

Impulse Ice Cream (Mars UK Ltd)

1. Title of report: Impulse Ice Cream: a report on the supply by manufacturers of Impulse Ice Cream in the United Kingdom (MMC - Cmnd 4510)

2. Date of report: **Published:** 28 January 2000

3. Orders: N/A

4. Date of original undertakings: 7 April 2000

5. Companies giving undertakings: Mars UK Ltd, Birds Eye Wall's Ltd (BEW) and Nestle UK Ltd

6. Undertakings:

Outlet exclusivity

1 Mars will not after the date of these undertakings:

- (a) enter into an agreement or arrangement with a retailer which contains,
- (b) enforce an agreement or arrangement with a retailer which was entered into after 28 January 2000 in so far as it contains, or
- (c) extend an agreement or arrangement with a retailer in so far as it contains –

a provision limiting the supply of wrapped impulse ice cream products of any other manufacturer to that retailer in Great Britain; provided that nothing in this paragraph shall prevent Mars from entering into or enforcing such an agreement or arrangement before 31 December 2002 to the extent that it relates to:

- (d) mobile outlets, or
- (e) seasonal kiosks, but
- (f) not all mobile outlets or seasonal kiosks on a site.

Compliance

2 Mars will promptly comply with such written directions as the Director General may from time to time give:

- (a) to take such steps within its competence as may reasonably be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings, and
- (b) to do or refrain from doing anything so specified or described which it might be required by these undertakings to do or refrain from doing.

- 3 Mars will procure that each of its subsidiaries complies with these undertakings as if it had given them.
- 4 Mars will promptly provide to the Director General such information as he may from time to time reasonably require for the purpose of monitoring compliance by Mars and its subsidiaries with these undertakings.

ITERPRETATION

For the purpose of these undertakings:

'the Director General' means the Director General of Fair Trading;

'ice cream' includes:

- (a) water ices, ice lollies, frozen yoghurt and ice cream to which fruit, fruit pulp, fruit puree, fruit juice, chocolate, nuts or any other substance is added,
- (b) (except in relation to retail supply) soft ice cream mix and syrup for the production of slush by retailers, and
- (c) any similar frozen product;

'manufacturer' includes an importer;

'Mars' means Mars U.K. Ltd

'mobile outlet' means an outlet of a retailer who sells impulse ice cream from a mobile van or trailer;

'retailer' includes a person who controls or manages premises or a site at which wrapped impulse ice cream is sold;

'site' means any land controlled or managed by a single undertaking;

'subsidiary' has the meaning given by section 736(1) of the Companies Act 1985 (as substituted by section 144(1) of the Companies Act 1989); and

'wrapped impulse ice cream' means ice cream:

- (a) which is purchased by consumers for immediate consumption except as part of a meal; and
- (b) which is:
 - (i) wrapped
 - (ii) packaged in individual portions not exceeding 150 ml; and
- (c) which is intended to be eaten hand-held.

7. Date of amendments: N/A

8. Index information: Tying, exclusivity

9. Further MMC reports: Ice Cream and Water Ices: a report on the supply in the United Kingdom of ice cream and water ices (MMC - Cmnd 7632)

Date of report: 14 December 1978 **Published:** August 1979

Ice cream: a report on the supply in the United Kingdom of ice cream for immediate consumption (MMC - Cmnd 2524)

Date of report: 14 January 1994 **Published:** 29 March 1994