



Office of the Secretary

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

September 2, 2004

Mr. Nathan P. Ehresman
Regulatory Affairs Manager
Woodstream Corporation
69 North Locust Street
P.O. Box 327
Lititz, Pennsylvania 17543-0327

Dear Mr. Ehresman:

Thank you for your letter commenting on the Federal Trade Commission's consent agreement with Prince Lionheart, Inc., and Thomas E. McConnell. Your comment was placed on the public record pursuant to section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and was given careful consideration by the Commission.

The comment addresses several parts of the order and, in addition, offers some general observations about the ultrasonic pest control industry. First, your comment suggests that the order should "be much clearer as to the outcome of the FTC's investigation" and state that the respondents did not possess competent and reliable scientific evidence to substantiate claims for the mosquito repellent device. It is generally in the nature of a consent agreement, however, that respondents admit only to the jurisdictional facts set forth in the complaint and do not admit that the law has been violated. This is made clear in the prefatory language to the consent order. The Commission's complaint, on the other hand, states clearly that the Commission alleges that efficacy claims for the product are false and unsubstantiated.

With respect to Part III, which requires the respondents to send the order, with the letter contained in Attachment A, to catalogs and other wholesale/retail sellers that have purchased the device, you suggest that the order should impose additional requirements. These include cessation of product shipments; notice to wholesale/retail customers that existing stocks should be returned for a refund; and notice to consumers that they may return the product for a refund. Because the product is a seasonal one and the respondents ceased marketing the device in 2003, it appears unlikely that there are substantial supplies still available for consumer purchase. In addition, whether the Commission seeks consumer redress in a particular matter depends on a number of factors including, but not limited to, the nature of the violation, the nature of the consumer injury, whether victims are identifiable, and whether redress is practicable. After considering these factors in this case, the Commission determined not to seek consumer redress.

With respect to Part V, which requires distribution of the order to various parties, you suggest that notification should also be made to the product supplier/manufacturer. The intent of this provision is to ensure that the order will be distributed to all those parties who may have

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compliance responsibilities. The intent of Part III, as discussed above, is to bring the order to the attention of those third parties who may have passed on Prince Lionheart's product claims. Manufacturers or suppliers do not fall into either of these categories. However, Commission staff members are taking steps to bring this action to the attention of others in the pest control industry who may be marketing similar products.

The Commission has determined that the public interest would best be served by accepting the consent order. Thank you again for your comment, including your general observations about the ultrasonic pest control industry. These comments will be helpful to Commission staff working in this area.

By direction of the Commission.

Donald S. Clark
Secretary