxe Set." The Smaller Home and Garden Deluxe Set was advertised nationally. These advertisements implied that the Deluxe Set would be readily available for purchase by consumers at retail stores. In truth and in fact, the Smaller Home and Garden Deluxe Set was not available for purchase in a substantial number of retail stores.

PAR. 7. Typical and illustrative of the respondent's television advertisements for the Smaller Home and Garden Deluxe Set are the statements quoted below. In these advertisements, the exterior of an architecturally modern doll house is shown. The interior of the dollhouse is also shown, room by room. All the rooms shown are furnished. In one representative ad, as the various rooms are displayed, an announcer states:

In the Smaller Home and Garden Deluxe Set, there's a living room that has a toy stereo with tiny make-believe headphones and records, and a cozy bedroom with a roll top desk that rolls. There's also a gourmet kitchen. It's for little decorators with big ideas.

As the exterior of the dollhouse is shown a second announcer concludes the ad, by stating, "Smaller Home and Garden Deluxe Set. All this plus other pieces. You have to put it together. By Tomy."

PAR. 8. Through the use of such advertisements disseminated in various parts of the United States, respondent has represented directly and by implication:

1) That the Smaller Home and Garden Deluxe Set is readily available for purchase by consumers as an actual set which contains the dollhouse and all the furniture and accessories depicted and referenced in the advertisements;

2) That the Smaller Home and Garden dollhouse and furniture and accessories are sold together as depicted and referenced in said advertisements.

PAR. 9. In truth and in fact:

1) The Smaller Home and Garden Deluxe Set is not readily available for purchase by consumers;

2) The Smaller Home and Garden dollhouse as packaged and sold does not contain any of the furniture or accessories depicted or referenced in said advertisements.

Therefore, the advertisements referred to herein are unfair and deceptive.

PAR. 10. The use by respondent of the aforesaid false, misleading and deceptive statements, representations, acts and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the mistaken belief that said statements and representations were, and are, true and complete, and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, as amended.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Tomy Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 901 E. 233rd St., in the City of Carson, State of California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

## ORDER

For purposes of this Order, each of the terms listed below is defined as follows:

1. The term *set* shall mean any collection of products that is available for purchase as a unit by consumers or that may

reasonably be inferred to be available for purchase as a unit by consumers.

2. With regard to television advertising, the term *clearly and conspicuously disclosed* shall mean a disclosure which complies with the following requirements: (a) the disclosure shall be presented simultaneously in both the audio and video portions of the television advertisement; (b) the video portion of the disclosure shall contain letters of sufficient size so that it can be easily seen and read on all television sets, regardless of picture tube size; (c) the video portion of the disclosure shall contain letters of a color or shade that readily contrast with the background, and the background shall consist of only one color or shade; (d) no other sounds, including music, shall occur during the audio portion of the disclosure; (e) the video portion of the disclosure shall appear on the screen for a sufficient duration to enable it to be completely read by the viewer; and (f) the audio and video portions of the disclosure shall immediately follow the specific sales representations to which they relate and shall occur each time the representation is presented during the advertisement; in cases where a disclosure is required, but is not linked to a specific representation, it shall appear in immediate conjunction with the major sales theme of the advertisement. In wording the disclosure the audience to whom the disclosure is directed shall be considered in order to assure that viewers (such as children) can understand the full meaning of the disclosure.

#### I.

*It is ordered,* That respondent Tomy Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any dollhouse, furniture, accessories or other toy products in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or by implication:

A) Representing, in any manner, that any collection of products is a set, if any product in the collection is not included in a set available for purchase by consumers;

B) Depicting or describing in any advertisement, or other printed material disseminated to consumers, two or more non-identical products which are not available for purchase by consumers as a set, unless respondent clearly and conspicuously discloses that the products must be purchased separately;

C) Representing, in any manner, that a product or set is generally or widely available for purchase by consumers in any market area, if the product or set is not substantially available in that market area; *provided, however*, in those instances in which the product or set is not substantially available in that market area, respondent shall be permitted to advertise that the product is available on a limited basis, if the advertisement clearly and conspicuously discloses that the product or set is only available on a limited basis.

