



UNITED STATES OF AMERICA  
Federal Trade Commission  
Washington, D.C. 20580

Office of the Secretary

November 8, 2013

Daniel Ballard  
Sequoia Counsel PC  
State of California

*Re: In the Matter of Ecobaby Organics, Inc., File No. 122 3129, Docket No. C-4416*

Dear Mr. Ballard:

Thank you for commenting on the Federal Trade Commission's proposed consent agreement in the above-referenced proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

Your comment raised concerns that the agreement's proposed relief as it relates to Ecobaby's deceptive certification claims is insufficient, and that the Commission should consider the imposition of punitive measures. You state that "[w]hen the FTC imposes no punishment for intentional false advertising the consequence is that advertising attorneys lose influence in the conference rooms where advertising decisions are made." After consideration of your comment, the Commission has determined that the relief set forth in the consent agreement is appropriate and sufficient to remedy the violations alleged in the complaint.

The order provides meaningful relief by prohibiting Ecobaby from making deceptive claims about the certification, environmental benefit, or health benefit of any mattress or component part. It also deters future order violations. Although civil penalties are not available for the violations of Section 5 of the FTC Act alleged in the complaint against Ecobaby (15 USC §§ 45(a), (l), (m)), a violation of an FTC order is punishable by a civil penalty of up to \$16,000 per violation. Therefore, if Ecobaby falsely claims that its mattresses are certified by an independent third-party certifier in the future, it may be liable for significant civil penalties.

Accordingly, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and we thank you again for your comment.

By direction of the Commission.

Donald S. Clark  
Secretary