



National Association of Consumer Agency Administrators

May 9, 2007

VIA UPS 2nd Day Air

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex S)
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: Endorsement Guides Review
Project No. P034520

Enclosed please find the National Association of Consumer Agency
Administrators' comments to be filed regarding Endorsements and Testimonials.

Sincerely,

Jeffrey L. Hill
Vice President

Enclosure



National Association of Consumer Agency Administrators



**BEFORE THE FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580**

**IN THE MATTER OF:
FTC ENDORSEMENT GUIDES REVIEW
- COMMENT FTC PROJECT NO. P034520**

**WRITTEN COMMENTS
OF THE NATIONAL ASSOCIATION OF
CONSUMER AGENCY ADMINISTRATORS**

The National Association of Consumer Agency Administrators (“NACAA”) appreciates the opportunity to comment on the “Endorsement Guides Review”, Project No. P034520 (“FTC Endorsement Guides”) and their importance to consumers. NACAA supports public agencies responsible for ensuring a fair and informed marketplace and representing the interests of consumers. NACAA is a nonprofit association representing approximately 165 consumer agencies at all levels of government in the United States and other countries.

NACAA member agencies across the country receive consumer complaints and inquiries about a vast array of issues and concerns, including business opportunities, weight loss programs and other businesses which employ the use of testimonials and endorsements in their advertisements. NACAA supports the FTC Endorsement Guides and their requirements to ensure truthful advertising and full disclosure relating to endorsements and testimonials in advertising. NACAA is supported by, and works with, various state and federal regulatory and enforcement agencies who assist in creating a fair but competitive marketplace for consumers and industries. It is from this perspective that NACAA offers the following comments for consideration by the Commission in reviewing the FTC Endorsement Guides.

The FTC Testimonial Guides are an important tool for law enforcement in the protection of consumers against false, misleading and deceptive advertisements and promotions. NACAA supports the Comments filed by the National Association of Attorneys General.

We specifically urge and support the Federal Trade Commission (“FTC”) to:

- (1) NACAA urges the continuation of the FTC Guides Concerning the Use of Endorsements and Testimonials in Advertising.
- (2) NACAA further urges that any changes to the FTC Endorsement Guides be only to the extent to increase the protections and disclosures made to consumers when advertisers use endorsements and/or testimonials.

- (3) NACAA urges that any federal guidelines and rules should permit state attorneys general and other state and local agencies to enforce the guidelines and rules and not pre-empt states' power to enact and enforce their own consumer protection laws, guidelines or rules.
- (4) NACAA specifically urges the FTC to expand their existing FTC Guide requirements to require that endorsements reflect the actual typical experience of the user of the service or product. In the alternative, NACAA urges that an advertiser indicate results may not be typical to require that the disclosure be clear and conspicuous and appear for the length of the endorsement or testimonial. Further, the FTC should require that when an advertiser offers a testimonial or endorsement indicating a level of success or results which are not typical to specifically disclose in a clear and conspicuous manner what are the typical results anticipated from the good or service.
- (5) NACAA further urges the FTC to require that when an endorsement or testimonial is receiving compensation of any sort including free merchandise to endorse the product that the fact the testimonial or endorsement is a paid person shall be clearly and conspicuously disclosed for the entire length of time that the endorser appears in the advertisement.
- (6) NACAA urges the continuation of the requirement that all endorsements "always reflect the honest, findings, beliefs or experiences of the endorser" and "may not contain any representations which would be deceptive, or could not be substantiated if made directly by the advertiser".
- (7) NACAA also urges the FTC continue the requirement that the advertiser may only run the advertisement promoting the endorser as a use of the product if the advertiser possesses good reason to believe that the endorser continues to be a bona fide user at the time of running the advertisement. Further, the FTC should require that the advertiser maintain written substantiation of the endorsers continuing representation of being a user of the product at the time of running the advertisements.
- (8) NACAA contends the FTC should also continue to prohibit lay endorsements of drug or device efficacy unless the advertiser has adequate scientific substantiation for such claims and the claims are not inconsistent with any determination of the FDA with respect to the drug or device that is subject to the claim.
- (9) NACAA also supports the continuation of the requirements imposed upon the use of "expert" and "organization" endorsements in advertising.
- (10) NACAA also supports the expansion of clear and conspicuous disclosure of all material conditions which would affect the weight or credibility of the endorsement.

NACAA wants to thank the Commission for the opportunity to submit Comments on the Testimonial Guidelines. Should you have any questions regarding our Comments, please feel free to contact us.

RESPECTFULLY SUBMITTED,

JILL MILES, President

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