



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

Division of Advertising Practices

November 13, 2007

Simon DJ Potter
President, LensesByMail c/o
M. Page Hall, Esq.
Adduci Mastrianni & Schaumberg, LLP
1200 17th Street, N.W.
Washington, D.C. 20036

SENT BY FEDERAL EXPRESS

Dear Mr. Potter:

As you know, the staff of the Division of Advertising Practices of the Federal Trade Commission ("Commission") has conducted a non-public investigation into whether LensesByMail has complied with Section 5(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45(a), the Fairness to Contact Lens Consumers Act ("FCLC Act"), 15 U.S.C. §§ 7601-7610, and the Commission's Contact Lens Rule ("Rule"), 16 C.F.R. Part 315.

Among other things, the FCLC Act and the Rule permit contact lens sellers to provide contact lenses, both corrective and plano, directly to U.S. consumers *only in accordance with a valid prescription* – that is, after either obtaining a copy of the prescription itself or verifying the prescription information with the prescriber in accordance with procedures set forth in Section 315.5 of the Rule, 16 C.F.R. § 315.5. Our investigation indicated that LensesByMail sold contact lenses directly to consumers in the United States without a valid prescription.

Although LensesByMail's actions were inconsistent with the FTC Act, the FCLC Act, and the Rule, we have decided not to recommend enforcement action at this time. Among the factors we considered in making this determination was that (1) although LensesByMail, a U.K. company, must comply with the FTC Act and the Rule with respect to its sales of contact lenses to U.S. consumers, global marketers on the Internet may not be always aware of recent developments in local regulatory requirements; (2) upon notification, the company voluntarily implemented procedures to comply with the requirements of both Acts and the Rule; and (3) LensesByMail agreed to continue to ensure its compliance with the Acts and the Rule.

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 require.

Very truly yours,

A handwritten signature in cursive script that reads "Mary K. Engle".

Mary K. Engle
Associate Director