

Analysis of Proposed Consent Order to Aid Public Comment

In the Matter of Mars Petcare US, Inc., File No.152-3229

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an Agreement Containing Consent Order from Mars Petcare US, Inc. (“respondent”). The proposed consent 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 the advertising, marketing, and sale by respondent of dog food under the Eukanuba brand. Respondent has marketed its Eukanuba brand dog foods through retail outlets. According to the FTC complaint, respondent claimed that its dog food could increase the longevity of dogs by 30 percent or more.

Specifically, the FTC complaint alleges that respondent represented that dogs in a ten-year study that were fed Eukanuba brand dog food and received proper care lived exceptionally long lives – including 30 percent or more longer than their typical lifespan. The complaint alleges that these claims are false or unsubstantiated and thus violate the FTC Act. The complaint also alleges that respondent represented that scientific tests prove that feeding dogs its Eukanuba brand dog food can enable dogs to live exceptionally long lives or to live 30 percent or more longer than their typical lifespan. The complaint alleges that these claims are false and thus violate the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Specifically, Part I addresses the unsubstantiated claims alleged in the complaint. Part I prohibits respondent from making misleading or unsubstantiated representations that its Eukanuba-brand pet foods or any other pet food can enable dogs to live 30 percent or more longer than their typical lifespan or live exceptionally long lives. It also prohibits respondent from making misleading or unsubstantiated claims regarding the health benefits of any pet food. It requires that respondent possesses and relies upon “competent and reliable scientific evidence” to substantiate any such representation.

Part II of the proposed order addresses the allegedly false claims that scientific tests prove that feeding dogs respondent’s Eukanuba brand dog food can enable dogs to live 30 percent or more longer or substantially longer than their typical lifespan. Part II prohibits respondent, when advertising any pet food, from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, or misrepresenting that any health benefits of the pet food are scientifically proven.

Parts III-VI of the proposed order contain compliance and recordkeeping requirements. Part III requires respondent acknowledge receipt of the order, to provide a

copy of the order to certain current and future principals, officers, directors and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part IV requires the filing of compliance reports within one year after the order becomes final and within 14 days of any change in respondent that would affect compliance with the order. Part V requires respondent to maintain certain records, including records necessary to demonstrate compliance with the order. Part VI requires respondent to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondent's personnel. Finally, Part VII 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 complaint and proposed order or to modify the proposed order's terms in any way.