



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Advertising Practices

Mary K. Engle
Associate Director

November 13, 2009

Christine H. Miller, Esq.
Patterson Belknap Webb & Tyler, LLP
1133 Avenue of the Americas
New York, NY 10036

Re: Powerade Zero Referral from the National Advertising Division

Dear Ms. Miller:

I write to clarify the results of our inquiry into the advertising for Powerade Zero. We initiated the inquiry when the National Advertising Division (NAD) of the Council of Better Business Bureaus made a referral to us in May after your client, The Coca-Cola Company, declined to accept the NAD's recommendations after a second compliance proceeding. As you are aware, on July 7, 2009, I sent a letter to Andrea C. Levine, Vice President and Director of the NAD, summarizing the results of our inquiry and explaining why we determined that no further FTC action was warranted.

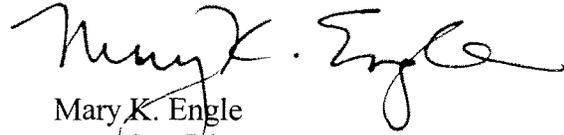
We found that the ad that triggered the NAD referral, a humorous television spot featuring two mountain climbers and a goat, did not convey an implied message that Powerade Zero performs as well as Gatorade to replenish energy after strenuous activity. This finding was based upon the fact that the climbers featured in the ad were portrayed at rest and did not appear to be exerting themselves, as well as the obvious hyperbolic nature of the ad. Given our conclusion that no superior hydration or performance claim was conveyed in the commercial, we did not think it necessary for the ad to state that the absence of calories in Powerade Zero means that the drink does not provide energy – calories – from carbohydrates.

We believe that many consumers, such as those who are exercising to lose weight or to avoid weight gain, would find information regarding the comparative caloric content of sports drinks to be beneficial in making purchasing decisions. However, we emphasize the narrow scope of our review and the limited nature of our conclusion. We have not analyzed any particular superior performance claims for Powerade Zero as compared to Gatorade in any advertisements at issue in the NAD proceeding or otherwise. All performance claims, including comparative claims, must be truthful, non-misleading, and adequately substantiated at the time they are made.

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Page 2

We appreciate your cooperation in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mary K. Engle". The signature is fluid and cursive, with a large loop at the end of the last name.

Mary K. Engle
Associate Director

cc: Andrea C. Levine, Esq.
Timothy J. Muris, Esq.