

COMMENTS SUBMITTED FOR THE FTC ENDORSEMENT GUIDES REVIEW,
PROJECT NO. P034520

Comment Number:

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Organization: American Association of Advertising Agencies and American Advertising Federation

Commenter: Trade Organization

State: NY

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Rule: FTC Guides Concerning the Use of Endorsements and Testimonials in Advertising
No Attachments

Comments:

The American Association of Advertising Agencies (the “AAAA”) and American Advertising Federation (“AAF”) are pleased to jointly submit these comments to the Federal Trade Commission (“FTC”) regarding the FTC’s Guides Concerning the Use of Endorsements and Testimonials in Advertising (the “Guides”).¹ The AAAA and AAF broadly support the goal of responsible marketing and support the FTC’s systematic review of all current regulations and guides.

As the leading trade association representing the advertising industry in the United States, the AAAA has considerable experience and unique insight regarding endorsements and testimonials in advertising. Founded in 1917, its membership generates approximately 80 percent of the total advertising volume placed by agencies nationwide. The mission of the AAAA is to improve the advertising agency industry in the United States by fostering professional development, studying the way advertising affects our society and by encouraging business standards that help achieve desirable civic and social goals.

¹ 16 C.F.R. § 255 (2007), *available at* <http://www.ftc.gov/bcp/guides/endorse.htm>.

The American Advertising Federation (“AAF”), the oldest national advertising trade association, representing 50,000 professionals, similarly offers a valuable and historical perspective with respect to consumer endorsements and testimonials in advertising. The AAF has a national network of 200 ad clubs located in ad communities across the country. The AAF’s mission is to protect and promote the well-being of advertising through a unique, nationally coordinated grassroots network of advertisers, agencies, media companies, local advertising clubs and college chapters.

Together these organizations represent a broad cross-section of the advertising industry, including the nation’s leading brands and corporations and Fortune 500 companies. As such, the AAAA and AAF are uniquely situated to comment on the Guides and provide their expertise and experience.

The AAAA and AAF strongly believe that the Guides provide substantial benefits to advertisers and consumers alike and are effective in ensuring the truth and accuracy of endorsements and testimonials without imposing unnecessary burdens on advertisers. We further believe that any changes to these well-accepted Guides, particularly the changes suggested in the FTC’s Request for Public Comments, 16 C.F.R. Part 255,² would likely be impractical, and even impossible, to implement and could have a chilling effect on an advertiser’s ability to use this valuable advertising technique. Although our members all share the desire to ensure non-deceptive endorsements and testimonials in advertising, no compelling evidence suggests that changes to the Guides would be advisable at this time, but rather suggests the opposite. For these reasons and the reason set forth below, we urge the FTC to decline an invitation to change the Guides.

² Guides Concerning the Use to Endorsements and Testimonials in Advertising, 72 Fed. Reg. 2214 (Jan. 18, 2007), available at <http://www.ftc.gov/os/2007/01/P034520endorseguidesFRN.pdf> (hereinafter “FTC Request for Public Comments”).

I. The Guides Are Effective In Ensuring The Truth And Accuracy Of Claims Made By Endorsements

A. The Guides Prohibit Unsubstantiated Claims Made By Consumer Endorsements

The Guides have been in existence since 1975 and have been well received by advertisers, consumers and regulators. In fact, the previous and current FTC Commissioners praised the Guides, and Chairman Platt Majoras recently stated that she “know(s) the Endorsement Guides provide important advice to many [advertisers].”³ The advertising community has embraced these Guides as the benchmark of responsible advertising and designed their advertising campaigns in compliance with such Guides. While the Guides are not laws, *per se*, they are essentially treated as law by the courts⁴ and by the advertising community, which is well aware that any non-compliance could result in FTC action.

The Guides not only promote responsible marketing by mandating that endorsements reflect the honest opinions, beliefs, or experience of the endorser and by prohibiting any representation which would be misleading, but they also acknowledge the inherent differences between consumer, expert and celebrity endorsements by providing well-defined guidelines for each specific type of endorsement. Most importantly, they prohibit any endorsement that may contain any representation which would be deceptive or could not be substantiated if made directly by the advertiser. Accordingly, it is well-settled that an advertiser must have support for

³ FTC Chairman Platt Majoras’ Remarks before the Association of National Advertisers, January 17, 2007, p. 8, <http://www.ftc.gov/speeches/majoras/070117adresnewyear.pdf> (hereinafter, “Chairman’s Remarks before ANA”).

⁴ In *FTC v. Garvey*, the FTC acknowledged that the Guides lack the force of law but contended that they are entitled to deference because of their persuasiveness. 383 F.3d 891, 903 n.13 (9th Cir. 2004). Indeed, the Supreme Court has made clear that where, as here, an agency pronouncement is not necessarily entitled to deference under the pronouncement's persuasiveness may nevertheless entitle it to respect. *See Christensen v. Harris County*, 529 U.S. 576, 587 (2000).

any claim made by its consumer endorsements, as if it were making the claim independent of the consumer endorsement.

