

## **Analysis of Proposed Consent Order to Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order by respondents Prince Lionheart, Inc., and Thomas E. McConnell, individually and as President of the corporation.

The proposed consent order has been placed on the public record for thirty (30) days for reception 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 other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the advertising, offering for sale, sale, and distribution of an electronic mosquito repellent device called the "Love Bug." The Commission's complaint charged that respondents violated the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, by making representations that were false and for which they lacked a reasonable basis of substantiation. These representations concerned the following: the ability of the "Love Bug" to repel mosquitoes from a baby; the effectiveness of the "Love Bug" as an alternative to the use of chemical products formulated to repel mosquitoes; and the ability of the "Love Bug" to protect babies against contracting the West Nile virus.

Part I of the proposed order prohibits any representation that the "Love Bug," or any substantially similar product, (A) repels mosquitoes from a baby or any person; (B) is an effective alternative to the use of chemical products formulated to repel mosquitoes; or (C) protects babies or other persons against contracting the West Nile virus, unless the representation is true and respondents possess competent and reliable scientific evidence that substantiates the representation. For purposes of this part, a "substantially similar product" means any product that uses or purports to use sonic or ultrasonic technology to repel mosquitoes from the user.

Part II of the proposed order prohibits unsubstantiated representations about the benefits, performance, or efficacy of any consumer electronic product.

Part III of the proposed order requires the respondents to send a letter (Attachment A to the consent agreement), with a copy of the order, to any catalog company or other wholesale or retail seller to which respondents have sold the "Love Bug" since January 1, 2002.

Part IV of the proposed order is a record keeping provision that requires the respondents to maintain certain records for three (3) years after the last date of dissemination of any representation covered by the order. These records include: (1) all advertisements and promotional materials containing the representation; (2) all materials relied upon in

disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for it.

Part V of the proposed order requires distribution of the order to principals, officers, directors, and managers, and to employees, agents, and representatives having responsibilities with respect to the subject matter of the order.

Part VI of the proposed order requires that the Commission be notified of any change in the corporation that might affect compliance obligations under the order. Part VII of the proposed order requires that for a period of five (5) years, the individual respondent notify the Commission of the discontinuance of his current business or employment or of his affiliation with any new business or employment.

Part VIII of the proposed order requires the respondents to file a compliance report with the Commission.

Part IX of the proposed order states that, absent certain circumstance, the order will terminate twenty (20) years from the date it is issued.

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