

hours of operation. This provision is not changed by the proposed consent order.

Part II.A of the Commission's order of February 22, 1989, prohibited the dealers from exchanging information or communicating with any other dealer or association concerning hours of operation, except to the extent necessary (i) to comply with any order of the Commission, and (ii) after two (2) years from the date the order becomes final, to incorporate individual dealers' hours of operation in lawful joint advertisements. Part II.A has two exceptions to the two-year prohibition against the inclusion of individual dealers' hours of operation in joint advertising. First, the prohibition would not apply to individual dealers that are legally operated under common control. Second, the prohibition would not apply to joint advertising for special events such as tent sales, mall sales, or annual sales when hours of operation are extended. These provisions are not changed by the proposed consent order.

Part II.B of the Commission's order of February 22, 1989, prohibited the dealers from requesting, recommending, coercing, influencing, inducing, encouraging or persuading any dealer or dealer association to maintain, adopt or adhere to any hours of operation. This provision is not changed by the proposed consent order.

Part III of the Commission's order of February 22, 1989, as modified by the Commission's Order of June 20, 1995, required the dealers to maintain for a period of one year, a minimum of sixty-four hours of operation per week for the sale and lease of motor vehicles, or alternatively, a minimum of an average of ten and a half hours during weekdays plus an additional eight hours on Saturdays. Under the proposed consent order, the term of this requirement is reduced to the period for which the dealers were in compliance with the requirement pending appeal of the Commission's order of June 20, 1995. Accordingly, under the proposed consent order the dealers will have no further obligations to maintain minimum hours of operation.

Part IV of the Commission's order of February 22, 1989, required the dealers, beginning thirty days after the order became final and for a minimum of four weeks thereafter, to place at least four weekly advertisements in Detroit newspapers explaining that the dealers were required by Commission order to offer extended shopping hours for one year. The dealers fulfilled their obligations under this provision pending appeal of the Commission's June 20, 1995 order. Accordingly, the

proposed consent order imposes no further obligations under this provision.

Part V of the Commission's order of February 22, 1989, required the dealers, while Part III of the order was in effect, to disclose their hours of operation in all advertising, with limited exceptions. Since the proposed consent order limits the dealers' obligations under Part III to their compliance to date, the dealers will have no further obligations under Part V.

Parts VI, VII and VIII of the Commission's order of February 22, 1989, applied only to the association respondents. Accordingly, the dealers will have no obligations under these provisions.

Part IX of the Commission's order of February 22, 1989, required the dealers to give a copy of the order to each employee and, for a period of five years, to give a copy to each new employee involved in motor vehicle sales or leasing. This provision is not changed by the proposed consent order.

Part X of the Commission's order of February 22, 1989, required the dealers to file annual compliance reports for a period of five years. The proposed consent order would give the dealers credit for compliance reports filed since the effective date of the Commission's order of June 20, 1995.

Part XI of the Commission's order of February 22, 1989, required the dealers, for a period of five years, to inform the Commission of any change in corporate status that may affect compliance obligations under the order, or, with respect to individual respondents, of any change in employment. This provision is not changed by the proposed consent order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify in any way their terms.

Parties to the Consent Agreement

Dealer Respondents

Crestwood Dodge, Inc., 32850 Ford Road, Garder City, MI 48135
 Bob Borst Lincoln-Mercury, Inc., a/k/a Bob Borst Lincoln-Mercury Sales Inc., 1950 W. Maple Road, Troy, MI 48084
 Bob Dusseau, Inc., a/k/a Bob Dusseau Lincoln-Mercury, 31625 Grant River Avenue, Farmington, MI 48024
 Bob Maxey Lincoln-Mercury Sales, Inc., 16901 Mack Avenue, Detroit, MI 48224
 Crest Lincoln-Mercury Sales, Inc., 36200 Van Dyke Avenue, Sterling Heights, MI 48077
 Stewart Chevrolet, Inc., 23755 Allen Road, Woodhaven, MI 48183

Woody Pontiac Sales, Inc., 12140 Joseph Campau, Hamtramck, MI 48212
 Jack Demmer Ford, Inc., a/k/a/ Jack Demmer Ford, 37300 Michigan Avenue, Wayne, MI 48184
 Al Long Ford, Inc., 13711 E. Eight Mile Road, Warren, MI 48089
 Ed Schmid Ford, Inc., 21600 Woodward Avenue, Ferndale, MI 48220
 Ray Whitfield Ford, a/k/a/ Ray Whitfield Ford, Inc., 10725 S. Telegraph Road, Taylor, MI 48180

