

Introduction

How does an incumbent firm react to a discontinuity in the marketplace resulting from litigation? How does a firm evolve in an industry where there are low barriers to imitation? In order to explore these two questions, this paper presents information about the history of Jenny Craig, Inc., a company in the weight loss industry. By exploring Jenny Craig's reactions to changes in the competitive landscape, it is possible to gain insight into how firms respond to legislative change and technical change within an industry and the process of succession in firm leadership. The story of Jenny Craig is particularly compelling, as the company's valuation fell nearly twenty-fold over the course of a decade, and then rapidly ascended six-fold over the course of four years.

This paper will first present a case study on Jenny Craig, and will then discuss the case study in terms of competence-destroying technological shifts, incremental innovation, and radical innovation. In brief, after the dieting industry was changed by litigation, there was industry-wide marketing competence destruction. The incumbent firms within the industry were forced to seek a new peak within the performance landscape. It appears that the firms within the diet industry are readily imitable, which enabled Jenny Craig to pursue a reactive strategy, and improve its offering by creating better parity with the other existing offerings on the market.

Case Study

Overweight and Obesity in the United States

The prevalence of overweight and obesity within the United States has been increasing steadily over time. Of the Americans surveyed between 1976 and 1980, 46% were overweight. A follow-up study conducted between 1988 and 1994 found 56% of

Americans to be overweight. Less than a decade later, a survey conducted between 1999 and 2000 found 65% of Americans to be overweight.¹ The increase in obesity correlated with an increase in caloric intake by Americans. In 1978, the average American man consumed 2,240 calories and the average American woman consumed 1,534 calories. By 1996, those numbers increased by 10% and 7%, to 2,455 and 1,646 calories respectively.² As it is unlikely that Americans became more physically active between 1978 and 1996, these extra calories had nowhere to go but to the waistlines of the American people.

It is speculated that the dietary guidelines of the government and the American Heart Association may have contributed to the creation of the obesity epidemic through promoting a diet rich in carbohydrates with a high glycemic load.³ From 1956, through the early 1970s, the United States Department of Agriculture (USDA) recommended that people consume four or more servings of starches, fruits and vegetables each day. By 1984, the USDA was recommending Americans consume six to eleven servings of starches, two to four servings of fruits, and three to five servings of vegetables each day.⁴ From this change, it can be seen that the USDA's recommendations shifted to a far more carbohydrate-centric diet.

Dieting as a Solution to Overweight and Obesity

The growing national waistline helped fuel the creation of weight loss centers and quick-fix diets during the 1980's. As the efficacy of many such diets was often shrouded

¹ "Obesity in the U.S." American Obesity Association. Accessed 20 Dec. 2006.

<http://www.obesity.org/subs/fastfacts/obesity_US.shtml>

² Herzlinger, Regina E. "Battle of the Bulge—Private and Public Solutions for Obesity (A)." Harvard Business School. 21 Jul. 2006. Case 9-304-009. p. 5

³ Bell, David J. et al. "How Government Shaped the American Diet." Harvard Business School. 18 Mar. 2004. Case 9-504-064. p. 18

⁴ Bell, David J. et al. "How Government Shaped the American Diet." Harvard Business School. 18 Mar. 2004. Case 9-504-064. p. 5

(perhaps deliberately) in mystery, consumers largely followed trends based upon cost, convenience, and fashion when choosing a diet. The fickle nature of dieters caused the competitive landscape of the dieting industry to undergo major changes over time.

All diets can be categorized into four groups, which are determined by two binary variables. The first variable is whether the diet includes prepared foods or requires the dieter to find suitable foods on his own. The second variable is whether the diet attempts to modify the dieter's distribution of nutrients. Traditional diets simply seek to restrict calories, while alternative diets seek to restrict carbohydrates, glycemic load, and an assortment of other factors, in addition to restricting calories. The Matrix of Dieting contains well-known examples of diets that fit into each of these quadrants. Some diets, such as Atkins, can fit into multiple quadrants, as they can be used with or without purchasing prepared foods. eDiets appears in two quadrants, as it offers dieters advice in following a plethora of diets, some of which follow alternative approaches. Jenny Craig offers a low carbohydrate option in addition to its traditional restricted calorie option.

	Advice and/or Counseling	Prepared Food with Advice and/or Counseling
Restricted Calorie	Amer. Heart Assoc. "No-Fad Diet" eDiets	Jenny Craig Seattle Sutton Weight Watchers
Alternative Approach	Atkins eDiets Ornish The Zone Diet	Atkins Jenny Craig Slim-Fast

Figure 1: The Matrix of Dieting⁵

⁵ Adapted from Powell, Adam C. "A Cost-Effectiveness Analysis of Diets." Presentation. 7 Dec. 2006.

When selecting a diet, a person must go through the cognitive process shown in Figure 2. If a person does not have an unhealthy Body Mass Index (BMI), he is not likely to want to diet unless he is dieting for maintenance or has an eating disorder. Body Mass Index is determined by dividing one’s height, in meters, by the square of one’s mass, in kilograms. A BMI of greater than 25 is generally considered to indicate overweight, while a BMI of greater than 30 indicates obesity. People who are not overweight may still wish to diet, as a BMI of 22 is considered optimal for the prevention of coronary heart disease.⁶

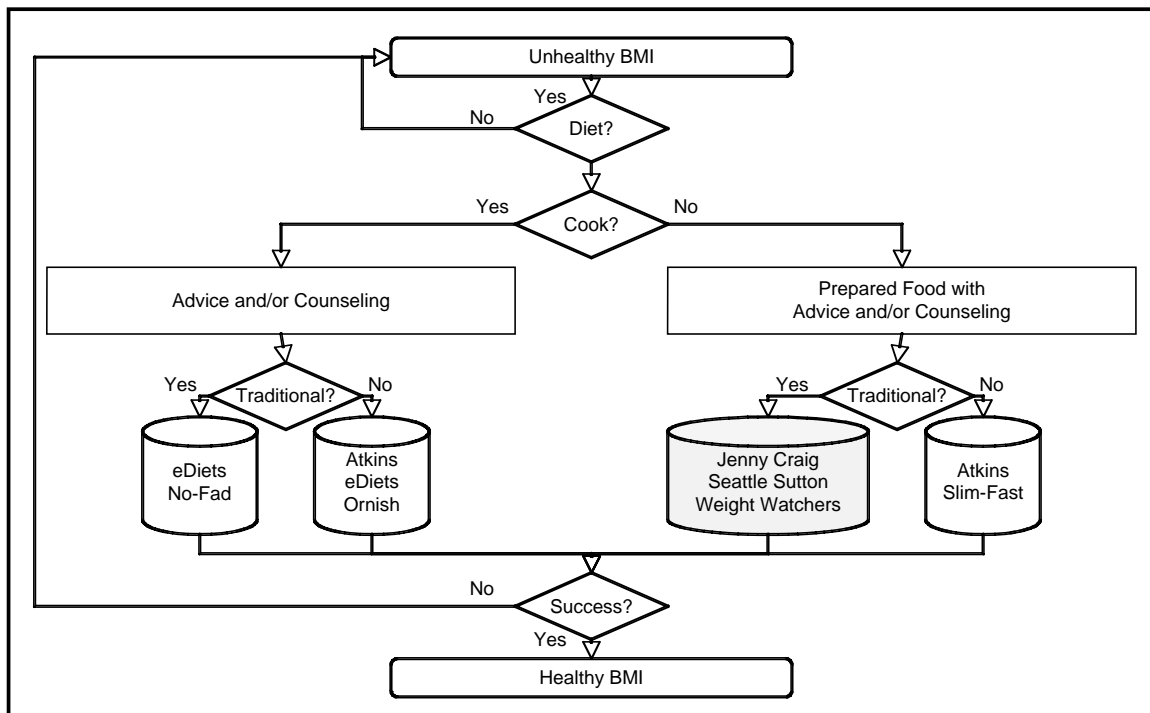


Figure 2: The Dieting Decision-Making Process⁷

⁶ Liu, Simin and JoAnne Manson. “What is the Optimal Weight for Cardiovascular Health?” *BMJ*. Vol. 322 (7287). 17 Mar. 2001.

⁷ Adapted from Powell, Adam C. “A Cost-Effectiveness Analysis of Diets.” Presentation. 7 Dec. 2006.

After a person determines that his weight is higher than optimal, he must decide whether or not he wishes to diet; and if so, which type of diet (as represented by the quadrants in The Matrix of Dieting) he wishes to utilize. Once that determination has been made, he selects a diet from the pool of diets within the quadrant, participates in it for a period of time, and continually evaluates his success.

