



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

Office of the Secretary

July 27, 2009

VIA UNITED STATES MAIL

Thomas Reimel, Esq.

[Address]

Commonwealth of Pennsylvania

Re: In the Matter of Kellogg Company (File No. 0823145)

Dear Mr. Reimel:

Thank you for your comment on the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. You stated that you were surprised to see a television advertisement for Kellogg's Frosted Mini-Wheats during the comment period, and that the Commission should have required Kellogg to cease airing the challenged ads as a condition of settlement. The Commission has reviewed your comment in connection with its decision concerning whether to accord final approval to the proposed consent order, and has placed your comment on the public record.

It is the staff's understanding that the challenged advertisements have not aired for several months. It is likely that what you saw was a more recent advertisement containing a different claim that was not challenged in this matter.

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order is enclosed for your information. Relevant materials also are available from the Commission's Website at <http://www.ftc.gov>.

It helps the Commission's analysis to hear from a variety of sources in its work, and we appreciate your interest in this matter.

By direction of the Commission.

Donald S. Clark
Secretary



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July 27, 2009

VIA UNITED STATES MAIL

Stephen Barrett
Quackwatch
[Address]
State of North Carolina

Re: In the Matter of Kellogg Company (File No. 0823145)

Dear Mr. Barrett:

Thank you for your comment regarding the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. Your comment stated that the order should require Kellogg to pay a fine because its advertising was “unconscionable.” In addition, you suggested that Kellogg should be required to issue corrective advertising stating that the clinical study referenced in the challenged advertising was poorly designed. The Commission has reviewed your comment in connection with its decision concerning whether to accord final approval to the proposed consent order, and has also placed your comment on the public record.

The Commission’s proposed complaint in this matter alleges that Kellogg’s advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S. C. § 45(a) and 52. Sections 5 and 12 do not authorize the Commission to obtain fines or civil penalties based on these allegations. If Kellogg violates the Commission’s final order, however, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l). With respect to corrective advertising, the Commission believes that the order adequately addresses the alleged violations.

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order is enclosed for your information. Relevant materials also are available from the Commission’s Website at <http://www.ftc.gov>.

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VIA UNITED STATES MAIL

Mr. Lilliam Delgado

[Address]

State of Florida

Re: In the Matter of Kellogg Company (File No. 0823145)

Dear Mr. Delgado:

Thank you for your comment regarding the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. Your comment takes issue with the design of the clinical study relied upon by Kellogg, and you contend that it is the wheat and sugar in the cereal that provides energy to the children, which in turn makes them more attentive. In addition, you believe that the company continues to disseminate misleading information on its website, www.mini-wheats.com. The Commission has reviewed your comment in connection with its decision concerning whether to accord final approval to the proposed consent order, and has placed your comment on the public record.

The staff has reviewed the website and does not believe it contains any of the misleading claims challenged in the Commission's proposed complaint. You should know that Kellogg will be subject to the Commission's final order for twenty (20) years and liable for civil penalties of up to \$16,000 per violation should it violate that order, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order is enclosed for your information. Relevant materials also are available from the Commission's Website at <http://www.ftc.gov>.

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July 27, 2009

VIA UNITED STATES MAIL

Daryll Anderson, M.D., Ph.D.

[Address]

Commonwealth of Kentucky

Re: In the Matter of Kellogg Company (File No. 0823145)

Dear Dr. Anderson:

Thank you for your comment regarding the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. Your comment suggests that the claims challenged in the Kellogg matter were not false or misleading because consumers know that the use of an asterisk means that an ad claim is “fantasy” and thus consumers knew that the “nearly 20%” claim was exaggerated. The Commission has reviewed your comment in connection with its decision concerning whether to accord final approval to the proposed consent order, and has placed your comment on the public record.

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order is enclosed for your information. Relevant materials also are available from the Commission’s Website at <http://www.ftc.gov>.

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July 27, 2009

Mr. S. Squire
State of Florida

Re: In the Matter of Kellogg Company (File No. 0823145)

Dear Mr. Squire:

Thank you for your comment regarding the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. Your comment suggests that the order should require Kellogg to pay a fine or should impose another form of “real punishment” for its conduct. The Commission has reviewed your comment in connection with its decision concerning whether to accord final approval to the proposed consent order, and has placed your comment on the public record.

The Commission’s proposed complaint in this matter alleges that Kellogg’s advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S. C. § 45(a) and 52. Sections 5 and 12 do not authorize the Commission to obtain fines or civil penalties based on these allegations. If Kellogg violates the Commission’s final order, however, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order, and other relevant materials, are available from the Commission’s Website at <http://www.ftc.gov>.

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July 27, 2009

Mr. Terry
State of Vermont

Re: In the Matter of Kellogg Company (File No. 0823145)

Dear Mr. Terry:

Thank you for your comment regarding the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. Your comment suggests that the order should require Kellogg to pay a fine because the false advertising of health benefits for a "toxic food product" caused "enormous harm" to consumers. The Commission has reviewed your comment in connection with its decision concerning whether to accord final approval to the proposed consent order, and has also placed your comment on the public record.

The Commission's proposed complaint in this matter alleges that Kellogg's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. § 45(a) and 52. Sections 5 and 12 do not authorize the Commission to obtain fines or civil penalties based on these allegations. If Kellogg violates the Commission's final order, however, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order, and other relevant materials, are available from the Commission's Website at <http://www.ftc.gov>.

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Dr. Baker
State of North Carolina

Re: In the Matter of Kellogg Company (File No. 0823145)

Dear Dr. Baker:

Thank you for your comment regarding the proposed consent order accepted by the Federal Trade Commission for public comment in the above-captioned matter. You expressed concern for the public health implications of Kellogg's misrepresentations – namely, that when companies misrepresent research, consumers may make health-related decisions based on false information and may lose confidence in the reliability of published research, even when that research is sound. Thus, you suggested, the Commission should impose greater consequences for Kellogg's conduct here. The Commission has reviewed your comment in connection with its decision concerning whether to accord final approval to the proposed consent order, and has also placed your comment on the public record.

The Commission's proposed complaint in this matter alleges that Kellogg's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S. C. § 45(a) and 52. Sections 5 and 12 do not authorize the Commission to obtain fines or civil penalties based on these allegations. If Kellogg violates the Commission's final order, however, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. A copy of the final Decision and Order, and other relevant materials, are available from the Commission's Website at <http://www.ftc.gov>.

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