Individual Respondents

Robert C. Borst, c/o Bob Borst Lincoln-Mercury, Inc., 1950 W. Maple Road, Troy, MI 48084
 Robert Dusseau, a/k/a/ Robert F. Dusseau, c/o Bob Dusseau Lincoln-Mercury, 31625 Grant River Avenue, Farmington, MI 48024
 Robert Maxey, c/o Bob Maxey Lincoln-Mercury Sales Inc., 16901 Mack Avenue, Detroit, MI 48224
 William Ritchie, a/k/a/ William R. Ritchie, c/o Crest Lincoln-Mercury Sales, Inc., 36200 Van Dyke Avenue, Sterling Heights, MI 48077
 Gordon L. Stewart, a/k/a/ Gordon Stewart, c/o Stewart Chevrolet, Inc., 23755 Allen Road, Woodhaven, MI 48183
 Woodrow W. Woody, c/o Woody Pontiac Sales, Inc., 12140 Joseph Campau, Hamtramck, MI 48212
 John E. Demmer, a/k/a/ Jack E. Demmer, c/o Jack Demmer Ford, Inc., 37300 Michigan Avenue, Wayne, MI 48184
 Edward F. Schmid, a/k/a/ Edward Schmid, c/o Ed Schmid Ford, Inc., 21600 Woodward Avenue, Ferndale, MI 48220
 Raymond J. Whitfield, a/k/a/ Raymond Whitfield, c/o Ray Whitfield Ford, 10725 S. Telegraph Road, Taylor, MI 48180

Donald S. Clark,

Secretary.

[FR Doc. 97-7261 Filed 3-20-97; 8:45 am]

BILLING CODE 6750-01-M

[File No. 962-3175]

Gerber Products Company; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the baby food company from representing the extent to which doctors or other health

professionals recommend baby and toddler foods or from representing any recommendation or endorsement of these products unless it has competent and reliable evidence that substantiates the claim. Gerber also would be prohibited from misrepresenting any survey or research. The complaint accompanying the consent agreement alleges that Gerber claimed that four out of five pediatricians recommend Gerber baby food, when in fact, the study on which Gerber relied showed that only 12 percent of the pediatricians surveyed recommended Gerber.

DATES: Comments must be received on or before May 20, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Anne Maher, Federal Trade Commission, S-4002, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580. (202) 326-2987. Rosemary Rosso, Federal Trade Commission, S-4002, 6th St. and Pa. Ave., NW., Washington, D.C. 20580. (202) 326-2174.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for March 12, 1997), on the World Wide Web, at "<http://www.ftc.gov/os/actions/htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Gerber Products Company ("Gerber").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges Gerber with engaging in deceptive practices in connection with the advertising of Gerber baby and toddler foods. The television, radio and print advertisements at issue expressly represented that "4 out of 5 pediatricians who recommend baby food recommend Gerber." According to the complaint, the advertisements falsely represented that competent and reliable studies or surveys supported that claim. The complaint explains that, in the survey relied upon by Gerber, 562 of the surveyed doctors responded to the questions concerning baby food. Of these 562 pediatricians, 408 responded that they recommend baby food to their patients at least once per week. Of the 408 pediatricians who recommend baby food, only 76 recommend specific brands, and 67 of those recommended Gerber. Thus, only 67 of the 408 pediatricians who recommend baby food, or approximately 16 percent, recommend Gerber to their patients.

The complaint also alleges that the advertising at issue made an implied claim that approximately 4 out of 5 pediatricians recommend Gerber. Because this claim is broader than the claim alleged above, the base is 562, the total number of pediatricians surveyed who answered the relevant questions. Of these 562 pediatricians, 67, or approximately 12 percent, recommended Gerber. Therefore, according to the complaint, this claim is unsubstantiated.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent Gerber from engaging in similar acts and practices in the future.

Part I of the order requires Gerber not to make any representation about the extent to which doctors or other health,

nutrition, child care, or medical professionals recommend baby or toddler food, or about the recommendation, approval, or endorsement of such products by any health, nutrition, child care, or medical professional, profession, group or other such entity, unless it possesses competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

Part II prohibits Gerber, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any baby or toddler food, from misrepresenting the existence, contents, validity, results, conclusion or interpretations of any survey, test, study, or research. The order does not prohibit Gerber from making truthful, non-misleading statements about survey results.

Part III provides that representations that would be specifically permitted in food labeling, under regulations issued by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990, or by nutrition labeling regulations promulgated by the Department of Agriculture pursuant to the Federal Meat Inspection Act or the Poultry Products Inspection Act, are not prohibited by the order.

Part IV requires Gerber to maintain copies of certain materials relating to advertisements covered by the order and documents relating to substantiation of advertisements covered by the order. Part V requires Gerber to distribute copies of the order to certain current and future officers and employees of the company. Part VI requires Gerber to notify the Commission of any changes in the corporate structure that might affect compliance with the order. Part VII requires Gerber to file with the Commission one or more reports detailing compliance with the order. Part VIII provides that the order will terminate after 20 years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97-7262 Filed 3-20-97; 8:45 am]

BILLING CODE 6750-01-M