members of the public who use Fattaché.

Parts I and II of the proposed order prohibit the respondents from making the challenged claims, unless at the time of the representation, the respondents possess and rely on competent and reliable scientific evidence that substantiates the representation. Part II of the order also requires that if the respondents do not have substantiation for claims made through the use of consumer testimonials, that the advertisement disclose the results that users can generally expect to achieve, or the limited applicability of the endorser's experience to what users can generally expect to achieve.

Because this matter involves substances that could be regulated by the FDA as a food or drug, Part III of the order includes a ''safe harbor'' allowing the respondents to make any claims approved in any new drug application, or in any tentative final or final standard promulgated by that agency. In addition, Part IV of the proposed order includes a safe harbor for representations specifically permitted by regulations promulgated by the FDA pursuant to the Nutrition Labeling and Education Act of 1990.

The proposed order also requires the respondents to maintain materials relied on to substantiate clams covered by the order; to provide a copy of the consent agreement to all employees or representatives with duties affecting compliance with the terms of the order; and to file one or more compliance reports detailing compliance with the 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 proposed order, or to modify in any way their terms.

Benjamin J. Berman.

Acting Secretary.

[FR Doc. 98–17934 Filed 7–6–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 972–3071]

Nutrivida, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—emobodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 8, 1998.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Erika Wodinsky, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA. 94103. (415) 356–5270.

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 complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 26, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 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, subject to final approval, an agreement to a proposed consent order from Nutrivida Inc. (''Nutrivida'') and Frank Huerta, an officer and director of the company.

The proposed consent order has been placed on the public record for sixty (60) days for the receipt 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 comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns Spanish language television advertisements, including program length ''infomercials,'' for the proposed respondents' Cartilet shark cartilage capsules. The Commission's complaint alleges that the proposed respondents made unsubstantiated representations that: (1) Cartilet shark cartilage capsules are effective in the symptomatic relief, treatment, or cure of cancer; (2) Cartilet shark cartilage capsules are effective in the symptomatic relief or treatment of rheumatism, arthritis, diabetes, fibroids, bursitis, circulatory problems, and cysts; and (3) testimonial from a consumer who appears in the advertisements for Cartilet shark cartilage capsules reflects the typical or ordinary experience of members of the public who use the product. The Commission's complaint also alleges that the proposed respondents falsely represented that studies prove that Cartilet shark cartilage capsules are effective in the symptomatic relief or treatment of cancer, arthritis, and diabetes and that the proposed respondents misrepresented that their infomercial for the Cartilet shark cartilage capsules was an independent television program and not paid advertising.

Paragraph I of the proposed order prohibits proposed respondents from representing that Nutrivida's Cartilet shark cartilage capsules or any other product are effective in the symptomatic relief, treatment, or cure of cancer or that Nutrivida's Cartilet shark cartilage capsules are effective in the symptomatic relief or treatment of rheumatism, arthritis, diabetes, fibroids, bursitis, circulatory problems, and cysts; unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order would prohibit for Cartilet shark cartilage capsules or any food, dietary supplement, or drug, representations about the health benefits, performance, or efficacy of such product unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph III of the proposed order would prohibit for Cartilet shark cartilage capsules or any food, dietary supplement or drug, misrepresentations about the existence, contents, validity,

results, conclusions, or interpretations of any test, study, or research.

Paragraph IV of the proposed order would prohibit for any food, dietary supplement or drug the representation that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the food, dietary supplement or drug, unless: at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or respondents disclose in the same language as the predominant language that is used in the advertisement, clearly and prominently, and in close proximity to the endorsement or testimonial, either (1) what the generally expected results would be for users of the food, dietary supplement or drug, or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, the consumers should not expect to experience similar results.

Part V and VI of the proposed order contain provisions permitting certain claims that are approved for labeling by the FDA, either under the Nutrition Labeling and Education Act, a tentative or final standard or under any new drug application approved by the FDA.

Part VII of the proposed order would require proposed respondents to disclose ''THE PROGRAM YOU ARE WATCHING IS A PAID ADVERTISEMENT FOR [THE PRODUCT OR SERVICE]'' in television advertisements fifteen (15) minutes in length or longer, and to disclose a similar audio message in radio advertisements of fifteen (15) minutes in length or longer.

Part VIII of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict claims covered by the proposed order. Part IX of the proposed order requires distribution of a copy of the order to current and future officers and agents. Part X provides for Commission notification upon a change in the corporate respondent and Part XI requires Commission notification when the individual respondent changes his business or employment. Part XII requires the proposed respondents to keep and maintain all records demonstrating compliance with the terms and provisions of the order. Part XIII provides for the termination of the order after twenty 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.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–17935 Filed 7–6–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 981–0211]

Sky Chefs, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 8, 1998.

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

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, FTC/S–2105, Washington, DC 20580. (202) 326–2805.

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 complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 29, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 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

I. Introduction

The Federal Trade Commission (''Commission'') has accepted from Sky Chef, Inc., and its parents, Onex Corporation and Gerald W. Schwartz (collectively ''Proposed Respondents'') an Agreement Containing Consent Order (''Proposed Consent Order''). The Proposed Consent Order remedies the likely anticompetitive effects in the delivery of catering services to airlines at McCarran International Airport in Las Vegas, Nevada, that arise from the proposed acquisition of Ogden Aviation Food Services, Inc., by Proposed Respondents.

II. Description of the Parties and the Transaction

Sky Chefs, Inc., headquartered in Arlington, Texas, provides catering services to airlines in the United States and abroad. Its parent company, Onex Corporation, operates through a number of other subsidiaries that are involved in chain restaurant food service, electronics manufacturing, and other businesses. During 1997, Sky Chefs had total revenues of over $1 billion.

Ogden Corporation, headquartered in New York, is a global company providing a wide range of services in the aviation, entertainment, and energy industries. Ogden's wholly-owned indirect subsidiary, Ogden Aviation Food Services, Inc., and its wholly-owned subsidiary, Ogden Aviation Food Services (ALC), Inc., operate 11 kitchens serving in-flight food to more than 85 airlines at a number of locations, including eight major U.S. airports. Revenues for in-flight catering in 1997 are reported at $164 million.

On March 6, 1998, the parties signed a letter of intent contemplating that Sky Chefs, Inc., would purchase 100% of the voting common stock of Ogden Aviation Food Services, Inc., from Ogden Corporation. On May 7, 1998, the parties signed a stock purchase agreement that excluded the assets of Ogden's Las Vegas flight kitchen. On May 22, 1998, Ogden entered into an agreement to sell the Las Vegas flight kitchen to Dobbs International Services, Inc.