



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

Division of Advertising Practices  
Attorney

Mary Koelbel Engle  
Associate Director

**January 13, 2003**

Jeffrey Davis, Esq.  
Wal-Mart Stores, Inc.  
702 SW Eighth Street  
Bentonville, AR 72716

Re: *Wal-Mart Stores, Inc.*, FTC File No. 022-3281

Dear Mr. Davis:

As you know, the staff of the Federal Trade Commission has conducted an investigation to determine whether Wal-Mart Stores, Inc. engaged in unfair or deceptive acts or practices in violation of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52, through its involvement in so-called "switch programs." In switch programs, pharmaceutical manufacturers typically contract with pharmacies like Wal-Mart to send letters to patients encouraging them to switch to a drug other than their current drug.

Our inquiry focused on whether the letters Wal-Mart Drugs sent to patients failed to adequately disclose that the manufacturer of the drug referenced in the letter paid for the mailing or whether the letters contained any false or unsubstantiated claims, especially efficacy and comparative efficacy claims. Our investigation also examined whether Wal-Mart's actions in connection with sending the letters contravened its stated privacy policies for handling the medical information of patients.

The staff had concerns about one switch letter sent by Wal-Mart that made a potentially unsubstantiated claim that one drug was clinically superior to another drug. However, shortly thereafter, Wal-Mart - without government intervention - sent a correction letter to consumers who received the initial letter. In light of this prompt corrective action by Wal-Mart, the staff believes that no further action is necessary.

Upon further review of this matter, it appears that no further action is warranted. This action is not to be construed as a determination that a violation may not have occurred, 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 require.

Very truly yours,

Mary K. Engle  
Associate Director