The Jenny Craig Approach

The process of lifestyle transformation is one that requires long-term commitment. Participants in the Jenny Craig Program were encouraged to make this commitment through a membership fee structure that requires a large down payment at the onset of membership. People could join Jenny Craig by purchasing a Trial Membership, Gold Membership, or Platinum Membership.⁸ As a diet is an “experience good,” the Trial Membership provided people with a basis on which to decide whether or not they are willing to commit to the program. Through a Gold Membership, participants gained access to weekly one-on-one diet consultations and menu planning sessions, in addition to a variety of program-related materials including an audiocassette-based walking program. The most expensive membership, the Platinum Membership, provided participants a 10% discount on purchases of Jenny’s Cuisine (the prepared food which forms the core of the diet), a 25% discount on membership for immediate family members, a 50% rebate on membership fees if their weight was maintained within a five-pound range for a year, and unlimited comeback privileges. After joining, members

⁸ “Jenny Craig Backgrounder.” Jenny Craig. Accessed 21 Dec. 2006.
<<http://www.jennycraig.com/corporate/news/backgrounder.asp>>

would have to spend between \$10 and \$15 each day to purchase Jenny's Cuisine food until they eventually transitioned to eating entirely outside foods.⁹

The fee structure of Jenny Craig may have committed participants to the program through cognitive dissonance.¹⁰ After paying a large enrollment fee, members were likely to need to justify their action by believing that they benefited from the diet. Likewise, they were likely to participate in the diet with zeal out of need to prove that paying the enrollment fee was worthwhile.

Upon joining, members completed a one-page health assessment, and then determined a weight loss goal. The weight loss goal was determined by an algorithm that considered the participant's BMI, personal and family history, participation in physical activity, body composition, and motivation. After a weight loss goal was determined, members computed the caloric level that would be necessary for them to lose one to two pounds or one percent of their present weight each week.

According to the company's 2006 backgrounder, the Jenny Craig Program (the Program) was built upon three pillars: "a healthy relationship with food, an active lifestyle, and a balanced approach to living."¹¹ The Program's activities were designed to help participants achieve success in each of the pillars.

The Program helped its clients develop a healthy relationship with food by having them meet with a consultant each week to plan their meals for the upcoming week, assess their progress, and discuss means of circumventing obstacles to a healthy lifestyle. The

⁹ "What's Cooking at Jenny Craig." Jenny Craig. Accessed 20 Dec. 2006.
<http://www.jennycraig.com/corporate/news/whats_cooking.asp>

¹⁰ Akerlof, George A. and William T. Dickens. "The Economic Consequences of Cognitive Dissonance." American Economic Review. June 1982. pp. 307-319

¹¹ "Jenny Craig Backgrounder." Jenny Craig. Accessed 21 Dec. 2006.
<<http://www.jennycraig.com/corporate/news/backgrounder.asp>>

Program enabled members to either eat meals from a preplanned menu, or to develop a personalized menu developed with the assistance of a consultant. Members participating in both the planned and the personalized options could make allowances for dining out or preparing their own meals (as opposed to eating Jenny's Cuisine).

Participants were encouraged to live an active lifestyle through an exercise plan that was designed to have them "build up to thirty minutes of physical activity on most days through a combination of natural, recreational and planned physical activities." These goals were achieved through a blend of walking audiocassettes, and other materials designed to encourage Jenny Craig's primarily female clientele¹² to participate in "cardiorespiratory, resistance and stretching activities."¹³ Thus, Jenny Craig sought to instigate weight loss through both decreasing caloric consumption (via defined-portion Jenny's Cuisine) and increasing caloric output (via the walking audiocassettes).

As weight issues are at times, according to Jenny Craig, "a reflection of a life out of balance," the Program includes a psychologically-minded component.¹⁴ The meetings with the consultants and program materials emphasize managing stress through means other than eating. Participants were encouraged to utilize physical activity as a means of reducing stress and re-energizing to both create a more balanced life and improve health.

¹² At Jenny Craig, 85% of clients, and 95% of staff are female.

Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 162

¹³ "Jenny Craig Backgrounder." Jenny Craig. Accessed 21 Dec. 2006.
<<http://www.jennycraig.com/corporate/news/backgrounder.asp>>

¹⁴ "Jenny Craig Backgrounder." Jenny Craig. Accessed 21 Dec. 2006.
<<http://www.jennycraig.com/corporate/news/backgrounder.asp>>

An Overview of the History of Jenny Craig

Jenny Craig, Inc. was founded in 1983 in Melbourne, Australia by the husband and wife team Jenny and Sidney Craig.¹⁵ Although Jenny and Sidney Craig were Americans, prior to forming Jenny Craig, they had owned and sold another weight loss product to NutriSystem. As a result, the Craigs had signed a non-compete agreement that prevented them from entering the diet industry in the United States temporarily. By 1985, the agreement had expired, and Jenny Craig expanded to the United States market.

Originally, dieters were required to make a substantial up-front membership payment in order to receive access to the Program. Members attended weekly weigh-in meetings at Jenny Craig Centres and purchased Jenny's Cuisine, prepared entrees that complied with the diet. As members met their weight loss goals, they gradually increased the amount of outside food in their diet, all the while continuing to eat Jenny's Cuisine.

By 2006, over five million people had been Jenny Craig members worldwide. In 2006, over 120,000 people were participating in the Jenny Craig program at any given time. As participation in the diet required purchasing special meals (Jenny's Cuisine) and, until 2004, attending in-person counseling sessions, people could not join if there was not a Jenny Craig Centre near them. In 2006, there were Jenny Craig Centres in Australia, Canada, New Zealand, and the United States.¹⁶ The expansion and contraction of Jenny Craig Centres is shown in Appendix B, Figure 5.

To reach potential clients who lived far from Jenny Craig Centres, or were of limited mobility, the Jenny Direct program was launched in March 2004 to enable people

¹⁵ For the purpose of disambiguation, from here on, Jenny Craig (the woman) will be referred to as "Mrs. Craig," and Jenny Craig, Inc. will be referred to as "Jenny Craig."

¹⁶ "Jenny Craig Corporate Fact Sheet." Jenny Craig. Accessed 18 Dec. 2006. Available <http://jennycraig.com/corporate/news/fact_sheet.asp>

to participate in Jenny Craig without visiting Jenny Craig Centres. Jenny Direct members had Jenny's Cuisine delivered to their homes or offices every two or four weeks. In lieu of meeting with a counselor at a Jenny Craig Centre, Jenny Direct participants spoke with a counselor over the telephone for fifteen minutes each week. According to communications officer Cozette Phifer, the "one-on-one support [of the Jenny Direct program] reflects Jenny Craig's commitment to nurture a personal relationship with clients and provide them with individual support."¹⁷ Thus, Jenny Direct was an extension of Jenny Craig's existing strategy of pairing prepared meals with close supervision.

The Monetary Value of Jenny Craig, Inc.

Jenny Craig began its life in 1983 as a private company. On October 29th, 1991, Bear Stearns helped Jenny Craig conduct an Initial Public Offering, in which 5.00 million shares were sold, at \$21 per share, to raise a total of \$105.00 million. Although Jenny Craig was at one point publicly traded, it would later on become privately held again.

At the beginning of 2000, Jenny and Sidney Craig owned 67% of the shares of Jenny Craig via their entity Craig Enterprises. On June 5th, 2000, the couple announced that they wished to acquire all of the publicly held shares at the price of \$3.75 per share, a premium of 143.41%.¹⁸ On August 14th, 2000, Craig Enterprises withdrew its offer, which caused shares to plummet by \$1.0625, to \$1.875. The offer was withdrawn due to

¹⁷ Phifer, Cozette, "Jenny Craig Maximizes Accessibility with At-Home Delivery Program." Jenny Craig. 16 Mar. 2004.

<<http://www.jennycraig.com/corporate/news/releases/031604.asp>>

¹⁸ Bloomberg. "Corporate Action Detail." "Equity CACS" on "JCGI"

the substantial decline in Jenny Craig's Australian sales and pretax income that occurred after the offer was made.¹⁹

ACI Capital and Deutsche Bank AG's DB Capital Partners announced their intent to acquire Jenny Craig on January 28th, 2002.²⁰ They offered shareholders \$5.30 per share in a transaction that was worth \$114 million. (At the time, there were 20,688,971 shares outstanding, as well as some options, which would receive special treatment.) One should note that Jenny Craig was acquired at only a slightly higher price than it was initially sold at during its IPO. Thus, investors who had purchased a fixed percentage of the company during the IPO lost money due to the opportunity cost of investing in Jenny Craig over a decade. As shareholders were unhappy with the \$5.30 per share valuation, they subsequently sued Jenny Craig in the State of Delaware. The suit brought by Maseo Investments Ltd. charged that the Craigs "determined a price for the public shares that is grossly inadequate and intrinsically unfair."²¹ Despite the three lawsuits that originated at the inception of the offer, the buyout eventually succeeded.

On May 15th, 2002, Jenny Craig was delisted from the OTC market, and once again became privately held.²² After the company's delisting, far less financial data has been available about the company, as it was no longer obliged to report information to the

¹⁹ "Company News; Jenny Craig Shares Fall as Founders Withdraw Offer." The New York Times. 15 Aug. 2000.