## II.

*It is further ordered*, That respondent shall maintain written records and retain:

A) All materials that were relied upon or utilized in making any representation in advertisements, sales materials, promotional materials or post-purchase materials concerning the availability of any dollhouse, furniture and accessories or other toy product;

B) All material relating to the distribution of advertisements, sales materials, promotional materials or post-purchase materials for the above named products;

C) All material relating to the distribution of the above named products.

Such records and materials shall be retained by respondent for a period of at least three years from the date such advertising, sales materials, promotional materials, or post-purchase materials are last disseminated. Such records may be inspected by staff of the Commission upon reasonable notice.

## III.

*It is further ordered*, That respondent shall forthwith distribute a copy of this Order to each of its operating divisions and to any consultant or agency which engages or shall engage in the preparation or dissemination of respondent's advertising.

## IV.

*It is further ordered*, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

## V.

*It is further ordered,* That respondent shall, within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

## IN THE MATTER OF

## KELLOGG COMPANY, ET AL.

DISMISSAL ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket 8883. Complaint, April 26, 1972—Dismissal Order, Jan. 15, 1982*

This order vacates in its entirety, the September 1, 1981 Initial Decision and dismisses with prejudice the Commission's April 26, 1972 complaint which charged three cereal manufacturers with engaging in practices having the effect of maintaining a highly concentrated noncompetitive market structure in the production and sale of ready-to-eat cereals.

*Appearances*

For the Commission: *Anthony Low Joseph, David M. Malone, Lawrence B. Berman, Claudia R. Higgins, Louis R. Monacell, Alan J. Friedman and Dennis F. Johnson.*

For the respondents: *Frederick P. Furth, Thomas R. Fahrner, Bruce J. Wecker, Charles P. Wolff, Michael P. Lehmann and George F. Bishop, Furth, Fahrner, Bluemle & Mason, San Francisco, Calif. and Scott R. Campbell, Battle Creek, Mich., in-house counsel, for respondent Kellogg Company. David C. Murchinson, Edward F. Howrey, Ralph J. Savarese, John R. Fornaciari, Margaret M. Zwisler and Frank P. Spinella, Howrey & Simon, Washington, D.C. and Clifford L. Whitehill, Robert J. Fulgency and John F. Finn, Minneapolis, Minn., in-house counsel, for respondent General Mills. Robert MacCrate, James E. Akers, Jeffrey I. Zuckerman, Richard J. Rawson and David Lesser, Sullivan & Cromwell, Washington, D.C., John F. Kovin, Clifford & Warnke, Washington, D.C. and Robert Y. Fox, Peter J. Deluca and Bruce L. Bozeman, White Plains, N.Y., in-house counsel, for respondent General Foods Corporation. Charles Orlove and Joseph M. Jacobs, Jacobs, Burns, Sugarman & Orlove, Chicago, Ill., for intervenor American Federation of Grain Millers, AFL/CIO.*

## COMPLAINT

The Federal Trade Commission has reason to believe that the party respondents named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of Section 5 of the Federal Trade Commission Act (Title 15, U.S.C. 45). Accordingly, the Commission



hereby issues this Complaint stating its charges with respect thereto as follows:

1. Respondents have been and are now engaged in, among other business activities, the manufacture and sale of ready-to-eat (RTE) cereals. RTE cereals are food products made from barley, corn, oats, rice or wheat and various combinations of such grains which are flaked, granulated, puffed, shredded or processed in other ways. RTE cereals are eaten primarily as a breakfast food requiring no cooking or heating preparation by the consumer. [2]

All of the respondents have been engaged in the cereal business for over 40 years, and in the RTE cereal business for over 30 years. Since 1950 respondents have consistently accounted for over 84 percent of the sales of RTE cereals.

2. A. Respondent Kellogg Company (Kellogg) was founded in 1906. It is a corporation organized and doing business under the laws of the State of Delaware, with its principal office and place of business located at 235 Porter St., Battle Creek, Michigan. Kellogg manufactures and sells, among other things, RTE cereals, tea, soup, gelatin, and pudding.

In 1970 Kellogg had assets of \$347 million and sales of \$614 million. In 1970 Kellogg ranked 191st in sales among the nation's 500 largest industrial corporations.

