

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
 Mary L. Azcuenaga
 Janet D. Steiger
 Roscoe B. Starek, III
 Christine A. Varney

_____)	
In the Matter of)	
)	DOCKET NO. C-3736
NATIONWIDE SYNDICATIONS, INC.,)	
a corporation, and)	
)	
THOMAS W. KARON,)	DECISION AND ORDER
individually and as an officer)	
of said corporation.)	
_____)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of the complaint that the Chicago Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act, and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in

further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Nationwide Syndications, Inc. is an Illinois corporation with its principal office or place of business at 223 Applebee Street, Barrington, Illinois 60010.

2. Respondent Thomas W. Karon is an officer of Nationwide Syndications, Inc. Individually or in concert with others, he formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Nationwide Syndications, Inc.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. The term "substantially similar product" means any eyeglasses with tinted lenses.
2. The term "competent and reliable scientific evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I.

IT IS ORDERED that respondents, Nationwide Syndications, Inc., a corporation, its successors and assigns, and its officers, and Thomas W. Karon, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of NightSafe Glasses or any substantially similar product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

- A. Such product makes night driving safe or safer; or

B. Such product improves night

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II.

IT IS FURTHER ORDERED that respondents, Nationwide Syndications, Inc., a corporation, its successors and assigns, and its officers, and Thomas W. Karon, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of NightSafe Glasses or any substantially similar product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the efficacy, performance, safety, or benefits of such product, unless such representation is true and, at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondent, Nationwide Syndications, Inc., a corporation, its successors and assigns, and its officers, and Thomas W. Karon, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

IV.

IT IS FURTHER ORDERED that respondent, Nationwide Syndications, Inc., a corporation, its successors and assigns, and its officers, and Thomas W. Karon, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of NightSafe Glasses or any substantially similar product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using the name "NightSafe," or any

other name, in a manner that represents, directly or by implication, that such product makes night driving safe or safer.

V.

IT IS FURTHER ORDERED that respondents, Nationwide Syndications, Inc., its successors and assigns, and Thomas W. Karon, shall pay to the Federal Trade Commission, by cashier's check or certified check made payable to the Federal Trade Commission and delivered to the Director of the Chicago Regional Office, Federal Trade Commission, 55 East Monroe, Suite 1860, Chicago, Illinois 60603, the sum of one hundred and twenty five thousand dollars (\$125,000). This payment shall constitute full and complete satisfaction of all claims for redress by the Commission, under the Federal Trade Commission Act or any other applicable rule of law, for conduct covered by the Order which occurred prior to the date of service of this Order. Respondents shall make this payment no later than ten (10) days following the date of service of this Order. In the event of any default on any obligation to make payment under this section, interest, computed pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. The funds paid by respondents shall, in the discretion of the Federal Trade Commission, be used by the Commission to provide direct redress to purchasers of NightSafe Glasses in connection with the acts or practices alleged in the complaint, and to pay any attendant costs of administration. If the Federal Trade Commission determines, in its sole discretion, that redress to purchasers of this product is wholly or partially impracticable or is otherwise unwarranted, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are distributed, but shall have no right to contest the manner of distribution chosen by the Commission. No portion of the payment as herein provided shall be deemed a payment of any fine, penalty, or punitive assessment.

VI.

IT IS FURTHER ORDERED that respondents shall provide the names and addresses of each individual who purchased NightSafe Glasses or any substantially similar product (hereafter "NightSafe Glasses") from Nationwide Syndications, Inc., or each individual who purchased NightSafe Glasses from any of the retailers, credit card companies, or any other person, partnership or corporation to whom Nationwide Syndications, Inc. sold NightSafe Glasses for resale, and whose names and addresses are in the possession of Nationwide Syndications, Inc. or Thomas W. Karon or can reasonably be obtained from the agents or representatives involved in fulfilling orders on behalf of Nationwide Syndications, Inc., to the Federal Trade Commission no later than ten (10) days after the date of service of this Order. The respondents shall provide these names and addresses to the Commission in a format consistent with the Commission's Standards for Production/Acceptance of Magnetically Recorded Information as set forth in Appendix A. The Commission may, in its sole discretion, provide notification to the purchasers of NightSafe Glasses to inform the purchasers of the safety information contained in Appendix B. The funds paid by respondents, pursuant to Paragraph V of this Order, may, in the discretion of

the Commission, be used by the Commission to pay any of the costs associated with providing this notification to purchasers of NightSafe Glasses.