B. Concern Over Consumer Endorsements Is Really A Substantiation Issue And Not A Disclosure Issue

The core concern with endorsements and testimonials in advertisements is not the sufficiency of their disclaimers, but whether the claims made by the consumer endorsement can be supported.

The Guides currently advise that:

[R]eflecting the experience if an individual or a group of consumers on a central or key attribute of the product or service will be interpreted as representing that the endorser's experience is representative of what consumers will generally achieve with the advertised product in actual, albeit variable conditions of use. Therefore, unless the advertiser possesses and relies on adequate substantiation for the representation, the advertisement should either clearly and conspicuously disclose what the generally expected performance would be in the depicted circumstances or clearly and conspicuously disclose the limited applicability if the endorser's experience of what consumers may generally expect to achieve.⁵

Therefore, when an advertiser has adequate substantiation for claims made by consumer endorsements, including with respect to the efficacy and typicality of the product, the claim would not be misleading, and thus, there should not be any regulatory issue or concern. As noted above, the advertiser has the option of disclosing what the generally expected performance would be in the depicted circumstance or the limited applicability of the endorser's experience. However, if there is no support for such endorsement, such claim can be challenged and/or prohibited within the existing regulatory or self-regulatory framework.

II. The Existing Regulatory And Self-Regulatory Framework Ensures That Consumer Endorsements Are Supported

A. The FTC Has Authority To Challenge Unsupported Claims Under Section 5 Of The FTC Act

⁵ Guides Concerning the Use to Endorsements and Testimonials in Advertising, 16 C.F.R. § 225.2 (2007), available at <http://www.ftc.gov/bcp/guides/endorse.htm>.

If the advertiser does not have support for the claims made by its consumer endorsements, the FTC can challenge such claims, as it has done successfully in the past, under Section 5 of the Federal Trade Commission Act (“FTC Act”), which prohibits unfair and deceptive acts in commerce.⁶ Therefore, if a claim in a consumer endorsement is not supported, the FTC can prohibit or modify it under its Section 5 authority, as well as impose substantial remedies to prevent further deception through cease and desist orders, injunctions, consumer redress, disgorgement and fines. Indeed, the FTC has been quite successful at prohibiting unsubstantiated endorsements under its Section 5 authority. For example, in 1999, the FTC not only prevented Fitness Quest, Inc. (FQI), from making unsubstantiated claims regarding the efficacy of the “Gut Buster” exercise equipment, but also prohibited it from utilizing any user testimonials or endorsements without clearly and prominently disclosing that the results do not reflect the typical or ordinary user experience.⁷ In that action, the FTC claimed that defendants had represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in the consumer testimonials, while the FTC alleged that the defendants did not possess and rely upon a reasonable basis that substantiated the representations in the consumer testimonials and thus found them to be false or misleading.

⁶ See, e.g., *FTC v. Direct Mktg. Concepts, Inc.*, 2004 U.S. Dist. LEXIS 11628 (D. Mass., Jun. 23, 2004) (injunction and cease and desist order granted for infomercial featuring a doctor stating that Supreme Greens can cure, treat or prevent cancer, diabetes, arthritis and heart disease, and that Supreme Greens can be safely used by pregnant women, children, and consumers taking any medications); *FTC v. End70 Corp.*, 2003 U.S. Dist. LEXIS 13384 (N.D. Tex., Jul. 31, 2003) (injunction granted for infomercial featuring testimonials from Internet Treasure Chest users who made large sums of money but did not disclose that they had purchased upgrades to the package); *FTC v. QT, Inc.*, 448 F. Supp. 2d 908 (N.D. Ill. 2006) (injunction, consumer redress, disgorgement, and restitution ordered for infomercial featuring Q-Ray Bracelet wearers who claimed their musculoskeletal pain, sciatic pain, persistent headaches, sinus problems, tendonitis, and injuries were eliminated through use of defendants’ product); *FTC v. SlimAmerica, Inc.*, 77 F. Supp. 2d 1263 (S.D. Fla. 1999) (injunction and consumer redress ordered for advertisements with fraudulent medical endorsements of product that would enable users to lose specified, substantial amounts of weight within brief, particularized periods of time, without dieting or exercise).

⁷ See *Fitness Quest, Inc., et al; Analysis To Aid Public Comment*, 64 Fed. Reg. 27545 (May 20, 1999); see also *Consent Agreement, In the Matter of Fitness Quest, Inc.*, File No. 982 363, <http://www.ftc.gov/os/1999/05/fitnessquestconsent.htm>

Ultimately, FQI signed a consent order agreement requiring it to cease making representations as to the product's benefits, performance, or efficacy through unsubstantiated user testimonials and endorsements.

In light of the FTC's unequivocal authority to prevent unsupported claims in consumer endorsements through Section 5, it would seem unnecessary to revise the Guides and/or mandate certain disclosures.

