



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

Division of Advertising Practices

April 20, 2010

**VIA ELECTRONIC MAIL AND FEDERAL EXPRESS**

Kenneth A. Plevan, Esq.  
Skadden, Arps, Slate, Meagher & Flom LLP  
Four Times Square  
New York, NY 10036-6522

Re: *AnnTaylor Stores Corp.*, File No. 102-3147

Dear Mr. Plevan:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into whether your client, AnnTaylor Stores Corporation, violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, in connection with providing gifts to bloggers who the company expected would post blog content about the company's LOFT division. Our inquiry focused particularly on LOFT's provision of gifts to bloggers who attended previews of LOFT's Summer 2010 collection. We were concerned that bloggers who attended a preview on January 26, 2010 failed to disclose that they received gifts for posting blog content about that event. Section 5 of the FTC Act requires the disclosure of a material connection between an advertiser and an endorser when such a relationship is not otherwise apparent from the context of the communication that contains the endorsement. Depending on the circumstances, an advertiser's provision of a gift to a blogger for posting blog content about an event could constitute a material connection that is not reasonably expected by readers of the blog.

Upon careful review of this matter, we have determined not to recommend enforcement action at this time. We considered a number of factors in reaching this decision. First, according to LOFT, the January 26, 2010 preview was the first (and, to date, only) such preview event. Second, only a very small number of bloggers posted content about the preview, and several of those bloggers disclosed that LOFT had provided them gifts at the preview.<sup>1</sup> Third, LOFT adopted a written policy in February 2010 stating that LOFT will not issue any gift to any blogger without first telling the blogger that the blogger must disclose the gift in his or her blog. The FTC staff expects that LOFT will both honor that written policy and take reasonable steps to

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<sup>1</sup> It should be noted that LOFT posted a sign at the preview that told bloggers that they should disclose the gifts if they posted comments about the preview. It is not clear, however, how many bloggers actually saw that sign.

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monitor bloggers' compliance with the obligation to disclose gifts they receive from LOFT.

Our decision not to pursue enforcement action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may warrant.

Very truly yours,

A handwritten signature in black ink that reads "Mary K. Engle". The signature is written in a cursive style with a large, looped "M" and "E".

Mary K. Engle  
Associate Director