

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

In the Matter of  
GREY ADVERTISING, INC.,  
a corporation.

DOCKET NO. C-3691

COMPLAINT

The Federal Trade Commission, having reason to believe that Grey Advertising, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

**PARAGRAPH ONE:** Respondent Grey Advertising, Inc. is a New York corporation, with its principal office or place of business at 777 Third Avenue, New York, New York 10017.

**PARAGRAPH TWO:** Respondent, at all times relevant to this complaint, was an advertising agency of The Dannon Company, Inc., and prepared and disseminated advertisements to promote the sale of Dannon Pure Indulgence frozen yogurt, a "food" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

**PARAGRAPH THREE:** The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

**PARAGRAPH FOUR:** Respondent has disseminated or has caused to be disseminated advertisements for Dannon Pure Indulgence frozen yogurt ("DPI"), including but not necessarily limited to the attached Exhibit A. This advertisement contains the following statements and depictions:

VIDEO

Super: **BEWARE: THE FOLLOWING GRAPHIC IMAGES MAY PROMPT FEELINGS OF GUILT AMONG**

AUDIO

Announcer: The following graphic images may prompt feelings of guilt among viewers.

**VIEWERS.** Close-ups of frozen dessert.

Super: **HEY**

Super: **IT'S OK**

Man with frozen dessert container.

Scoops of frozen dessert falling into dish.

Super: **It's FROZEN YOGURT**

Close-up of container of DPI.

Woman eating DPI. Super: **It's Pure Heaven**

Scoops of DPI variously identified in supers as caramel pecan, heath bar crunch, and cookies n cream.

Containers of DPI. Super: **New Dannon Pure Indulgence Frozen Yogurt**

Announcer: New Dannon Pure Indulgence Frozen Yogurt.

Scoops of DPI. Super: **PROCEED WITHOUT CAUTION**

Announcer: Very well... Proceed without caution.

(Exhibit A, television advertisement).

**PARAGRAPH FIVE:** Through the use of the statements and depictions contained in the advertisements referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisement attached as Exhibit A, respondent has represented, directly or by implication, that Dannon Pure Indulgence frozen yogurt is low in fat, low in calories, and lower in fat than ice cream.

**PARAGRAPH SIX:** In truth and in fact, at the time the advertisements were disseminated, certain flavors of Dannon Pure Indulgence frozen yogurt were not low in fat, not low in calories, and not lower in fat than many ice creams. Therefore, the representations set forth in PARAGRAPH FIVE were false and misleading.

**PARAGRAPH SEVEN:** Respondent knew or should have known that the representations set forth in PARAGRAPH FIVE were false and misleading.

**PARAGRAPH EIGHT:** The acts and practices of the respondent as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Therefore, the Federal Trade Commission this thirtieth day of October, 1996, has issued this complaint against respondent.

By the Commission.

Donald S. Clark  
Secretary

SEAL: