



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

Division of Advertising Practices

December 15, 1999

Edward P. Henneberry, Esq.
Howrey & Simon
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2402

Re: H.J. Heinz Company

Dear Mr. Henneberry:

As you know, staff of the Federal Trade Commission conducted an investigation of your client, H.J. Heinz Co. (hereinafter, "Heinz"), for possible violations of Section 5 of the Federal Trade Commission Act in connection with certain health claims made in its advertising and promotion of Heinz ketchup. Among other issues, staff considered whether Heinz possessed adequate substantiation for its health claims, and whether the company's failure to identify itself as the sponsor of the www.lycopene.org Web site cited in the advertising would constitute a violation of Section 5.

Staff was concerned that the advertising at issue represented, expressly or by implication, that eating Heinz ketchup reduces the risk that an individual will get prostate cancer or cervical cancer. These claims would raise serious concerns under the Commission's advertising substantiation standards. Staff likewise was concerned that, in the context of the advertising at issue, Heinz's failure to disclose adequately its relationship to the referenced Web site, www.lycopene.org, was likely to mislead reasonable consumers.

Despite these concerns, staff has decided to close this investigation. Among other things, staff notes that the advertising ran only briefly in January 1999, and that Heinz has indicated it will not run the ad in the future. In addition, Heinz has changed the www.lycopene.org Web site to indicate that it is a Heinz-sponsored site. Accordingly, it now appears that no further action is warranted by the Commission at this time and the investigation is closed. This 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 require.

Sincerely,

C. Lee Peeler
Associate Director
for Advertising Practices