

**Analysis of Proposed Consent Order to Aid Public Comment**  
***In the Matter of Brain-Pad, Inc., File No. 122 3073***

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from Brain-Pad, Inc. and Joseph Manzo, an officer and director of the corporation (“respondents”).

The proposed consent order (“proposed order”) has been placed on the public record for thirty (30) days for receipt 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 appropriate action or make final the agreement’s proposed order.

This matter involves respondents’ advertising and promotion of mouthguards. According to the FTC complaint, respondents did not have a reasonable basis to represent in advertising and on packaging for their mouthguards that they reduced the risk of concussions. The FTC further alleges that the respondents made the false and misleading claim that they possessed scientific studies that proved their concussion-reduction risk claims because, in fact, they did not have such evidence.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the proposed respondents from misrepresenting that any product will reduce the risk of concussions or reduce the risk of concussions from lower jaw impacts.

Part II of the proposed order prohibits proposed respondents from misrepresenting, with respect to any Covered Product, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, including, but not limited to, any misrepresentation that scientific studies prove that such product reduces the risk of concussions or reduces the risk of concussions from lower jaw impacts. The proposed order defines “Covered Product” as any (1) mouthguard or (2) equipment used in athletic activities that is intended to protect the brain from injury.

Part III of the proposed order prohibits proposed respondents, in connection with the marketing of any Covered Product, from misrepresenting the health benefits, health-related performance, or health-related efficacy of such product.

Parts IV through VIII of the proposed order require respondents: to keep copies of any documents relating to any representation covered by the order; to provide copies of the order to certain of their personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; to notify the Commission of changes in corporate business or employment as to proposed respondent Joseph Manzo individually; and to file compliance reports with the Commission. Part IX provides that the order will terminate after twenty (20) years, with certain exceptions.

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