



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

Division of Advertising Practices

Mary Koelbel Engle
Associate Director

March 15, 2005

VIA FIRST-CLASS MAIL and EMAIL

Annette Dickinson, Ph.D.
President
Council for Responsible Nutrition
1828 L St. NW, Suite 900
Washington, DC 20036-5114

***Re: Council for Responsible Nutrition's Complaint Against
ConsumerLab.com, LLC***

Dear Dr. Dickinson:

Thank you for your January 12, 2005, letter and subsequent materials regarding ConsumerLab.com, LLC ("ConsumerLab") and its Product Review and Voluntary Certification programs for testing dietary supplements and similar consumer products ("Test Programs"). Council for Responsible Nutrition alleges that ConsumerLab's "entire business model represents an egregious form of consumer fraud and deception," and asserts, among other things, that

- * "[C]ompanies are pressured . . . into paying a fee" for testing under the Voluntary Certification program to avoid potential negative consequences of having their products tested under the Product Review program; and that
- * ConsumerLab's Test Programs and its reporting of test results "are likely to mislead consumers into believing that ConsumerLab is operating in the public interest and cannot be influenced by any outside party."

The Commission has been directed by Congress to act in the interest of all consumers to prevent deceptive or unfair acts or practices, pursuant to Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. A representation, omission, or practice is deceptive if (1) it is likely to mislead consumers acting reasonably under the circumstances; and (2) it is "material," that is, likely to affect consumers' conduct or decisions with regard to a product or service. An act or practice is unfair if it causes or is likely to cause injury to consumers that (1) is substantial; (2) is not outweighed by countervailing benefits to consumers or to competition; and (3) is not

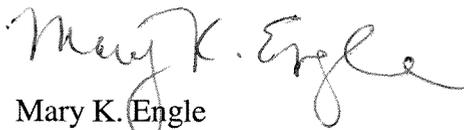
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reasonably avoidable by consumers themselves.

In determining whether to take enforcement or other action in any particular situation, the Commission may consider a number of factors, including the type of violation alleged, the nature and amount of consumer injury at issue, the number of consumers affected, and the likelihood of preventing future unlawful conduct and securing redress or other relief. After reviewing the complaint and related materials, staff is not recommending agency action at this time. The Commission reserves the right, however, to take such further action as the public interest may require.

Thank you for bringing Council for Responsible Nutrition's concerns regarding ConsumerLab.com, LLC to our attention.

Very truly yours,

A handwritten signature in cursive script that reads "Mary K. Engle".

Mary K. Engle
Associate Director

cc: Tod Cooperman, M.D.
President
ConsumerLab.com, LLC