<<http://query.nytimes.com/gst/fullpage.html?res=9D07E1DF1E3FF936A2575BC0A9669C8B63>>

²⁰ Bloomberg. "Corporate Action Detail." "Equity CACS" on "JCGI"

²¹ Milford, Phil. "Jenny Craig Sued by Holders Over \$115 Mln Buyout Plan (Update2)." Bloomberg. 29 Jan. 2002.

²² At the time of delisting, Jenny Craig's ticker was JCGI. Until August 16th, 2001, Jenny Craig had used the ticker JC. This ticker change coincided with Jenny Craig's migration from the NYSE to the OTC US Market, as the stock failed to meet the NYSE's listing requirements.

Securities Exchange Commission. Although it is harder to gauge Jenny Craig's performance after its delisting, the world once again got a glimpse at its valuation after it was sold to Nestlé on June 19th, 2006 for \$600 million. According to the Nestlé press release, Jenny Craig would be run by its previous management team after the acquisition, but would report directly to Nestlé Nutrition, an autonomous business that previously had competencies in infant nutrition, healthcare nutrition, and performance nutrition.²³

Thus, it appears that Jenny Craig's valuation rapidly grew from \$114 million in 2002 to \$600 million in 2006, despite the fact that its valuation had floundered during the 1990's. During the 1990's, when Jenny Craig's value increased only \$9 million, the company accumulated debt worth nearly half the value of the company. Jenny Craig's quick ascent during the beginning of the 21st Century forces one to ask how Jenny Craig changed after it became privately held. This ascent is surprising, as rivalry in the marketplace increased during the beginning of the 21st Century, and alternative forms of dieting became more popular.

²³ "Nestlé enters weight management market - Jenny Craig acquisition enhances Group's nutrition, health and wellness dimension." Nestlé Press Release. 19 June. 2006.
<http://www.nestle.com/Media_Center/Press_Releases/All+Press+Releases/Nestlé+enter+s+weight+management+market+Jenny+Craig+acquisition+enhances+Groups+nutrition+health+and.htm>

Events Affecting the Monetary Value of Jenny Craig

Accusations of Deceptive Advertising by the Federal Trade Commission

In 1990, Congress directed the Federal Trade Commission (FTC) to stop diet companies from making unsubstantiated claims about the effectiveness of their products.²⁴ On September 30th, 1993, the FTC alleged that five of the largest diet companies had engaged in deceptive advertising through the use of unsubstantiated weight loss and maintenance claims.²⁵ Jenny Craig and Weight Watchers chose to litigate the charges, while Diet Center, Physicians Weight Loss Centers, and NutriSystem all chose to settle with the FTC. While the allegations varied from company to company, the FTC alleged that Jenny Craig:²⁶

- *Made false or unsubstantiated representations that their customers typically reach their weight-loss goals within certain, predicted time frames*
- *Falsely represented that the advertised prices were the only costs associated with the programs*
- *Failed to disclose that losing weight too rapidly, if prolonged, or skipping prescribed calories could affect health*

The FTC's proposed orders against Jenny Craig were similar to the settlements it had reached with the other companies. It insisted that claims that the program produced long-term weight loss be based on evidence resulting from customers followed for two years. It also required Jenny Craig to disclose in its advertisements, "For many dieters, weight loss is temporary." Following the same vein, the FTC sought to mandate that the

²⁴ Bishop, Ronald. "Old Dogs, New Tricks? An Ideological Analysis of Thematic Shifts in Television Advertising for Diet Products, 1990-2000." Journal of Communication Inquiry. Oct. 2001. pp. 335-336.

²⁵ "Weight Watchers and Jenny Craig to Face Litigation Over FTC Deceptive Advertising Charges." Federal Trade Commission. 30 Sept. 1993. <<http://www.ftc.gov/opa/predawn/F93/commdiet.htm>>

²⁶ "Weight Watchers and Jenny Craig to Face Litigation Over FTC Deceptive Advertising Charges." Federal Trade Commission. 30 Sept. 1993. <<http://www.ftc.gov/opa/predawn/F93/commdiet.htm>>

testimonials presented be representative of the results typically achieved, or be accompanied by the statement, “This result is not typical. You may be less successful.” As the FTC was concerned that Jenny Craig’s advertisements failed to mention the cost of Jenny’s Cuisine when promoting the price of the diet, it sought to have any price representations in Jenny Craig advertising disclose either all mandatory fees, or a list of the additional products and services that consumers would need to purchase.²⁷

Jenny Craig’s advertising agency, J. Walter Thompson, proposed a consent agreement with the FTC that was announced on July 13th, 1995. The aim of the consent agreement was to prohibit J. Walter Thompson “from claiming that any weight-loss program is recommended, approved, or endorsed by any person, group, or other entity unless it possesses and relies upon competent and reliable evidence, scientific when appropriate, that substantiates the representation.”²⁸ This case represented the fourth time that J. Walter Thompson had settled with the FTC over the misrepresentation of facts used within its advertising.

On February 19th, 1998, an amended complaint was issued that more specifically dealt with the allegations against Jenny Craig. The amended complaint summarized some of the advertisements that Jenny Craig had used that it had deemed to be deceptive. The full amended complaint is included in Appendix A. The complaint also included a list of advertised customer testimonies about the efficacy of Jenny Craig, which the FTC felt to

²⁷ “Weight Watchers and Jenny Craig to Face Litigation Over FTC Deceptive Advertising Charges.” Federal Trade Commission, 30 Sept. 1993.

<<http://www.ftc.gov/opa/predawn/F93/commdiet.htm>>

²⁸ “J. Walter Thompson Settles FTC Charges Over Jenny Craig Ads.” Federal Trade Commission, 31 Jul. 1995. <<http://www.ftc.gov/opa/1995/07/jwalter.htm>>

be misleading. A list of pricing claims which were also felt to be misleading was also included.

The Effect of the FTC on the Dieting Industry

In 2001, Ronald Bishop analyzed the thematic shifts in television advertising for diets that occurred during the 1990's as a result of the FTC settlements. The complaints of deceptive advertising fundamentally changed the way Jenny Craig and its competitors advertised their products. According to Bishop, "Instead of telling dieters that their products will help them quickly lose a great deal of weight, these companies now urge Americans to diet in a healthy fashion. Weight loss is no longer a fad; it is a lifestyle, according to diet companies."²⁹ Bishop hypothesized that the change in advertisements for dieting caused something that bears a semblance to creative destruction.³⁰ He wrote:

*"It is risky to speculate that the change in advertising message precipitated the financial decline suffered by these companies. Still, the thematic shift is one worth exploring, since the diet industry has now co-opted our distrust in fad dieting to reinvigorate sales. Diet product manufacturers are not the only companies poking fun at themselves in ads; a number of recent ad campaigns have revolved around self-reflexiveness."*³¹

In 2006, Jenny Craig's website stated, "Unlike diet plans that promise a quick fix, Jenny Craig programs offer a sensible, medically approved program that is based on healthy

²⁹ Bishop, Ronald. "Old Dogs, New Tricks? An Ideological Analysis of Thematic Shifts in Television Advertising for Diet Products, 1990-2000." Journal of Communication Inquiry. Oct. 2001. pp. 334-335.

³⁰ Tripsas, Mary. "Unraveling the Process of Creative Destruction: Complementary Assets and Incumbent Survival in the Typesetter Industry." Strategic Management Journal. Vol. 18. 1997. pp. 119-142

³¹ Bishop, Ronald. "Old Dogs, New Tricks? An Ideological Analysis of Thematic Shifts in Television Advertising for Diet Products, 1990-2000." Journal of Communication Inquiry. Oct. 2001. p. 337

food choices, an active lifestyle and balance.”³² Thus, it appears that diet companies sought to restore their positions in the post-FTC era by criticizing their pre-FTC marketing and by portraying themselves as offering a cognitively different product from the one that they pitched before the FTC’s allegations.

This shift in the weight loss industry might have been heralded when daytime television host Oprah Winfrey began promoting the benefits of a healthy lifestyle, after having regained the weight she lost in 1990 while on the Opti-Fast liquid diet.³³ This change was further propelled by the entrance of new low-calorie and low-fat foods, designed to help people lose weight independently. Meanwhile, doctors became more successful at informing Americans that fad diets rarely produced long-term weight loss. For all of these reasons, commercial diet programs such as Jenny Craig and Weight Watchers declined in popularity. This decline can be seen in the precipitous drop that occurred in the share prices of Jenny Craig’s publicly-traded stock, as is shown in Appendix B.

The Succession Nightmare

Jenny Craig, Inc. was founded by Jenny and Sidney Craig. It was hard to separate the company from its founders, especially as Mrs. Craig had appeared in marketing materials for the company until 1995, when she experienced a freak accident that caused her to develop a speech impediment.³⁴ As Jenny Craig was born in 1932, by 1995, she was 63 years old, and Sidney Craig was even older. Mrs. Craig’s health setback made her

³² “Plans Available at Your Center.” Jenny Craig. Accessed 24 Dec. 2006. <http://jennycraig.com/programs/programs_cr.asp>

³³ Bishop, Ronald. “Old Dogs, New Tricks? An Ideological Analysis of Thematic Shifts in Television Advertising for Diet Products, 1990-2000.” Journal of Communication Inquiry. Oct. 2001. pp. 336-337.

³⁴ Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 135

acutely aware that she would need to groom successors, both managers and spokeswomen, before it was too late. While her daughter Denise was able to quickly step in as the next spokeswoman (and was followed by a colorful cast of others including Monica Lewinsky and Kirstie Alley), it was far more difficult for Mr. and Mrs. Craig to select new leadership.

After the rapid hiring and dismissal of two externally-hired Presidents who did not work out, C. Joseph LaBonte became Jenny Craig's Chief Executive Officer and President in April 1994.³⁵ According to Mrs. Craig, Mr. LaBonte "felt it was necessary to add some structure to the corporate team," and in her opinion, spent "most of his time doing that to the exclusion of what Sid [Sidney Craig] and I though was paramount to achieving success in the centers."³⁶ This conflict led the company to decide to terminate Mr. LaBonte's contract, at the cost of \$3.5 million. By 1998, Sidney Craig was once again Chief Executive Officer, and Jenny Craig was once again President.³⁷ In December 1998, Sidney Craig continued as CEO, while Jenny Craig was replaced as President by Philip Voluck. Mr. Voluck had previously worked for NutriSystem, another weight management company, and had personally battled weight-related challenges.³⁸ (Mrs. Craig remained with the company as Vice-Chairman and Director, titles she had previously also held.) As President, Mr. Voluck introduced the "Jenny Craig on the Go" line of meal replacement bars and soups. This proved to be a large and costly mistake, as Jenny Craig had to make a sizable commitment to a vendor in order to produce the line,

³⁵ "Jenny Craig, Inc. Form 10-K405." Securities Exchange Commission. 30 June 1997. <<http://sec.gov/Archives/edgar/data/878865/0000936392-97-001249.txt>>

³⁶ Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 164

³⁷ "Jenny Craig, Inc. Form 10-K." Securities Exchange Commission. 30 June 1998. <<http://sec.gov/Archives/edgar/data/878865/0000936392-98-001291.txt>>

³⁸ Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 165

and clients using the meal replacement products did not appear to be losing weight successfully. After the fiasco from “Jenny Craig on the Go,” it was decided that the company needed a new leader. In December 1999, Patricia Larchet became President, replacing Philip Voluck.³⁹ In 2006, Mrs. Larchet continued to lead Jenny Craig as CEO, and remained with the company after its acquisition by Nestlé.⁴⁰

Jenny Craig suffered in finding new leadership for two reasons. First, it sought external leadership, rather than looking to promote people who had a proven internal track record. Mrs. Larchet, the first person to successfully take the helm, had worked for Jenny Craig since 1985, where she began her career as a counselor. Before she took over the company, she cut her teeth running Jenny Craig’s Australian operations.⁴¹ As a result, she knew the business very well. However, there was a second reason that Mrs. Larchet may have been more successful than the short-term leaders. Mrs. Craig once wrote,

“I have always believed that we should have a woman in charge of all field operations, because 98 percent of our employees in the field are women and 85 percent of our clientele are women. That’s not a sexist remark. It makes sense that women relate best to other women.”⁴²

As a woman, Patricia Larchet may have better understood the needs of those she was trying to lead and help than the men who had attempted to do so. While pregnant with her son, Benjamin, she gained sixty-five pounds. This necessitated her following the Jenny Craig diet to lose the extra weight.⁴³ As weight concerns related to pregnancy are a

³⁹ “Jenny Craig, Inc. Form 10-K.” Securities Exchange Commission. 30 June 2000. <<http://sec.gov/Archives/edgar/data/878865/000109581100003653/a65725e10-k.txt>>

⁴⁰ “Nestlé to buy Jenny Craig for \$600 million.” The Associated Press. 19 Jun. 2006. <<http://www.msnbc.msn.com/id/13414203/>>

⁴¹ Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 171

⁴² Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 169

⁴³ Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 169

uniquely female experience, it is possible that this experience put Mrs. Larchet in tune with her customer base.

The Renaissance

There were several factors that led to Jenny Craig's substantial increase in valuation between 2002 and 2006. Jenny Craig no longer had the FTC acting as a legal albatross around its neck after the late 1990s, which enabled it to nurture its goodwill in the eyes of the public. Likewise, after Patricia Larchet was hired, Jenny Craig completed its quest to find new leadership—a quest that had lasted over half a decade and likely was the cause of substantial shareholder concern. The instability of the company's leadership and legal standing while it was publicly listed likely did much to depress its price.

Additionally, Jenny Craig began offering new types of products and using new means of advertising which were perhaps better suited to the market than its offerings before re-privatization. The creation of Jenny Direct in 2004 and the Ultimate Choice™ Program in 2001 enabled Jenny Craig to compete with both delivery-based and low carbohydrate diets. In 2005, Jenny Craig launched “Fat Actress,” a Showtime reality television series depicting Kirstie Alley's successful attempt at losing weight via the Jenny Craig Program.⁴⁴ This program was a long-form advertisement that enabled the public to receive a better understanding of the Jenny Craig Program than would be possible in a 30-second commercial. While as of 2006, there were no publicly available data describing the changes in membership or revenues that occurred after re-privatization, Jenny Craig's six-fold increase in valuation during the early 21st Century implies that the negative trend experienced during the 1990s had come to an end.

⁴⁴ “Kirstie Alley Chooses Jenny Craig to Lose Weight.” Jenny Craig. 20 Dec. 2004. <<http://www.jennycraig.com/corporate/news/releases/122004.asp>>

Discussion

Gatignon, Tushman, Smith, & Anderson provided a structural approach for classifying innovations.⁴⁵ At Jenny Craig, there was both innovation in the diet itself and innovation in the diet's marketing. Both of these innovations deserve separate classifications. In the following discussion, it will be argued that both Jenny Craig's food and advertising underwent generational innovations. However, the changes in the food were incremental, competence-enhancing changes, while the changes in the advertising were radical, competence-destroying changes. It is clear that both were core subsystems, as Jenny Craig was a substantially marketing-based organization whose main trademark was its line of prepared foods.

The FTC Allegations as a Competence-Destroying Technological Shift

According to Tushman & Anderson, "a dominant design reflects the emergence of product-class standards and ends the period of technological ferment." In the weight loss industry, the dominant design in advertising during the early 1990s was to use consumer testimonials to support the efficacy of the product, with the testimonials representing ideal rather than average outcomes. After the FTC's allegations, the psychological methods used to market diets fundamentally changed and the old methods became illegal and obsolete. Tushman & Anderson continued by stating that "competence-destroying discontinuities are so fundamentally different from previously dominant technologies that the skills and knowledge base required to operate the core technology shift."⁴⁶ It can be

⁴⁵ Gatignon, Hubert, et. al. "A Structural Approach to Assessing Innovation: Construct Development of Innovation Locus, Type, and Characteristics." Management Science. Vol. 48, No. 9. Sept. 2002. pp. 1103-1122

⁴⁶ Tushman, Michael L. and Philip Anderson. "Technological Discontinuities and Organizational Environments." Administrative Science Quarterly. 1986. Vol. 31. p. 442

seen that the FTC's actions were competence-destroying, as they required the firms in the industry to cease using their previous advertising techniques, which had been honed over several years. Likewise, the goodwill that had been associated with the various quick-fix diets was destroyed, as the majority of the companies in the industry had to criticize the quick-fix claims on which they were originally built.

Incremental Innovation at Jenny Craig

At Jenny Craig, the product offerings remained relative unchanged, except for three incremental innovations. In order to offer clients both low-carbohydrate and meatless options, Jenny Craig introduced the Ultimate Choice™ Program, enabling clients to pick menus constructed of the existing Jenny Cuisine menu items. Through enabling clients to customize their menus, Jenny Craig was able to leverage its existing product line in a fashion that it enabled it to better compete with other popular diets, such as Atkins.⁴⁷ Likewise, its home delivery program, Jenny Direct, enabled it to compete with other home delivery programs, such as Seattle Sutton. The Jenny Craig On the Go product line, which was briefly introduced while Mr. Voluck was President, was a brand extension of the Jenny's Cuisine line of foods aimed at increasing portability and enabling Jenny Craig to better compete with diets such as Ultra Slim-Fast. All of the product changes that Jenny Craig had undertaken, as of 2006, were incremental changes. At no point had Jenny Craig deviated from its three pillar strategy of helping people achieve “a healthy relationship with food, an active lifestyle, and a balanced approach to living” through a combination of prepared foods, one-on-one counseling, and guided

⁴⁷ “Jenny Direct Food Home Delivery Review.” [BestDietForMe.com](http://www.bestdietforme.com/DietFoodDelivery/jennydirect.htm) Accessed 23 Dec. 2003. <<http://www.bestdietforme.com/DietFoodDelivery/jennydirect.htm>>

exercise.⁴⁸ Even when Jenny Craig expanded into the home delivery market, one-on-one counseling was maintained via tele-counseling.

Radical Innovation and Competence Destruction at Jenny Craig

While Jenny Craig's products underwent incremental innovation, Jenny Craig's marketing experienced radical innovation. According to Henderson and Clark, "Radical innovation establishes a new dominant design and, hence, a new set of core design concepts embodied in components that are linked together in a new architecture."⁴⁹ Jenny Craig stopped emphasizing the benefits of rapid weight loss after the FTC allegations, and instead began promoting the importance of living a healthy lifestyle.

Jenny Craig commercials from the beginning of the 1990s (before the FTC's allegations) focused on how the behavior and expectations of family members motivate some people to diet. In one advertisement from 1991, a woman spoke of being referred to as "Moose" by her husband, and of how the Jenny Craig Program transformed her into a vibrant and active woman no longer suited for that appellation. The commercial concluded with the claim that we "can lose all the weight we want" with the assistance of Jenny Craig.⁵⁰ (Further descriptions of pre-FTC advertising are available in Appendix A.) Meanwhile, in a 1996 commercial, a woman embarking on a cruise claimed, "Those old

⁴⁸ "Jenny Craig Backgrounder." Jenny Craig. Accessed 21 Dec. 2006.
<<http://www.jennycraig.com/corporate/news/backgrounder.asp>>

⁴⁹ Henderson, Rebecca M. and Kim B. Clark. "Architectural Innovation: The Reconfiguration of Existing Product Technologies and the Failure of Established Firms." Administrative Science Quarterly. Vol. 35. 1990. p. 11

⁵⁰ Bishop, Ronald. "Old Dogs, New Tricks? An Ideological Analysis of Thematic Shifts in Television Advertising for Diet Products, 1990-2000." Journal of Communication Inquiry. Oct. 2001. p. 341

diets—I think they’d be great confetti for my next cruise.”⁵¹ Instead of emphasizing weight loss, the post-FTC advertisements emphasized the flexibility of the diet, and how it could produce intrinsically valuable personal improvements that could be enjoyed by the woman on the diet and not merely the people around her.

Advertisements from other companies in the post-FTC era also deemphasized the importance of rapid weight loss, instead focusing on their diets as a means of achieving a healthy lifestyle and self-fulfillment. In the process, they too criticized their previous ways. In doing so, they sought to destroy the goodwill that had been built by pre-FTC dieting companies, while disowning that goodwill and disassociating themselves from it. It is as if the companies had hoped that consumers would forget that they were formerly members of the category that they were criticizing. According to Tushman & Anderson:

*“Competence-destroying discontinuities ... disrupt industry structure. Skills that brought product-class leaders to preeminence are largely rendered obsolete; new firms founded to exploit the new technology will gain market share at the expense of organizations that, bounded by tradition, sunk costs, and internal political constraints, remain committed to outmoded technology.”*⁵²

The changes enforced by the FTC were a form of competence-destroying discontinuity. Although they were not caused by technical change, they nonetheless forced the companies to fundamentally change the way they promoted their products. In doing so, they gave new competitors an advantage, as the new competitors could criticize the past behavior of their rivals without having to worry that the public might associate them with that past behavior. Tushman, Anderson, & O’Reilly wrote, “Dominant designs and

⁵¹ Bishop, Ronald. “Old Dogs, New Tricks? An Ideological Analysis of Thematic Shifts in Television Advertising for Diet Products, 1990-2000.” Journal of Communication Inquiry. Oct. 2001. p. 347

⁵² Tushman, Michael L. and Philip Anderson. “Technological Discontinuities and Organizational Environments.” Administrative Science Quarterly. 1986. Vol. 31. p. 444

technological discontinuities are demarcation points between fundamentally different competitive arenas.”⁵³ Before the FTC’s intervention, quick-fix advertising was the dominant design, while afterwards lifestyle-based advertising was the dominant design. In order to bridge these two dominant designs, companies had to undergo radical innovation.

Performance Landscapes and the Dieting Industry

Another way of viewing the changes in the dieting industry is through the lens of the performance landscapes literature. Sigglekow wrote about how Liz Clairborne migrated from one peak on the performance landscape to another after it became necessary for the company to be able to offer mid-season reordering. While traveling between peaks, firms that are not successful at operating ambidextrously often enter valleys of poor performance. As is shown in Appendix B, Figure 3, the share price of Jenny Craig plunged during the 1990s, as it both struggled to adapt to the changes imposed by the FTC and struggled to find suitable successors to Mr. and Mrs. Craig. Although things are less transparent after the company’s re-privatization, the company’s six-fold increase in valuation between 2002 and 2006 is an indicator that it once again reached a new peak on the performance landscape. Jenny Craig’s advertising stabilized on a new design with a better external fit, and Jenny Craig’s leadership solidified with the selection of Patricia Larchet.⁵⁴

⁵³ Tushman, M. L., P. C. Anderson, C. O’Reilly. “Technology cycles, innovation streams, and ambidextrous organizations: Organizational renewal through innovation streams and strategic change.” M. L. Tushman, P. C. Anderson, eds. Managing Strategic Innovation and Change. Oxford University Press, New York. 1997. p. 5.

⁵⁴ Sigglekow, Nicolaj. “Change in the Presence of Fit: The Rise, The Fall, and The Renaissance of Liz Clairborne.” Academy of Management Journal. 2001. Vol. 44, No. 4. p. 840

It appears that the changes that Jenny Craig experienced were fit-conserving changes. While Jenny Craig did not make many internal changes in face of the FTC's allegations, its fit with the external landscape was hampered. According to Sigglekow, a fit-conserving change is an "environmental change that has left the internal logic of the firm's system of choices intact while decreasing the appropriateness of the system as a whole."⁵⁵ As Jenny Craig maintained its system of packaged foods and counseling in spite of the change, this seems like an accurate description. Mr. LaBonte's attempts at internal restructuring were unwelcome, and he was dismissed as a result. Thus, it appears that the only major change that occurred was in Jenny Craig's suitability for the new external environment. This fit was greatly improved through the creation of the Jenny Direct and Ultimate Choice™ Programs.

It is possible that some of Jenny Craig's troubles originated from the hubris that it had obtained from past success, as Sigglekow wrote, "Studies have shown that past success leads to a reduction in information processing and a heightened belief that environmental changes are not going to affect an organization negatively."⁵⁶ Jenny Craig's previous success may have made it feel that it did not need to restructure, or compete against low carbohydrate diets directly. Instead of making radical changes to its corporate structure and product, only incremental changes were made.

⁵⁵ Sigglekow, Nicolaj. "Change in the Presence of Fit: The Rise, The Fall, and The Renaissance of Liz Clairborne." Academy of Management Journal. 2001. Vol. 44, No. 4. p. 841

⁵⁶ Sigglekow, Nicolaj. "Change in the Presence of Fit: The Rise, The Fall, and The Renaissance of Liz Clairborne." Academy of Management Journal. 2001. Vol. 44, No. 4. p. 839

Levinthal wrote that firms traverse rugged landscapes through a combination of local search and long-jumps.⁵⁷ It appears that Jenny Craig pursued local search while attempting to fine-tune its product offering, as none of the changes it made in its product were more than incremental. However, Jenny Craig and the rest of the diet industry made a long-jump when determining the best strategy for advertising, as the previous dominant design (and any minor variations of it) had been rendered legally unusable. It should be noted that Jenny Craig made its long-jumps during the time immediately following the settlement, while it made its local searches in the early 21st Century, after it had determined a new advertising strategy. This is consistent with Levinthal's conclusion that the number of long-jumps a firm makes decreases as organizational performance improves.

Jenny Craig as a Reactive, Imitative Organization

According to Tushman, Anderson, & O'Reilly, "ambidextrous organizations have multiple organizational architectures to concurrently nurture ... diverse innovation requirements."⁵⁸ Rather than acting in a decentralized, ambidextrous manner, Jenny Craig was highly centralized and made decisions in a responsive manner. Jenny Craig only began competing against the innovations of its competitors years after they were introduced. Seattle Sutton's Healthy Eating, a delivery-based service, was founded in

⁵⁷ Levinthal, Daniel A. "Adaptation on Rugged Landscapes." Management Science. Vol. 43, No. 7, July 1997. pp. 934-950

⁵⁸ Tushman, M. L., P. C. Anderson, C. O'Reilly. "Technology cycles, innovation streams, and ambidextrous organizations: Organizational renewal through innovation streams and strategic change." M. L. Tushman, P. C. Anderson, eds. Managing Strategic Innovation and Change. Oxford University Press, New York. 1997. p. 6

1985.⁵⁹ Meanwhile, the Jenny Direct Program, a comparable offering, was created in 2004. Likewise, Jenny Craig began offering the Ultimate Choice™ Program in 2001, enabling it to compete with Atkins Nutritionals, which was founded in 1989.^{60,61}

Rivkin enumerates the following barriers to replication and imitation: game-theoretic strategic moves, access to key resources, organizational impediments or weaknesses, and obstacles to effective search.⁶² None of these barriers seems to exist within the weight loss industry. It is unclear how any of the companies in the industry have made game theoretic moves; it may have been hard for them to do so due to the regular influx and outflow of competition. Likewise, according to Mrs. Craig the only inputs in a diet are “four walls and people,” and perhaps some commodity packaged foods that can be produced by the lowest bidder.⁶³ Thus, it is unlikely that imitation is prevented by the limitation of access to key resources. As the processes of a dieting company are so externally facing, it is also unlikely that imitators were unable to discover Jenny Craig’s routines through search. Since Jenny Craig was an easily imitable organization, and most of its competitors are easily imitable as well, the degree of imitation that occurs within the industry primarily depends on strategic goals and organizational inertia.

⁵⁹ “About Seattle Sutton’s Healthy Eating.” Seattle Sutton. Accessed 23 Dec. 2006.

<<http://www.sshe.com/aboutus.asp>>

⁶⁰ “Jenny Craig, Inc. Form 10Q.” Securities Exchange Commission. 30 September 2001.

<<http://sec.edgar-online.com/2002/02/14/0000936392-02-000138/Section7.asp>>

⁶¹ “Atkins Nutritionals.” Wikipedia. Accessed 24 Dec. 2006.

<http://en.wikipedia.org/wiki/Atkins_Nutritionals>

⁶² Rivkin, Jan. W. “Reproducing Knowledge: Replication Without Imitation at Moderate Complexity.” Organizational Science. Vol. 12, No. 3. May-June 2001. pp. 274-293.

⁶³ Craig, Jenny. The Jenny Craig Story. Hoboken: Wiley. 2004. p. 201

Jenny Craig was able to behave as a reactive organization, as all of its competitors can easily be imitated. According to Lieberman and Asaba, “When competitors take similar actions, there is less chance that any firm will succeed or fail relative to the others.”⁶⁴ All of the major players in the industry had allegations filed against them by the FTC, and all of them responded by criticizing their old ways and attempting to distance themselves from quick-fix dieting. As a result of this behavior, Jenny Craig experienced little risk, relative to its peers, by offering an Atkins-compatible diet (the Ultimate Choice™ Program), as even if Atkins were found to be unhealthful, its peers would suffer as well due to their parity.

However, Lieberman & Asaba also mentioned that “what looks like imitation may simply be firms’ independent responses to a common external stimulus.”⁶⁵ It is unclear to what degree the changes that firms underwent in the post-FTC era were due to the common shock versus imitation. The objective of a quick-fix had to be replaced by something else in the post-FTC era. It appears that the dominant design that emerged for diet companies in the post-FTC era was an objective of improving overall health. Further investigation must be done to determine whether the firms adopted this new objective simultaneously in response to the stimulus, or whether they did so in imitation of one another.

⁶⁴ Lieberman, Marvin B. and Shigeru Asaba. “Why Do Firms Imitate Each Other?” Academy of Management Review. 2006. Vol. 31, No. 2. p. 367

⁶⁵ Lieberman, Marvin B. and Shigeru Asaba. “Why Do Firms Imitate Each Other?” Academy of Management Review. 2006. Vol. 31, No. 2. p. 377

Conclusion

By exploring the history of Jenny Craig, it has been possible to see how one firm can simultaneously undergo incremental innovation within its product line and radical innovation within its marketing. Jenny Craig was able to benefit from the ease of imitation in the dieting industry by imitating two of the innovations of its competitors: low carbohydrate meals and direct delivery. As Jenny Craig was largely a marketing organization, an event that hurt its goodwill (the FTC allegations) depressed its valuation, while an event that built its goodwill, the “Fat Actress” reality-advertising campaign, increased its valuation. Jenny Craig was able to restore itself after the shock of the FTC’s allegations by continuing to behave as a reactive organization. The innovations that Jenny Craig adopted had been existed before the FTC changed the industry, but had previously been ignored by the company. After settling from the shock of the FTC allegations, Jenny Craig was able to run stably and successfully enough to perform local searches on the performance landscape and reach a new peak. Although Jenny Craig’s valuation declined during the 1990’s, by the early 21st Century, the company had experienced a renaissance.

Appendix A: The FTC's Amended Complaint against Jenny Craig**B234118**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION*In the Matter of*

JENNY CRAIG, INC., a corporation, and JENNY CRAIG INTERNATIONAL, INC., a corporation.

DOCKET NO. 9260

AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that Jenny Craig, Inc., a corporation, and Jenny Craig International, Inc., a corporation ("Jenny Craig" or "respondents"), have 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 Jenny Craig International, Inc., a California Corporation, is a wholly-owned subsidiary of respondent Jenny Craig, Inc., a Delaware Corporation. Jenny Craig, Inc. dominates and controls the acts and practices of Jenny Craig International, Inc. Both corporations maintain their offices and principal places of business at 445 Marine View Avenue, #300, Del Mar, California 92014.

PARAGRAPH TWO: Respondents have advertised, offered for sale, and sold weight loss and weight maintenance services and products, including 1000 to 1500 calorie-a-day weight loss programs which they make available to consumers at numerous company-owned and franchised "Jenny Craig Weight Loss Centres" nationwide. These products also include "food" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PARAGRAPH THREE: The acts and practices of respondents 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: Respondents have disseminated or have caused to be disseminated advertisements for the Jenny Craig Weight Loss Program, including but not necessarily limited to the attached Exhibits A through V.

SUCCESS CLAIMS

PARAGRAPH FIVE: The advertisements referred to in PARAGRAPH FOUR, including but not necessarily limited to the attached Exhibits A through I and Exhibit N, contain the following statements:

- (a) "Jeanne-Mer Garcia lost 81 lbs." (Exhibit A)
- (b) "Maggie Cardoza lost 105 lbs." (Exhibit B)
- (c) "Toni Todd lost 32 lbs." (Exhibit C)
- (d) "Carol Puckett lost 100 lbs." (Exhibit D)
- (e) "Faith Shipp lost 95 lbs." (Exhibits E and N)
- (f) "[Claudine St. Clair] lost 18 lbs." (Exhibit F)

(g) "Evelyn Moore lost 52 lbs." (Exhibit G)

(h) "Jaynie Qualls lost 71 lbs." (Exhibit H)

(i) "Kathy Chamblin lost 73 lbs." (Exhibit I)

PARAGRAPH SIX: Through the use of the statements contained in the advertisements referred to in PARAGRAPH FIVE, including but not necessarily limited to the statements in the advertisements attached as Exhibits A-I and N, respondents have represented, directly or by implication, that Jenny Craig customers typically are successful in reaching their weight loss goals.

PARAGRAPH SEVEN: Through the use of the statements contained in the advertisements referred to in PARAGRAPH FIVE, including but not necessarily limited to the statements in the advertisements attached as Exhibits A-I and N, respondents have represented, directly or by implication, that at the time they made the representation set forth in PARAGRAPH SIX, respondents possessed and relied upon a reasonable basis that substantiated the representation.

PARAGRAPH EIGHT: In truth and in fact, at the time they made the representation set forth in PARAGRAPH SIX, respondents did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in PARAGRAPH SEVEN was, and is, false and misleading.

PARAGRAPH NINE: The advertisements referred to in PARAGRAPH FOUR, including but not necessarily limited to the attached Exhibit B and Exhibits D through M, contain the following statements:

(a) "I'd tried a million other weight loss programs, but I'd always gain the weight back." (Exhibit D)

(b) "I lost 95 pounds in just over six months. And, I've kept the weight off for nearly one year!" (Exhibit E)

(c) "I lost eighteen pounds in only six weeks. And I've kept the weight off for over a year." (Exhibit F)

(d) "My weight slowly crept up over the years. I joined Jenny Craig because I wanted to lose those extra pounds -- permanently." (Exhibit G)

(e) "I've been overweight so long that I just felt like I was destined to be fat. And now look at me. . . What I learned from Jenny Craig is moderation. Anyone can lose weight. But the key is to learn how to keep it off. And that's what the Lifestyle Classes do." (Exhibit H)

(f) "I used to dream that one day I'd wake up and be slim. Thanks to Jenny Craig, it happened. I tried other programs, but the second I'd go off, I'd gain everything back and then some. While they helped me lose weight, they never taught me how to eat in the real world and keep it off." (Exhibit I)

(g) "And most importantly, I've learned how to maintain my weight. That's key." "Y lo más importante es que he aprendido a mantener mi peso. Eso es la clave." (Exhibits B and J)

(h) "I've kept [89 pounds] off nearly two years." (Exhibit K)

(i) "If you discovered a way to control your weight, who would you tell? 'My Mom and Dad' 'My doubles partner' . . . That's what these successful Jenny Craig clients did." (Exhibit L)

(j) "You know, I [Jenny Craig] get so many letters from people. Sometimes they, they write to me even after they've had their weight off for maybe two or three years. . . I never get tired of hearing about the successes." (Exhibit M)

PARAGRAPH TEN: Through the use of the statements contained in the advertisements referred to in PARAGRAPH NINE, including but not necessarily limited to the statements in the advertisements attached as Exhibits B and D-M, respondents have represented, directly or by implication, that:

(a) Overweight or obese Jenny Craig customers typically are successful in reaching their weight loss goals and maintaining their weight loss either long-term or permanently, and

(b) Jenny Craig customers typically are successful in maintaining their weight loss achieved under the Jenny Craig Weight Loss Program.

PARAGRAPH ELEVEN: Through the use of the statements contained in the advertisements referred to in PARAGRAPH NINE, including but not necessarily limited to the statements in the advertisements attached as Exhibits B and D-M, respondents have represented, directly or by implication, that at the time they made the representations set forth in PARAGRAPH TEN, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH TWELVE: In truth and in fact, at the time respondents made the representations set forth in PARAGRAPH TEN, they did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation as set forth in PARAGRAPH ELEVEN was, and is, false and misleading.

PROJECTION OF WEIGHT LOSS CLAIM

PARAGRAPH THIRTEEN: In the routine course and conduct of their business, respondents state, during the initial sales presentation, that consumers typically will reach their desired weight loss goal within the time frame set by respondents' "PD Presentation" computer program.

PARAGRAPH FOURTEEN: In truth and in fact, consumers typically will not reach their desired weight loss goal within the time frame set by respondents' "PD Presentation" computer program. Therefore, the representation set forth in PARAGRAPH THIRTEEN was, and is, false and misleading.

PARAGRAPH FIFTEEN: Through the use of the statements described in PARAGRAPH THIRTEEN, respondents have represented, directly or by implication, that at the time they made the representation set forth in PARAGRAPH THIRTEEN, respondents possessed and relied upon a reasonable basis for the representation.

PARAGRAPH SIXTEEN: In truth and in fact, at the time respondents made the representation set forth in PARAGRAPH THIRTEEN, they did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in PARAGRAPH FIFTEEN was, and is, false and misleading.

PRICE CLAIMS

PARAGRAPH SEVENTEEN: The advertisements referred to in PARAGRAPH FOUR, including but not necessarily limited to the attached Exhibit L and Exhibits N through R, contain the following statements:

(a) "Pay as you go for just \$9 a week, or lose all you want for just \$49." (Exhibit L)

(b) "Lose all the weight you want for only a \$185 service fee." (Exhibit N)

(c) "Jenny Craig was different. It didn't have any gimmicks. It's one set price. There wasn't any adding. It was honest. This was the truth. And I've checked every place." (Exhibit O)

(d) "Call the wrong weight loss program and you end up playing 'Let's Make a Deal.' Some have hidden charges. Others, high administrative fees. And some even charge you by the pound. It's like they punish you just because you have to lose weight. At Jenny Craig, we charge you one low fee to lose all the weight you want. No gimmicks. No hidden charges. Jenny Craig. Where weight loss means losing weight. Not your bank account." (Exhibit P)

(e) "Most weight loss programs spend more time on their figures than yours. They figure out ways to hit you with administrative fees. Hidden charges. Some even charge you by the pound. It's like they're punishing you for losing weight. At Jenny Craig you can lose all the weight you want for one low service fee. No gimmicks. No hidden costs. Jenny Craig. Where you get thin. And your wallet doesn't." (Exhibit Q)

(f) "Our price is guaranteed. At Jenny Craig, we fervently adhere to one, often overlooked principle: Honesty. That's why our price is exactly what we say it is. No hidden costs. No deal-of-the-day. It's just one set price. And we'll even tell it to you over the phone. If all that doesn't sound too remarkable, try calling other programs and compare for yourself. Chances are you'll be very surprised at what they tell you. Or more likely, what they don't tell you." (Exhibit R)

PARAGRAPH EIGHTEEN: Through the use of the statements contained in the advertisements referred to in PARAGRAPH SEVENTEEN, including but not necessarily limited to the statements in the advertisements attached as Exhibits L and N-R, respondents have represented, directly or by implication, that the advertised price is the only cost associated with losing weight on the Jenny Craig Weight Loss Program.

PARAGRAPH NINETEEN: In truth and in fact, the advertised price is not the only cost associated with losing weight on the Jenny Craig Weight Loss Program. There are substantial additional mandatory expenses associated with participation in the Jenny Craig program that far exceed the advertised price. Therefore, the representation set forth in PARAGRAPH EIGHTEEN was, and is, false and misleading.

PARAGRAPH TWENTY: In their advertising and sale of the Jenny Craig Weight Loss Program, respondents have represented, directly or by implication, that the advertised price is the only cost associated with losing weight on the Jenny Craig Weight Loss Program. Respondents have failed to disclose adequately to consumers the existence and amount of all mandatory expenses associated with participation in the Jenny Craig program. This fact would be material to consumers in their purchase decisions regarding the program. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

HEALTH RISKS CLAIMS

PARAGRAPH TWENTY-ONE: In the routine course and conduct of their business, respondents state:

(a) "In just a moment the computer will show you how safely and easily you are going to lose weight without feeling hungry. To put your mind at ease...we have a registered dietitian along with our medical consultant team to ensure that while your weight loss is easy, it is also 100% safe and hunger-free." (Suggested sales script for Jenny Craig tour guide)

(b) "Our Program provides a safe, easy weight loss that is personally supervised." ("Sample Telephone Script" contained in Jenny Craig Sales Manual)

(c) "Our experience has taught us that using drugs is neither safe nor permanent. Our program aims at more permanent weight loss results and it's 100% safe." ("Sample Telephone Script" contained in Jenny Craig Sales Manual)

PARAGRAPH TWENTY-TWO: In the routine course and conduct of their business, respondents provide their customers with diet protocols that require said customers, inter alia, to come in to a Jenny Craig Weight Loss Centre at least once a week for monitoring of their progress, including weighing in.

PARAGRAPH TWENTY-THREE: Through the use of the statements set forth in PARAGRAPH TWENTY-ONE, and through the conduct of the monitoring described in PARAGRAPH TWENTY-TWO, respondents have represented, directly or by implication, on an ongoing basis to each customer, that customers on respondents' weight loss program lose weight safely and do not experience an increased risk of developing health complications.

PARAGRAPH TWENTY-FOUR: In the course of regularly monitoring their customers' weight loss progress, respondents, in some instances, are presented with weight loss results indicating that a customer is losing weight significantly in excess of what would be expected, considering the daily caloric intake prescribed for that customer, which is an indication that the customer may not be consuming all of the calories prescribed by his or her diet protocol. Such conduct could, if prolonged, result in health complications associated with rapid weight loss.

PARAGRAPH TWENTY-FIVE: Respondents have failed to disclose, either in their advertising, at point of sale, or to individual customers losing weight too rapidly, that such weight loss, if prolonged, could result in health complications, including the development of gallbladder disease. This fact would be material to consumers in their purchase and use decisions regarding respondents' program.

PARAGRAPH TWENTY-SIX: In light of the representations set forth in PARAGRAPH TWENTY-THREE, respondents' failure to disclose that not consuming all of the calories prescribed by the diet protocol, if prolonged, could result in health complications, including the development of gallbladder disease, is a deceptive practice.

PARAGRAPH TWENTY-SEVEN: In providing the advertisements referred to in PARAGRAPH FOUR and the materials referred to in PARAGRAPH THIRTEEN and PARAGRAPH TWENTY-ONE to their individual franchised stores for the purpose of inducing consumers to purchase their weight loss services and products, respondents have furnished the means and instrumentalities to those stores to engage in the acts and practices alleged in PARAGRAPHS FIVE through TWENTY-SIX.