VII.

IT IS FURTHER ORDERED that for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All materials that were relied upon in disseminating such representation; and
- B. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VIII.

IT IS FURTHER ORDERED that respondents Nationwide Syndications, Inc. shall:

- A. Within thirty (30) days after the date of service of this Order, deliver a copy of this Order to each of the corporate respondent's officers, agents, representatives, and employees who are engaged in the preparation or placement of advertisements, promotional materials, product labels or other such sales materials covered by this Order.
- B. For a period of ten (10) years after the date of service of this Order, deliver a copy of this Order to each of the corporate respondent's future officers, agents, representatives, and employees who are engaged in the preparation or placement of advertisements, promotional materials, product labels or other such sales materials covered by this Order, within three (3) days after the person assumes such position.

IX.

IT IS FURTHER ORDERED that respondents Nationwide Syndications, Inc. shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

X.

IT IS FURTHER ORDERED that respondent Thomas W. Karon shall, for a period of ten (10) years after the date of issuance of this Order, notify the Commission within thirty (30) days of discontinuance of his present business or employment and of each affiliation with a new business or employment. Each notice of affiliation with any new business or employment shall include his new business address and telephone number, current home address, and a statement describing the nature of the business or employment and the duties and responsibilities.

XI.

This Order will terminate on April 28, 2017, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; **provided, however**, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this Order that terminates in less than twenty years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

XII.

IT IS FURTHER ORDERED that each respondent shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: April 28, 1997

APPENDIX A

Federal Trade Commission Standards for Production/Acceptance of Magnetically Recorded Information

The Federal Trade Commission utilizes standards for information transfer adopted by the National Institute for Standards and Technology and in compliance with the International Standards Organization guidelines for information exchange.

The Commission encourages the use and exchange of magnetic media as a cost-effective, resource conscious alternative to printed materials.

The Commission will accept magnetic media in the following formats:

(A) Magnetic storage media: (1) 9-track computer tapes recorded in ASCII or EBCDIC format at either 1600 or 6250 BPI. No internal labels should be written.
(2) 5.25 inch IBM-compatible format diskettes.
(3) 3.5 inch IBM-compatible format micro floppy diskettes.
(4) Local Area Network backup cassettes or cartridges by pre-authorization only. (Contact (202)326-2280 for authorization.)

(B) File structures: (1) Sequential Access Method (SAM) files only. All indexed file structures must be dumped down into SAM format in primary-key order. Micro-computer (IBM-compatible) file structures should be in ASCII-comma-separated format.

(C) Record structures: Fixed length records only. Maximum block size for data is 32,000 bytes for data submitted on 9-track tapes. All data in the record is to be provided as it would appear in printed format: (eg). unpacked, printed decimal points, signed if relevant.

(D) Documentation: Brief documentation of each file on the tape or diskette must be provided. This information should include the following: (1) File name, (2) What tape/diskette file resides on, (3) Position of file on tape or diskette, (4) Number of records contained in the file, (5) The length of each record, (6) The record layout: (a) field name
(b) field size in bytes
(c) field data type (numeric/alpha-numeric/dollar/logical/date/etc.)

File layout documentation should be included in the same package as the tape/diskettes when sent.

(E) Shipping: Magnetic media must be shipped clearly marked: **MAGNETIC MEDIA DO NOT X-RAY**. Data received unmarked can not be accepted by our computer center. Media should be sent to the following address:

Federal Trade Commission
Computer Operations Center, Room-192
6th & Pa. Ave. N.W.
Washington, DC 20580
Attn: Litigation & Customer Support

(F) Technical Support: The Litigation & Customer Support Consulting staff is available at (202) 326-2200 to answer your technical questions regarding production of data for the Commission from 8:30 am to 6:00 pm EST.

APPENDIX B

Please note this important safety information:

The NightSafe Glasses you purchased do not improve your vision while driving at night. In fact, these glasses may impair your vision while driving at night. This means that you should not wear NightSafe Glasses while driving at night.

Although NightSafe Glasses may impair your vision while driving at night, they may be used during the daytime as sunglasses.