In 1969 Kellogg's domestic sales of RTE cereals were \$300 million and advertising expenditures for RTE cereals were over \$36 million. Kellogg is the largest producer of RTE cereals in the United States.

B. Respondent General Mills, Inc. (General Mills) was incorporated in 1928. It is a corporation organized and doing business under the laws of the State of Delaware with its principal office and place of business located at 9200 Wayzata Boulevard, Minneapolis, Minnesota. General Mills manufactures and sells, among other things, RTE cereals, flour, toys, chemicals, clothes, and jewelry.

In 1970 General Mills had assets over \$665 million, and sales were over \$1 billion. In 1970 General Mills ranked 116th in sales among the nation's 500 largest industrial corporations.

In 1970, General Mills' domestic RTE cereal sales amounted to \$141 million and advertising expenditures for RTE cereals were \$19 million. General Mills is the second largest producer of RTE cereals in the United States. [3]

C. Respondent General Foods Corporation (General Foods) was incorporated in 1922. It is a corporation organized and doing business under the laws of the State of Delaware with its principal office and place of business located at 250 North St., White Plains,

New York. As the nation's largest food manufacturer, General Foods produces and sells, among other things, RTE cereals, coffee, beverages, frozen food, pet foods, and desserts.

In 1970 the total assets of General Foods were over \$1.3 billion and sales were over \$2 billion. In 1970 General Foods ranked 45th in sales among the nation's 500 largest industrial corporations.

In 1970, General Foods' domestic sales of RTE cereals were over \$92 million and advertising expenditures for RTE cereals were over \$9 million. General Foods is the third largest producer of RTE cereals in the United States.

D. Respondent The Quaker Oats Company (Quaker) was incorporated in 1901. It is a corporation organized and doing business under the laws of the State of New Jersey with its principal office and place of business located at Merchandise Mart Plaza, Chicago, Illinois. Quaker manufactures and sells, among other things, RTE cereals, frozen food, cookies, pet foods, and chemicals.

In 1970, Quaker had assets over \$391 million and sales of \$597 million. In 1970 Quaker ranked 195th in sales among the nation's 500 largest industrial corporations.

In 1970 Quaker's domestic sales of RTE cereal were \$56 million. Approximately \$9 million was spent in 1970 to advertise Quaker RTE cereals. Quaker is the fourth largest producer of RTE cereals in the United States.

E. Nabisco, Inc. (Nabisco) is not a respondent herein. It has, however, participated in some of the acts and practices alleged herein and has contributed by acquiescence to the noncompetitive structure of the RTE cereal market, as alleged herein. Nabisco was incorporated in 1898. It is a corporation organized and doing business under the laws of the State of New Jersey with its principal office and place of business located at 425 Park Ave., New York, New York. Nabisco manufactures and sells, among other things, RTE cereals, cookies, candy, and snack foods. [4]

In 1970 Nabisco's total assets were over \$503 million and sales were over \$868 million. In 1970 Nabisco ranked 140th in sales among the nation's 500 largest industrial corporations.

Nabisco's domestic sales of RTE cereals were \$26 million in 1969 and advertising expenditures for RTE cereals were \$3 million. Nabisco is the fifth largest producer of RTE cereal in the United States.

F. Ralston Purina Company (Ralston) is not a respondent herein. It has, however, participated in some of the acts and practices alleged herein and has contributed by acquiescence to the noncompetitive structure of the RTE cereal market, as alleged herein.

Ralston was incorporated in 1894. It is a corporation organized and doing business under the laws of the State of Missouri with its principal office and place of business located at Checkerboard Square, St. Louis, Missouri. Ralston manufactures and sells, among other things, RTE cereals, pet foods, animal feed, snack foods, and frozen food.

In 1970, Ralston's total assets were over \$775 million and sales were over \$1.5 billion. In 1970 Ralston ranked 71st in sales among the nation's 500 largest industrial corporations.

In 1969 Ralston's domestic RTE cereal sales were over \$20 million and advertising expenditures were over \$4 million. Ralston is the sixth largest producer of RTE cereal in the United States.