CUSTOMER SATISFACTION CLAIMS

PARAGRAPH TWENTY-EIGHT: The advertisements referred to in PARAGRAPH FOUR, including but not necessarily limited to the attached Exhibits S through V and Exhibit L, contain the following statements:

(a) "9 out of 10 Clients Would Recommend Jenny Craig.... When we asked our clients if they would recommend our program to their friends they gave us a resounding,

`Yes!' And we think that's the best advertising we could ever hope for. You probably know someone who's been successful on the Jenny Craig program. Call now and find out just how they did it." (Exhibit S)

(b) "86% liked the counseling...89% liked the program...And 94% would recommend us to a friend. National Survey of Jenny Craig Clients Oct-Dec 1991. Now what could be more impressive than that?" (Exhibit T)

(c) "The other day I saw a commercial that said nine out of ten Jenny Craig clients would recommend Jenny Craig to their friends. Nine out of ten. Which got me to thinking..." (Exhibit U)

(d) "National Survey of Jenny Craig Clients

Oct-Dec 1991

Percentage of Jenny Craig clients responding `completely satisfied' or `very satisfied':

- With the overall Jenny Craig program 89%
- With the weekly personal counseling sessions 87%
- With the friendliness of the Jenny Craig staff 91%
- That would recommend the program to a friend 94%

YOU'RE PROBABLY WONDERING WHAT ELSE WE COULD POSSIBLY DO TO IMPRESS YOU." (Exhibit V)

(e) "In fact, 9 out of 10 Jenny Craig clients would recommend Jenny Craig to their friends." (Exhibit L)

PARAGRAPH TWENTY-NINE: Through the use of the statements contained in the advertisements referred to in PARAGRAPH TWENTY-EIGHT, including but not necessarily limited to the statements in the advertisements attached as Exhibits S-V and L, respondents have represented, directly or by implication, that competent and reliable studies or surveys show that ninety percent or more of Jenny Craig customers would recommend the Jenny Craig Weight Loss Program.

PARAGRAPH THIRTY: In truth and in fact, competent and reliable studies or surveys do not show that ninety percent or more of Jenny Craig customers would recommend the Jenny Craig Weight Loss Program. Therefore, the representation set forth in PARAGRAPH TWENTY-NINE was, and is, false and misleading.

PARAGRAPH THIRTY-ONE: Through the use of the statements contained in the advertisements referred to in PARAGRAPH TWENTY-EIGHT, including but not necessarily limited to the statements in the advertisements attached as Exhibits S-V and L, respondents have represented, directly or by implication, that ninety percent or more of Jenny Craig customers would recommend the Jenny Craig Weight Loss Program.

PARAGRAPH THIRTY-TWO: Through the use of the statements contained in the advertisements referred to in PARAGRAPH FOUR, including but not necessarily limited to the statements in the advertisements attached as Exhibits S-V and L, respondents have represented, directly or by implication, that at the time they made the representations set forth in PARAGRAPHS TWENTY-NINE and THIRTY-ONE, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH THIRTY-THREE: In truth and in fact, at the time they made the representations set forth in PARAGRAPHS TWENTY-NINE and THIRTY-ONE, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH THIRTY-TWO was, and is, false and misleading.

PARAGRAPH THIRTY-FOUR: The acts and practices of respondents 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.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this amended complaint to be signed by its Secretary and its official seal to be hereto affixed at Washington, D.C. this nineteenth day of February, 1998.

By the Commission, Chairman Pitofsky recused and Commissioner Azcuenaga not participating.

Donald S. Clark

Secretary

Appendix B: The Market Performance of the Weight Loss Industry



Figure 3: The Share Price of Jenny Craig, 1992-2001

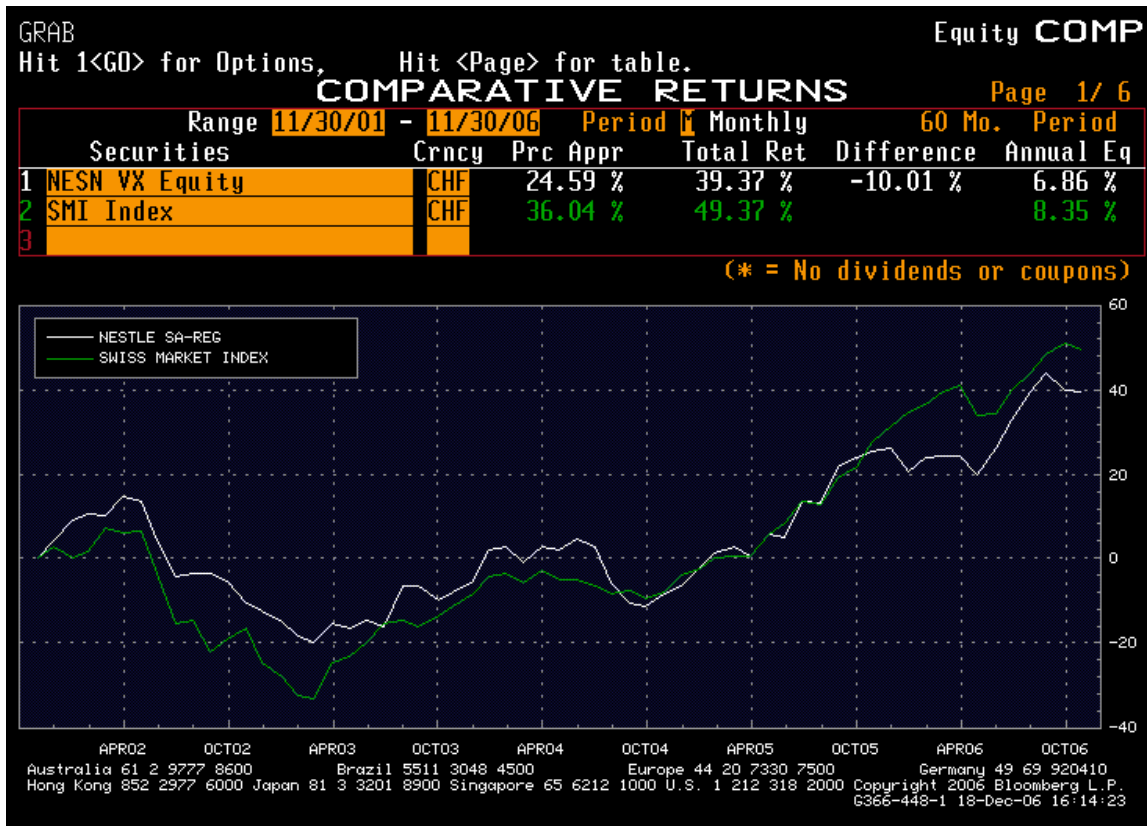


Figure 4: The Share Price of Nestlé, 2002-2006 (Denominated in Swiss Francs)

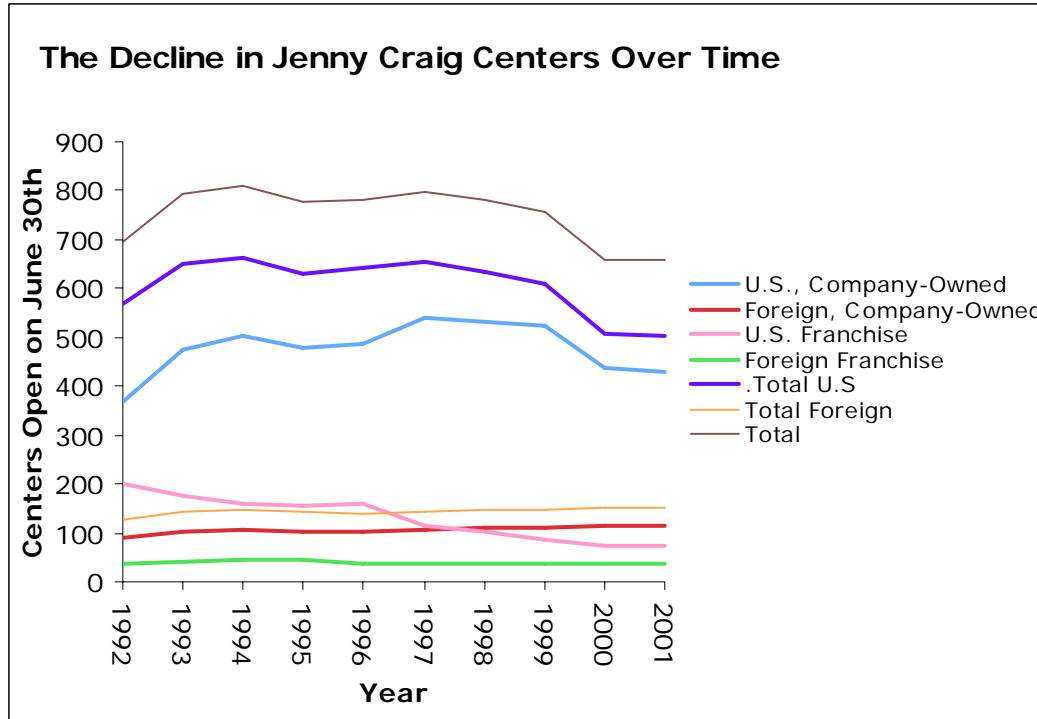


Figure 5: The Number of Jenny Craig Centres - 1992 to 2001⁶⁶

⁶⁶ “Jenny Craig, Inc. Form 10K-405.” Securities Exchange Commission, 30 June 2001. <<http://www.sec.gov/Archives/edgar/data/878865/000109581101505265/a75835e10-k405.htm>>