



United States of America  
FEDERAL TRADE COMMISSION  
Washington, DC 20580

Division of Advertising Practices

September 13, 2019

Via Electronic Mail

Laura Brett, Esq.  
Director  
National Advertising Division  
112 Madison Avenue, 3rd Floor  
New York, NY 10016

Re: Advertising Claims for BODYARMOR SuperDrink Sports Drink

Dear Ms. Brett:

In October 2018, the National Advertising Division (“NAD”) referred its inquiry of advertising claims by BA Sports Nutrition, LLC (“BA Sports Nutrition”) for its BODYARMOR sports drink. Your referral was based on BA Sports Nutrition’s decision not to participate in NAD’s self-regulatory process. As you know, after receiving the referral, staff at the Federal Trade Commission (“FTC”) contacted counsel for BA Sports Nutrition. Shortly thereafter, the company notified NAD and FTC staff that it had decided to re-engage in NAD’s self-regulatory process. Following discussions with NAD, BA Sports Nutrition agreed to comply with all of NAD’s recommendations except with regard to one issue – the claim that Gatorade is “outdated.” On August 20, 2019, NAD again referred the matter to the FTC due to the company’s decision that it would not comply with NAD’s recommendation to stop using the term “outdated.”

Upon further review of this matter, we have determined not to take any additional action at this time. Among the factors we considered are the substantial changes that BA Sports Nutrition agreed to make pursuant to NAD’s recommendations during the self-regulatory process. In particular, BA Sports Nutrition agreed that it would not make the challenged absolute or comparative performance claims unless it is able to substantiate those claims. BA Sports Nutrition, by letter dated August 13, 2019, informed FTC staff that it has already removed from its website the performance claims at issue and was developing a new advertising campaign that takes into account NAD’s recommendations.

Laura Brett, Esq.  
September 13, 2019  
Page 2

The Commission reserves the right to take such further action as the public interest may require. The FTC fully supports NAD's self-regulatory process, and we sincerely appreciate your referral and the opportunity to continue to assist in supporting NAD.

Very truly yours,



Carolyn L. Hann  
Chief of Staff for Advertising Practices

cc: David H. Bernstein, Debevoise & Plimpton LLP