3. In the course and conduct of their business, respondents now ship, and for some time past have shipped, their RTE cereals from their respective production facilities in various States to locations in various other States of the United States, and maintain and at all times mentioned herein have maintained, a substantial course of trade in RTE cereals in commerce, as "commerce" is defined in the Federal Trade Commission Act.

4. Each of the respondents is in substantial competition with each and all of the other respondents and with other cereal producers in the manufacture and sale of RTE cereals in interstate commerce, except to the extent that competition has been hindered, lessened and eliminated as hereinafter set forth. [5]

5. During the past 30 years the RTE cereal industry has experienced substantial growth. In 1940, 453 million pounds of RTE cereal were produced; 900 million pounds were produced in 1960; and in 1970 over 1 billion pounds of RTE cereal were produced. The value of RTE cereal increased from \$163 million in 1950 to over \$650 million in 1970.

In 1940 respondents' sales accounted for approximately 68 percent of the RTE cereal market; in 1950, for 84 percent, and in 1970, for 90 percent. In 1969 respondents controlled the following approximate shares of the RTE cereal market: Kellogg, 45 percent; General Mills, 21 percent; General Foods, 16 percent; and Quaker, 9 percent. In 1969 Nabisco and Ralston each had an approximate share of four percent of the RTE cereal market.

6. For at least the past 30 years, and continuing to the present, respondents, and each of them, have engaged in acts or have practiced forbearance with respect to the acts of other respondents, the effect of which has been to maintain a highly concentrated, noncompetitive market structure in the production and sale of RTE cereal.

During this period respondents, in maintaining the aforesaid market structure, have been, and are now engaged in, among others, the following acts and practices:

A. *Brand Proliferation, Product Differentiation and Trademark Promotion*

Respondents have introduced to the market a profusion of RTE cereal brands. During the period 1950 through 1970 approximately 150 brands, mostly trademarked, were marketed by respondents. Over half of these brands were introduced after 1960. In introducing and promoting these new brands respondents have employed intensive advertising directed particularly to children. Respondents have used advertising to promote trademarks that conceal the true nature of the product.

Respondents artificially differentiate their RTE cereals. Respondents produce basically similar RTE cereals, and then emphasize and exaggerate trivial variations such as color and shape. Respondents employ trademarks to conceal such basic similarities and to differentiate cereal brands. Respondents also use premiums to induce purchases of RTE cereals. [6]

Respondents have steadily increased the level of advertising expenditures for RTE cereals. During the period 1950 through 1970, respondents' aggregate annual advertising expenditures for RTE cereals tripled from \$26 million to \$81 million. In 1970, respondents' advertising to sales ratio for RTE cereals averaged 13 percent.

These practices of proliferating brands, differentiating similar products and promoting trademarks through intensive advertising result in high barriers to entry into the RTE cereal market.

B. *Unfair Methods of Competition in Advertising and Product Promotion*

(1) By means of statements and representations contained in their advertisements, respondents:

In advertisements aimed at children, represent directly or by implication, that their RTE cereals without any other foods enable children to perform the physical activities represented or implied in their advertisements.

In truth and in fact:

Respondents' RTE cereals do not enable children to perform the physical activities represented or implied in their advertisements. A

child's ability to perform such physical activities depends on many other factors, including but not limited to general body build, exercise, rest, a balanced diet and age.

(2) By means of statements and representations contained in their advertisements respondents Kellogg, General Mills, and General Foods represent, directly or by implication, that consuming RTE cereal at breakfast:

(a) Will result in loss of body weight without vigorous adherence to a reduced calorie diet,

(b) Will result in maintenance of present body weight even if total caloric intake increases, or

(c) Will result in loss or maintenance of body weight without adherence to regular physical exercise. [7]

In truth and in fact:

(a) Consuming RTE cereal at breakfast will not result in loss of body weight without vigorous adherence to a reduced calorie diet.

(b) Consuming RTE cereal at breakfast will not result in maintenance of body weight even if total caloric intake increases.

(c) Consuming RTE cereal at breakfast will not result in loss or maintenance of body weight without adherence to regular physical exercise.

(3) By means of statements and representations contained in their advertisements respondent General Mills and Kellogg:

(a) Represent, directly or by implication, that failure to eat one of their RTE cereals results in the failure of athletes or others to perform to their full capabilities.

