



United States of America
FEDERAL TRADE COMMISSION
Washington, DC 20580

Division of Advertising Practices

November 9, 2011

Dwight D. Lueck
Barnes & Thornberg LLP
11 South Meridian Street
Indianapolis, IN 56204

Re: Kent Nutrition Group, Inc., File No. 112-3161

Dear Mr. Lueck:

The staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into whether your client, Kent Nutrition Group, Inc., violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, in connection with its promotion and advertising for its product, World's Best Cat Litter™ ("WBCL"), following a referral from the National Advertising Division of the Council for Better Business Bureaus. Our inquiry focused on Kent's claims that WBCL is biodegradable, flushable, and septic-safe. Section 5 of the FTC Act requires that advertising claims be truthful and non-misleading. In addition, certain types of claims, such as environmental benefit claims, require that an advertiser possess competent and reliable scientific evidence substantiating the claims, prior to dissemination. We were concerned that Kent's biodegradable, flushable, and septic-safe claims were not adequately substantiated.

Specifically, Kent claimed that WBCL was biodegradable and its promotional materials did not define, describe, or qualify the biodegradable claim. Although the advertising and packaging also stated that the product was flushable, this claim did not modify the biodegradable claim; *i.e.*, it did not state the product is biodegradable only when flushed. Accordingly, consumers may have reasonably believed the product was biodegradable whether it was flushed or thrown away with the regular trash. The FTC's Guides for the Use of Environmental Marketing Claims, 16 C.F.R. Part 260 ("Green Guides"), explain that "[a]n unqualified claim that a product or package is degradable, biodegradable or photodegradable should be substantiated by competent and reliable scientific evidence that the entire product or package will completely break down and return to nature, *i.e.*, decompose into elements found in nature within a reasonably short period of time after customary disposal." 16. C.F.R. § 260.7(b). We believe that the customary method of disposal for cat litter is trash disposal. If consumers dispose of the cat litter in their regular trash, this disposal method does not present conditions that would allow for the cat litter to biodegrade.¹

¹ Approximately 91 percent of total municipal solid waste in the United States is disposed of in either landfills, incinerators, or recycling facilities.

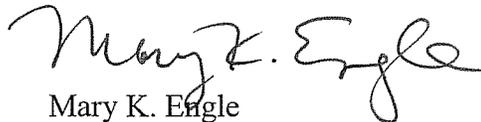
Dwight Lueck, Esq.

Kent also claimed that WBCL was flushable and septic-safe. To adequately substantiate such claims, an advertiser must possess and rely upon testing that addresses consumers' reasonable and expected usage of the product, which here would include daily flushing of cat litter potentially for years, and the effects of long-term, large-scale introduction of cat litter waste into individual septic or wastewater treatment systems.

Upon careful review of this matter, including non-public information submitted to the staff, we have determined not to recommend enforcement action at this time. Among the factors we considered is your decision to take steps to address the concerns expressed by the FTC staff. First, you informed us that Kent has ceased making biodegradable, flushable, and septic-safe claims on its website and in point-of-sale materials, and is taking steps to remove these claims from WBCL packaging. Second, you informed us that Kent has contracted with an outside expert to conduct additional testing of WBCL and will only resume these claims if the testing results support them. The FTC staff expects that Kent will carefully review its claims and substantiation to ensure all future advertising complies with the FTC Act.

Our decision not to pursue enforcement action is not to be construed as a determination that a violation may not have occurred, 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 warrant.

Very truly yours,



Mary K. Engle
Associate Director

cc: Andrea Levine
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