



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

Division of Advertising Practices

January 4, 2010

Randal M. Shaheen, Esq.  
Arnold & Porter LLP  
555 Twelfth Street, NW  
Washington, D.C. 20004

Re: PepsiCo, Inc./Gatorade Tiger™ Focus®, File No. 092-3133

Dear Mr. Shaheen:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation of whether your client, PepsiCo, Inc. ("PepsiCo" or "the company"), violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, in connection with its marketing of Gatorade Tiger™ Focus® sports drink ("Tiger Focus"). The staff was concerned with PepsiCo's representations that Tiger Focus improves mental focus or concentration and also thereby improves athletic performance.

Tiger Focus is a brand extension of Gatorade Thirst Quencher ("original Gatorade"). Tiger Focus differs from original Gatorade in that it contains vitamin E, 25% more electrolytes, and the amino acid theanine. Tiger Focus also contains half as many calories per serving as original Gatorade. PepsiCo has touted Tiger Focus as "Hydration for Concentration" and emphasized the fact that the product includes "theanine to focus," promoting Tiger Focus as a product that will provide athletes with both mental and physical benefits.

Upon careful review of the 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 were the very brief duration of the advertising campaign at issue, and the company's decision to discontinue marketing the product. This 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,

A handwritten signature in cursive script that reads "Mary K. Engle".

Mary K. Engle  
Associate Director