(b) Represent, directly or by implication, that the ingestion of one of their RTE cereals by athletes or others enables them to perform better in their respective activities.

In truth and in fact:

(a) Failure to eat one of the RTE cereals of such respondents will not result in the failure of athletes or others to perform to their full capabilities.

(b) The ingestion of one of the RTE cereals of such respondents will not enable athletes or others to perform better in their respective activities.

(4) The use of respondents of the aforesaid unfair methods of competition in advertising and product promotion has the capacity and tendency to mislead consumers, particularly children, into the mistaken belief that respondents' RTE cereals are different from

other RTE cereals, thereby facilitating artificial differentiation and brand proliferation. These unfair methods of competition have contributed to and enhanced respondents' [8]ability to obtain and maintain monopoly prices and to exclude competitors from the manufacture and sale of RTE cereal.

### C. *Control of Shelf Space*

Kellogg is the principal supplier of shelf space services for the RTE cereal sections of retail grocery outlets. Such services include the selection, placement and removal of RTE cereals and allocation of shelf space for RTE cereals to each respondent and to other RTE cereal producers.

Through such services respondents have interfered with and now interfere with the marketing efforts of other producers of RTE and other breakfast cereals and producers of other breakfast foods. Through such services respondents restrict the shelf positions and the number of facings for Nabisco and Ralston RTE cereals, and remove the RTE cereals of small regional producers.

All respondents acquiesce in and benefit from the Kellogg shelf space program which protects and perpetuates their respective market shares through the removal or controlled exposure of other breakfast food products including, but not limited to, RTE cereal products.

### D. *Acquisition of Competitors*

During the past 70 years numerous acquisitions have occurred in the breakfast cereal industry. One of the effects of these acquisitions was the elimination of significant sources of private label RTE cereal. Among them are the following.

In 1943, General Foods acquired Jersey Cereal Company, a Pennsylvania corporation. Before acquisition by General Foods, Jersey Cereal Company was a substantial competitor in the sale of private label and other RTE cereal.

In 1943, Kellogg leased and controlled the manufacturing facilities of Miller Cereal Company, Omaha, Nebraska, a substantial competitor in the sale of private label and other RTE cereal. In 1958, upon termination of the said leasing agreement, Kellogg purchased the assets of Miller. [9]

In 1946, General Foods acquired the RTE manufacturing facilities of Campbell Cereal Company, Minneapolis, Minnesota, a substantial competitor in the sale of RTE cereal. Following this acquisition,

General Foods dismantled the RTE facilities of Campbell and shipped said facilities to South Africa.

The aforesaid acquisitions have enhanced the shared monopoly structure of the RTE cereal industry.

7. Respondents, and each of them, have exercised monopoly power in the RTE cereal market by engaging in the following price and sales promotion practices, among others:

(a) Refrained from challenging each other's decisions to increase prices for RTE cereals, and, in general, acquiesced in or followed the price increases of each of them;

(b) Restricted the use of trade deals and trade-directed promotions for RTE cereals;

(c) Limited the use of consumer-directed promotions for RTE cereals, such as coupons, cents-off deals, and premiums.

8. Respondents' acts and practices aforesaid have had the following effects, among others:

(a) Respondents have, individually and collectively, established and maintained artificially inflated prices for RTE cereals.

(b) Respondents have obtained profits and returns on investment substantially in excess of those that they would have obtained in a competitively structured market.

(c) Product innovation has been largely supplanted by product imitation.

(d) Actual and potential competition in the manufacture and sale of RTE cereals has been hindered, lessened, eliminated and foreclosed. [10]

(e) Significant entry in the RTE cereal market has been blockaded for over thirty years.

(f) Meaningful price competition does not exist in the RTE cereal market.

(g) American consumers have been forced to pay substantially higher prices for RTE cereals than they would have had to pay in a competitively structured market.

9. Through the aforesaid acts and practices:

(a) Respondents individually and in combination have maintained, and now maintain, a highly concentrated, noncompetitive market structure in the production and sale of RTE cereal, in violation of Section 5 of the Federal Trade Commission Act.

(b) Respondents, individually and collectively, have obtained,

