



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Division of Advertising Practices

July 5, 2018

Mr. Alvin Earle Goldsmith
Fit Marketing LLC
3201 Cochiti St. NE
Rio Rancho, NM 87144
Al@fitmarketing.biz

Re: Fit Marketing (MosquitoGO Patch), FTC Matter No. 162-3255

Dear Mr. Goldsmith:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into your advertising of the MosquitoGO Patch for possible violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. The MosquitoGO Patch is a sticker infused with, among other ingredients, Oil of Lemon Eucalyptus, that users were to place on their clothing. You marketed the MosquitoGO Patch as an effective insect repellent, including through claims that it would provide a twelve-hour protective shield around the user from mosquitoes carrying Zika virus and other diseases, and promoted it with endorsements from persons with undisclosed material connections to you and your product.

Section 5 of the FTC Act requires that advertising claims be truthful and nonmisleading. Generally, health benefit claims in advertising are deceptive if the advertiser does not possess competent and reliable scientific evidence substantiating the claims prior to their dissemination. *See, e.g., FTC v. Direct Marketing Concepts, Inc.*, 569 F. Supp. 2d 285, 298-300 (D. Mass. 2008), *aff'd*, 624 F.3d 1 (1st Cir. 2010). As we specified in our publicly available warning letter released August 5, 2016, available at https://www.ftc.gov/system/files/attachments/press-releases/ftc-sends-warning-letters-online-sellers-making-zika-virus-protection-claims/zika_model_warning_letter.pdf, claims that a product repels the mosquitos that carry Zika, or otherwise protects users from Zika or another mosquito-borne disease, must be supported by well-controlled human clinical testing using the species of mosquitos that carry the disease in question, and must demonstrate that the effects last as long as advertised. In addition, if your advertising conveys to consumers that the product applied to or used on a specific part of the body provides whole-body protection, you must have competent and reliable scientific evidence showing that claim is true.

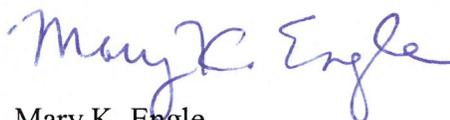
We were concerned that your insect-repellent claims for the MosquitoGO Patch were not adequately substantiated. Specifically, the claims relied on limited, preliminary evidence that did not rise to the level needed to support the claims being made in your advertising.

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Upon careful review of this matter, including non-public information submitted to the staff, we have determined not to recommend enforcement action at this time. In coming to this conclusion, we considered a number of factors, including that the sales were minimal, your company has ceased operations, and resource allocation and enforcement priorities.

This action is not to be construed as a determination that a violation of law did not occur, 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,



Mary K. Engle
Associate Director