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AFTERNOON SESSION

(1:30 p.m.)

MS. ENGLE: Good afternoon. If you could take your seats again, please. And once again, I would ask if any of you have a cell phone or an electronic pager or the like to turn it off.

To open this afternoon's session, I'm delighted to be able to introduce Commissioner Sheila Anthony.

COMMISSIONER ANTHONY: Good afternoon and welcome to the afternoon session of this workshop. As with all Commission workshops, I'm here to learn. In my estimation, our workshop activities are probably some of the most important things we do. They help me personally by giving me information into issues that I must decide as a commissioner. They provide a useful forum where interested parties can get together in a non-adversarial forum and express their views, and when it works, differences are narrowed, potential problems are flagged and plans for analyzing and resolving problems are conceived.

I'd like to thank all of you who have participated, both audience and panelists, and also the FTC staff who has done a wonderful job in putting together this very important workshop.

1 The goal of the workshop is to explore
2 alternative approaches to reducing deceptive claims in
3 advertising for weight loss products and to provide the
4 FTC staff and interested parties an opportunity to
5 discuss new strategies for fighting weight loss fraud.
6 It seems clear to me that our existing strategies simply
7 are not enough.

8 The FTC's Consumer Protection Mandate can be
9 daunting in the face of an endless variety and volume of
10 deceptive claims about the safety and efficacy of dietary
11 supplements and weight loss products.

12 Chasing weight loss programs and products on
13 the Internet literally could utilize all of our
14 resources. We, obviously, have to make difficult choices
15 in the cases that we choose to investigate and those that
16 we prosecute. Our efforts have been directed so far to
17 the most outrageous and egregious claims, but I worry
18 that even other unsubstantiated claims are going
19 unchallenged.

20 On behalf of the public, the Commission needs
21 all the help it can get and we are asking both industry
22 and the media to step up to the plate and help us prevent
23 the dissemination of deceptive weight loss claims.

24 I believe there needs to be more and better
25 self-regulation in the dietary supplement and weight loss

1 industry. Individual dietary supplement and weight loss
2 marketers must take a more active role in reviewing the
3 claims made in their advertising and make sure these
4 claims are properly substantiated and that their ad
5 agencies aren't exceeding responsible bounds.

6 The National Advertising Division of the
7 Council of Better Business Bureaus, created in 1971, is a
8 model of effective, private, self-regulatory programs.
9 It works and it has the respect of the advertising and
10 marketing community. The NAD quickly investigates
11 complaints against advertisers brought both by consumers
12 and other advertisers, and if an advertiser disagrees
13 with a decision, it can appeal the decision to the
14 National Advertising Review Board, which has members from
15 both inside and outside of the advertising industry.

16 One of the hallmarks of the NAD self-regulatory
17 program is that all decisions are made public. This
18 enhances its credibility and it provides valuable
19 information to consumers. The Children's Advertising
20 Review Unit is an example of a specialized segment of NAD
21 that focuses especially on advertising to children.
22 Couldn't a similar type program be established for
23 dietary supplements and weight loss advertising?

24 Andrea Levine is on the next panel and she's
25 the Director of NAD and will offer some very productive

1 suggestions, I'm sure, and I look forward to hearing this
2 discussion.

3 Another trend we are seeing is that usually
4 responsible individual companies cannot resist the
5 temptation to copy successful deceptive promotions. The
6 proliferation of copycat products, particularly in the
7 weight loss area, leads me to believe that some industry
8 members want to piggyback on that success to get a piece
9 of the pie.

10 I also believe the media has an exceptionally
11 important role to play in protecting their reading and
12 viewing consumers from fraud. Newspaper, magazine, radio
13 and cable TV should follow the lead of the major networks
14 and responsible news print and refuse to run or promote
15 those ads that on their face promise incredible and
16 unachievable results. Our recent experience suggests
17 that some media members either are not paying close
18 enough attention to the ads that are being run or are
19 placing their pocketbook interests above the welfare of
20 the public, whom they purport to serve.

21 I hope the media will also step up to the plate
22 and choose to forego placing ads that result in a fraud
23 on the public who, after all, are their customers, too.
24 When I view or hear some of the ads in otherwise
25 reputable print, cable and radio, that these media are

1 accepting money for publishing, you'll understand why I
2 say it's hard to respect them in the morning.

3 The Commission's recently published weight loss
4 report concluded that false and misleading claims, such
5 as exaggerated weight loss without diet or exercise, are
6 widespread and are increasing and have increased in the
7 last decade. These ads promise what they cannot deliver
8 to a sometimes desperate audience. Commission law
9 enforcement action alone is not enough. We are here to
10 look for alternative approaches to reducing deceptive
11 claims in advertising for weight loss products and I look
12 forward to hearing the presentation of the panel this
13 afternoon. Thank you.

14 **INDUSTRY PANEL**

15 MS. RUSK: Thank you, Commissioner. We heard
16 the Chairman this morning and Commissioner Anthony just
17 now talk about how important it is to consider
18 alternative approaches to law enforcement, and our panel
19 this afternoon will be looking at what the industry can
20 do and I want to thank everybody who agreed to
21 participate. I know that all of you have initiated
22 efforts in some form or another to deal with this very
23 challenging problem and we want to hear what each of you
24 have to say. We may have to move at lightning speed this
25 afternoon. We have an ever shorter amount of time than