Analysis of Proposed Consent Order to Aid Public Comment

In the Matter of Oreck Corporation, File No. 102 3033

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an Agreement Containing Consent Order from Oreck Corporation ("respondent"). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves the advertising, marketing, and sale of the Oreck Halo vacuum cleaner and the Oreck ProShield Plus portable air cleaner. Oreck has marketed these products directly to consumers through numerous websites, as well as through company-owned and franchised retail stores and third-party retail outlets.

The Oreck Halo is an upright vacuum cleaner that has a built-in light chamber and a HEPA filter bag. The light chamber generates ultraviolet light in the C spectrum onto floor surfaces while vacuuming. According to the FTC complaint, Oreck has promoted the Oreck Halo as effective, through normal use, in killing virtually all bacteria, viruses, germs, mold and allergens that exist on carpets and other floor surfaces.

Specifically, the FTC complaint alleges that respondent represented, in various advertisements, that the Oreck Halo: (1) substantially reduces the risk of or prevents the flu; (2) substantially reduces the risk of or prevents other illnesses or ailments caused by bacteria, viruses, molds, and allergens, such as the common cold, diarrhea, upset stomachs, asthma, and allergy symptoms; and (3) will eliminate all or virtually all common germs and allergens found on the floors in users' homes. The complaint also alleges that Oreck claimed that the Oreck Halo's UV-C light is effective against germs, bacteria, dust mites, mold and viruses embedded in carpets. The complaint alleges that all of these claims are unsubstantiated and thus violate the FTC Act.

The FTC complaint also alleges that Oreck represented, in various advertisements, that the Oreck ProShield Plus portable air cleaner: (1) substantially reduces the risk of or prevents the flu; (2) substantially reduces the risk of or prevents other illnesses or ailments caused by bacteria, viruses, molds, and allergens, such as the common cold, asthma, and allergy symptoms; and (3) will eliminate all or virtually all airborne particles from a typical household room under normal living conditions. The complaint alleges that all of these claims are unsubstantiated and thus violate the FTC Act.

The complaint further alleges that Oreck claimed that scientific tests prove that users of the Oreck Halo will eliminate or virtually eliminate many common germs and allergens found on the floors in their homes; and that scientific tests prove that the Oreck ProShield Plus will eliminate or virtually eliminate many common viruses, germs and allergens from a typical

household room under normal living conditions. According to the complaint, these claims are false and thus violate the FTC Act.

Finally, the complaint alleges that Oreck provided advertisements to its franchised stores for use in their marketing and sale of the Oreck Halo and the Oreck ProShield. According to the complaint, Oreck thereby provided means and instrumentalities to distributors of its products in furtherance of the deceptive and misleading acts or practices alleged in the complaint.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Specifically, Part I of the proposed order addresses the allegedly unsubstantiated claims regarding the Oreck Halo. Part I covers any representation that the Oreck Halo or any other vacuum cleaner: (1) reduces the risk of or prevents the flu; (2) reduces the risk of or prevents illnesses or ailments caused by bacteria, viruses, molds, or allergens, such as the common cold, diarrhea, upset stomachs, asthma and allergy symptoms; (3) will eliminate all or virtually all germs, bacteria, dust mites, molds, viruses or allergens from a user's floor; and (4) will eliminate any percent or numerical quantity of germs, bacteria, dust mites, molds, viruses or allergens from a user's floor. Part I also applies to representations that ultraviolet light is effective against germs, bacteria, dust mites, molds, viruses or allergens embedded in carpets. Part I prohibits Oreck from making any of the above representations unless the representation is non-misleading and, at the time of making such representation, Oreck possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. The proposed order defines "competent and reliable scientific evidence" as "tests, analyses, research or studies that have been conducted and evaluated in an objective manner by qualified persons and are generally accepted in the profession to yield accurate and reliable results."

Part II of the proposed order addresses the allegedly unsubstantiated claims regarding the Oreck ProShield Plus. Part II covers any representation that the Oreck ProShield Plus or any other air cleaner: (1) reduces the risk of or prevents the flu; (2) reduces the risk of or prevents illnesses or ailments caused by bacteria, viruses, molds, or allergens, such as the common cold, asthma and allergy symptoms; (3) will eliminate all or virtually all indoor airborne particles under normal living conditions; and (4) will eliminate any percent or numerical quantity of indoor air contaminants under normal living conditions. Part II prohibits Oreck from making any of the above representations unless the representation is non-misleading and, at the time of making such representation, Oreck possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

Part III of the proposed order prohibits respondent from making representations, other than representations covered under Parts I or II, about the absolute or comparative health benefits of any product, unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the

relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

Part IV of the proposed order addresses the allegedly false claims that scientific tests prove that the Oreck Halo or ProShield Plus eliminate or virtually eliminate many common germs, viruses or allergens from the user's floor or air. Part IV prohibits respondent, when advertising any product, from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Part VI of the proposed order requires the payment of $750,000 intended for redress to consumers. To facilitate the payment of redress, Part V of the proposed order requires Oreck to provide to the Commission a searchable electronic file containing the name and contact information of all consumers who purchased the Oreck Halo or the Oreck ProShield Plus from January 1, 2009 through August 31, 2010.

Part VII of the proposed order requires Oreck to send a letter to all of its franchisees requesting that they immediately stop using all advertising and marketing materials previously provided to them by Oreck. The required letter is appended to the proposed order as Attachment A.

Parts VIII, IX, X and XI of the proposed order require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to its personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part XII provides that the order will terminate after twenty (20) years, with certain exceptions.

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