

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580



Division of Advertising Practices

Mary K. Engle
Associate Director

December 13, 2011

Behnam Dayanim, Esq.
Axinn Veltrop & Harkrider LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Re: Dean Foods/WhiteWave - Horizon Organic Milk with DHA Omega-3
FTC File No. 1123165

Dear Mr. Dayanim:

As you are aware, the staff of the Division of Advertising Practices of the Federal Trade Commission conducted an investigation of WhiteWave Foods Company ("WhiteWave"), a wholly owned subsidiary of Dean Foods Company, for possible violations of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45, 52. In particular, the investigation concerned WhiteWave's advertising for Horizon Organic Milk with docosahexaenoic acid ("DHA") Omega-3 ("Horizon Milk"). Our inquiry focused on whether WhiteWave had adequate substantiation for representations that DHA improved or supported: 1) brain development or function, 2) cognitive development or function, 3) intelligence, or 4) learning abilities in children over the age of two.

Upon careful review of the matter, including non-public information submitted to the FTC, we have determined not to recommend enforcement action at this time. The factors we considered in making this determination included the limited duration of the advertising campaign containing the claims at issue and WhiteWave's voluntary action to modify all advertising to ensure compliance with the FTC Act. Specifically, WhiteWave changed radio and television advertisements, modified its website, which included the removal of interactive games, and ceased dissemination of the print and internet advertisements at issue.

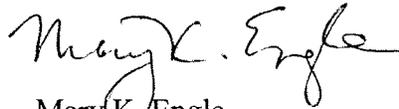
We appreciate WhiteWave's significant cooperation in resolving this matter. The staff encourages WhiteWave to exercise caution in future advertising when describing the certainty of the supporting science or characterizing the extent of any benefits of DHA beyond the support of normal brain and eye development or function in children over the age of two. Advertisements should not depict children over the age of two engaged in activities that expressly or impliedly

Behnam Dayanim, Esq.
December 13, 2011
Page 2

convey extraordinary cognitive function or development, intelligence, or learning abilities from drinking Horizon Milk with DHA.

This action is not to be construed as a determination that a violation of law did not occur, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mary K. Engle". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Mary K. Engle
Associate Director
Division of Advertising Practices