

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

_____)	
In the Matter of)	
)	
GENERAL MILLS, INC.,)	Docket No. C-3742
a corporation.)	
_____)	

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission ("Commission"), having reason to believe that respondent General Mills, Inc., subject to the jurisdiction of the Commission, has agreed to acquire the branded ready-to-eat cereal and snack mix businesses from Ralcorp Holdings, Inc., in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. Respondent General Mills, Inc.

1. Respondent General Mills, Inc. ("General Mills"), is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware. General Mills' headquarters, office and principal place of business is located at Number One General Mills Boulevard, Minneapolis, Minnesota 55426. In fiscal year 1996, General Mills had sales of approximately \$5.4 billion.

2. Respondent General Mills is, and at all times relevant herein has been, engaged in the sale of branded ready-to-eat ("RTE") cereals to retail grocery stores, grocery wholesalers, and others throughout the United States. General Mills's primary RTE cereals include Cheerios, Total, and Wheaties. General Mills is the nation's second largest producer of RTE cereals, measured based on pound sales or dollar revenues. General Mills's revenue from the sale of RTE cereals worldwide was \$2.75 billion in fiscal year 1996.

II. Ralcorp Holdings, Inc.

3. Ralcorp Holdings, Inc. ("Ralcorp"), is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri. Ralcorp's headquarters, office and principal place of business is located at 800 Market Street, Suite 2900, St. Louis, Missouri 63101. In fiscal year 1995, Ralcorp had sales of approximately \$1 billion.

4. In 1994, the Ralston Purina Company created Ralcorp, as a wholly owned subsidiary, and then distributed Ralcorp's shares to Ralston Purina's shareholders. As part of the creation of an independent Ralcorp, Ralston Purina entered into a technology license authorizing Ralcorp to use certain identified technology in the production of branded and private label RTE cereals.

5. Ralcorp is, and at all times relevant herein has been, engaged in the sale of branded and private label RTE cereals to retail grocery stores, grocery wholesalers, and others throughout the United States. Ralcorp's primary RTE cereals include Corn CHEX, Rice CHEX, and Wheat CHEX. Ralcorp is the nation's fifth largest producer of branded RTE cereals and the largest producer of private label RTE cereals. Ralcorp's revenue from the sale of RTE cereals was \$585.5 million in fiscal year 1995. Its revenue from branded RTE cereals was more than \$311 million for the same year.

III. Jurisdiction

6. General Mills is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

IV. The Acquisition

7. On or about August 13, 1996, General Mills and Ralcorp entered into an agreement for General Mills to acquire Ralcorp's branded RTE cereal and snack mix businesses. In exchange for these businesses, General Mills agreed to give Ralcorp's shareholders General Mills' common stock and to assume certain Ralcorp debt. The total value of this consideration is approximately \$570 million.

8. General Mills will not acquire Ralcorp's private label RTE cereal business or other non-cereal or snack mix businesses. Ralcorp will form a new entity, New Ralcorp Holdings, Inc., ("New Ralcorp") to hold the businesses that General Mills will not acquire. As a result of the acquisition agreement, New Ralcorp acquired the right to manufacture and sell private label CHEX

products, but was restricted from transferring this right to a third party without permission from General Mills and Ralston Purina Company. The agreement also restricts New Ralcorp from producing private label CHEX products for a period ending eighteen months after consummation of General Mills' acquisition of Ralcorp's branded RTE cereal and snack mix businesses.

V. Trade and Commerce

9. The relevant line of commerce (*i.e.*, the product market) in which to analyze the effects of the proposed transaction is the sale of branded and private label RTE cereals.

10. The relevant section of the country (*i.e.*, the geographic market) in which to analyze the effects of the acquisition is the United States.

VI. Market Structure

11. The sale of RTE cereals in the United States is highly concentrated, whether measured by the Herfindahl-Hirschman Index (commonly called the "HHI") or by four-firm concentration ratios.

12. The post acquisition HHI for the sale of RTE cereals in the United States measured based on dollar revenues would increase by approximately 223 points, from 2,317 to 2,540. Measured in pounds, the post acquisition HHI for the sale of RTE cereals in the United States would increase by 158, from 2,103 to 2,261. Post acquisition General Mills' market share in dollars would be almost 31 percent. Its share in pounds would be almost 27 percent.

VII. Entry Conditions

13. Entry of new RTE cereal producers into the relevant markets is difficult, and would not be timely, likely or sufficient to prevent anticompetitive effects.

VIII. Effects of the Acquisition

14. The effects of the acquisition, if consummated, may be substantially to lessen competition in the RTE cereal market in the United States in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by increasing the likelihood of the unilateral exercise of market power and simultaneously restricting the entry of new private label cereal products into competition with General Mills.

IX. Violations Charged

15. The acquisition agreement, entered into between General Mills and Ralcorp for General Mills to acquire Ralcorp's branded RTE cereal and snack mix businesses, violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and would, if consummated, violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this sixteenth day of May, 1997, issues its Complaint against Respondent General Mills.

By the Commission, Commissioner Starek dissenting.

Donald S. Clark
Secretary

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