

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Dynamic Health of Florida, LLC, et al., Docket No. 9317

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order with Dynamic Health of Florida, LLC; Chhabra Group, LLC; and Vineet Chhabra a/k/a Vincent Chhabra (“respondents”). The proposed order resolves the allegations of the complaint issued against these respondents and others on June 15, 2004. *In the Matter of Dynamic Health of Florida, LLC, D. 9317* (June 15, 2004).

The proposed consent order has been placed on the public record for thirty (30) days for submission of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will review the agreement in light of any comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement’s proposed order.

This matter concerns the respondents’ marketing of a purported children’s weight loss product called “Pedia Loss” and a purported female libido enhancer called “Fabulously Feminine.” The Commission’s complaint charged that advertising for Pedia Loss made unsubstantiated claims that (1) Pedia Loss causes weight loss in overweight or obese children ages 6 and over, and (2) when taken by overweight or obese children ages 6 and over, Pedia Loss causes weight loss by suppressing appetite, increasing fat burning, and slowing carbohydrate absorption. The Commission’s complaint also charged that advertising for Fabulously Feminine falsely represented that clinical testing proves that Fabulously Feminine enhances a woman’s satisfaction with her sex life and level of sexual desire. In addition, the complaint challenged the unsubstantiated claim that Fabulously Feminine will increase a woman’s libido, sexual desire, and sexual satisfaction by stimulating blood flow and increasing sensitivity.

Part I.A. of the proposed order requires that respondents possess and rely on competent and reliable scientific evidence to support representations that Pedia Loss or any other covered product causes weight loss, suppresses appetite, increases fat burning, or slows carbohydrate absorption; causes weight loss in overweight or obese children ages 6 and over; or causes weight loss by suppressing appetite, increasing fat burning, or slowing carbohydrate absorption, when taken by overweight or obese children ages 6 and over. “Covered product” is defined as any dietary supplement, food, or drug. Part I.B. of the order requires that proposed respondents possess and rely on competent and reliable scientific evidence to support representations that Fabulously Feminine or any other covered product will increase a woman’s libido, sexual desire, or sexual satisfaction.

Part II of the proposed order requires that respondents possess and rely on competent and reliable scientific evidence to support benefits, performance, or efficacy representations for any covered product.

Part III of the proposed order prohibits respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or studies. Part IV of the proposed order permits respondents to make certain claims for food or drugs that are permitted in labeling under laws and/or regulations administered by the U.S. Food and Drug Administration.

The remainder of the proposed order contains requirements that respondents maintain copies of advertising making representations covered by the order and any materials relied upon in disseminating these representations (Part V); distribute copies of the order to certain company officials (Part VI); notify the Commission of changes in corporate structure (Part VII); notify the Commission of changes in the individual respondent's business or employment (Part VIII); and file one or more reports detailing their compliance with the order (Part IX). Part X of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.