



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

Division of Advertising Practices

January 26, 2010

Company Name
Att: President
[ADDRESS]

WARNING LETTER

This letter is to advise you that the Division of Advertising Practices of the Federal Trade Commission (“FTC”) has reviewed product packaging and advertising on the website [company’s website] and distributed at trade shows for Product X, a product containing Omega-3 fatty acids that is intended for use by children ages 2 years and older.

The FTC staff has identified various express and implied claims on product packaging and in advertising for Product X representing that this product provides health benefits related to brain and eye development and function in normal children. Some examples of these claims include:

- Consuming Product X improves, enhances, or supports brain function, cognitive function, attention span, concentration, and mental focus in children;
- Consuming Product X improves, enhances, or supports learning and learning ability in children;
- Consuming Product X improves or enhances intelligence in children or causes children to become “bright”;
- Consuming Product X improves, enhances, or supports the memory and mood of children; and
- Consuming Product X improves, enhances, or supports visual acuity and eye health in children.

Given the claims you are making, you should be aware of a recent law enforcement investigation we conducted into similar claims for another children’s dietary supplement. Attached is a public closing letter related to an investigation that the FTC conducted of Northwest Natural Products, Inc. (“NNP”) for possible violations of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52 (“FTC Act”). In particular, the FTC’s investigation of NNP involved, among other things, the advertising and promotion of a children’s gummy vitamin called L’il Critters Omega-3 Gummy Fish (“Gummy Fish”). Our inquiry focused on whether NNP had adequate substantiation for representations that Gummy Fish boosts, improves, or promotes brain function, brain development, intelligence, or academic achievement in children. In response to our inquiry, NNP quickly and voluntarily modified all marketing materials for Gummy Fish, including product packaging and labeling, to ensure compliance with the FTC Act. In addition, NNP discontinued the dissemination of print

advertisements and website materials for Gummy Fish that contained the claims at issue. The attached closing letter describes in detail the marketing claims at issue in that investigation and the modifications that NNP made to ensure compliance with the FTC Act.

We strongly recommend that after reviewing the attached closing letter, you review your company's advertising, product packaging and labeling, and other promotional materials to ensure that you are not making any health-related claims for Product X or any other products without competent and reliable scientific evidence to support such claims. The above claims from your products' website are merely illustrative, and are not intended to be an all-inclusive list. It is your responsibility to ensure that promotional materials for your products, including all product packaging and labeling, are in compliance with the FTC Act, in other words, that the health-related claims you make for your products are substantiated. For example, you might rely on well-conducted, clinical cause-and-effect studies demonstrating that the use of the combination of Omega-3 fatty acids provided in Product X, in the same dosage as provided by one serving of that product, improves or promotes brain function, cognitive function, attention span, intelligence, memory, learning ability, and visual acuity in normal children ages 2 years and older.

I also urge you to visit the FTC's website at www.ftc.gov/bcp/online/pubs/buspubs/ad-faqs.shtm, which provides relevant FTC guidance for businesses.

Please send an email to [FTC contact] by **February 8, 2010**, describing any actions that you have taken or intend to take in response to this letter to ensure your company's compliance with the FTC Act. Please be advised that if you make health-related claims for products without competent and reliable scientific evidence to support such claims, the FTC may take action to enforce and seek redress for any violations of the FTC Act as the public interest may require.

Thank you for your attention to this matter. Please direct any inquiries concerning this letter to [FTC contact] at [email] or at [phone number].

Very truly yours,

Mary K. Engle
Associate Director
Division of Advertising Practices