February 7, 2007

Donald S. Clark
Federal Trade Commission
Office of the Secretary
Room H-135 (Annex S)
600 Pennsylvania Ave. NW
Washington, D.C. 20580

Re: Endorsement Guides Review, Project No. PO 34520

Dear Mr. Clark:

In response to the Federal Trade Commission's request for comment on 16 CFR Part 255, I would like to respond in favor of an increase in the requirements for disclosure of atypical results and the requirement of disclosure of celebrity endorsement agreements in interview settings. As a student at Mercer University's School of Law, I thank the Commission for the opportunity to comment.

The Guides Concerning the Use of Endorsements and Testimonials in Advertising (hereinafter Guidelines) provide assistance for businesses in the proper implementation of the requirements of section 5 of the FTC Act. As this is the stated purpose for the guidelines they should be as clear as possible in order to effectively assist businesses and consumers. The surveys were very helpful in determining the impact of the Guidelines on actual businesses and consumers.

The study indicated that the common, small indicator that results for the actual user endorser were "not typical" and that the advertisement showed "experiences of a few" was not noticed by the average viewer. The more specific disclosures that related to the average weight lost by the average participant were more indicative of general results. The purpose of the requirement for disclosure if the results are atypical is to protect the average consumer who will most likely receive average results. The Guidelines state that they would desire an average representative for the endorsement, and the atypical results with a disclosure should not be the basis of the advertisement if possible. The result has been that almost all advertisements showcase the atypical endorser, and then provide a small disclaimer such as "results not typical." An increase in the Guidelines requirement would help to ensure that consumers have realistic expectations. This could be accomplished just by providing a more specific Guideline such as one that requires the advertisement to contain the disclosure of the average amount of weight lost by participants for weight loss medicine when the endorsers are not typical consumers of the product. This could work for endorsed business programs as well, by requiring that the average amount of money made by participants be disclosed.

This more specific guideline would provide consumers with more realistic knowledge about the product's results, and it would not be a significant increase in cost for the businesses to add another line to the disclosure stating average weight loss or money made through use of the product. The purpose of the disclosure would be to apprise the consumer of the true nature of the product, and uphold the integrity of the endorsement.

The second concern I would like to address is that of the celebrity who endorses a product almost off-handedly during a television interview. The celebrity endorsement has become a very lucrative field where celebrities can make a significant portion of their income from endorsements alone. The "paid advertisement" is one way celebrities are able to accomplish this, but the general remark during a television interview is almost more effective. These remarks

usually have no disclaimers that the celebrity is a paid representative for the product. In situations where there is not a formal paid advertisement, when a celebrity mentions their use of this product or that product while speaking in an interview it seems even more sincere to the consumer. If the celebrity is being paid for that endorsement with no disclosure to the viewer, then it may be taken as even more legitimate, unpaid personal testimony of the product. One way to implement a disclaimer in that situation would be a written disclaimer across the bottom of the screen stating the celebrity's affiliation with the company. Another way to implement this would be to inform celebrities that they need to stay away from mentioning products by name while they are involved in interviews if there is no disclaimer. This might be accomplished through changes to endorsement agreements. A celebrity is usually aware of the topic of the interview beforehand, so offhand references to products could be limited fairly easily.

This would provide the consumer with a better understanding of the real relationship between a celebrity endorser and a company when the celebrity mentions the product in an interview rather than a paid advertisement. A disclaimer should be provided since a consumer may even believe a remark made during an interview is more accurate than one made in a more formal endorsement setting.

Thank you again for this opportunity to comment on the Guidelines for Endorsements, These can have a substantial effect on a consumer's opinion, but can also be disclosed fairly cheaply for the business with more definitive direction from the Guidelines.

Sincerely,

Brittany Adams
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Mercer University