B. State Attorney General Actions and Private Litigation Provide Further Protection Against Unsupported Consumer Endorsements

The FTC is not the only regulatory body that has the ability to challenge false and deceptive endorsements or testimonials. Indeed, most states have adopted their own mini-FTC Acts, which the State Attorneys General have successfully used to bring enforcement actions for false and deceptive endorsements and testimonials.⁸ These state laws and actions reflect the principles of the Guides by helping to ensure that all claims made by consumer endorsements are adequately substantiated. For example, in 2006, Iowa Attorney General Tom Miller brought an action against Vision Improvement Technologies ("VIT") under the Iowa Consumer Fraud Act⁹ for deceptive advertising of a natural vision improvement kit.¹⁰ VIT's advertisements contained consumer testimonials that use of the "See Clearly Method" improved their natural vision, eliminating the need for contact lenses or glasses. The court found that the advertisers used misleading consumer testimonials and exaggerated performance claims and issued a consent judgment against VIT enjoining it from advertising, promoting, distributing, or selling the

⁸ See, e.g., New Jersey Consumer Fraud Act, N.J. Stat. § 56:8-2 (2007) (making it unlawful to use "deception, fraud, false pretense, false promise, misrepresentation" in the advertisement of goods and real estate); California Consumer Legal Remedies Act, Cal. Civ. Code § 1770 (2007) (making "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have" unlawful); Unfair Business Practices Act, Cal. Bus. & Prof. Code § 17500 (2007) (prohibiting the making of false or misleading statements).

⁹ Iowa Consumer Fraud Act, Iowa Code § 714.16 (2006).

¹⁰ See Petition in Equity, State v. Vision Improvement Technologies, Inc., CE 51687, http://www.state.ia.us/government/ag/latest_news/releases/nov_2006/VIT_PET.pdf.

product.¹¹ In addition, the court ordered that VIT cease any activities that did not comply with the FTC Guides.

Private litigants have also enforced the principles of the Guides by successfully challenging unsubstantiated testimonials through litigation, such as through Lanham Act actions. For instance, in 1992, W.L. Gore & Associates challenged Totes Inc.'s use of consumer endorsements to support the claim that its TECH-TEX fabric was superior to GORE-TEX.¹² The district court, which enjoined the advertisement, held that consumer testimonials by themselves, without adequate support, could not support a performance claim, and found that a false claim was still a false claim, even if satisfied customers provide testimonials that suggest otherwise.

Thus, in addition to the FTC's Guides, state actions and private actions promote the principles of the Guides by helping to ensure that claims made by consumer endorsements are adequately substantiated and by providing additional deterrents to unsupported claims.

C. Industry Self Regulation Promotes Compliance With The Guides

The advertising industry has long been at the forefront of self-regulation, promoting a number of respected self-regulatory bodies that have been well-received by the industry, consumers and government regulators. These self-regulatory bodies adhere to strict guidelines that mirror the FTC Guides and have been highly successful in implementing the principles of the FTC Guides. In fact, the past and present FTC Chairmen have encouraged advertisers to voluntarily adopt the Guides as the benchmark for legitimate consumer endorsement advertising.

As you know, the cornerstone of industry self-regulation is the National Advertising Division ("NAD") of the Council of Better Business Bureaus ("CBBB"), and the National

¹¹ See Consent Judgment, *State v. Vision Improvement Technologies, Inc.*, CE 51687, http://www.state.ia.us/government/ag/latest_news/releases/nov_2006/VIT_CONSENT.pdf.

¹² See *W.L. Gore & Assoc., Inc. v. Totes, Inc.*, 788 F. Supp. 800 (D. Del. 1992).

Advertising Review Board (“NARB”), which systematically monitor compliance¹³ with the Guides and report non-compliance to the FTC for enforcement. In fact, the CBBB’s Code of Advertising, which sets forth the basic advertising standards for the guidance of advertisers, advertising agencies and advertising media, expressly instructs advertisers to “consult Federal Trade Commission Guides on Testimonials and Endorsements for detailed guidance.”¹⁴

In addition, trade organizations such as The Electronic Retailing Association (“ERA”)¹⁵ and The Direct Marketing Association (“DMA”)¹⁶ maintain their own guidelines which embrace the FTC’s Guides. These trade organizations espouse the same principles as the FTC Guides by echoing the same requirements concerning consumer testimonials, disclaimers, expert endorsements, and material connection endorsements. All of the major television networks, including ABC, CBS, CW, FOX, NBC, and even MTV, maintain their own guidelines which require compliance with the Guides. Accordingly, non-complying endorsements and testimonials are not shown on network television.

Because industry self-regulation actively promotes and relies on the Guides, any change to the Guides would likely require all of the above self-regulatory entities to revise their own standards and principles. Such change could take years to accomplish and ultimately result in a self-regulatory system that differs from the FTC Guides, instead of the current state, where the self-regulatory system is in compliance with the regulatory system.

¹³ See Hefter Impact Technologies, LLC, NAD Case Report No. 4441 (citing the FTC Guides, Hefter’s claims were found to be an unsubstantiated endorsement of the product as the reasonable consumer might take away the message that the expert contributed to the design of the helmet); see also Priceline.com, NAD Case Report No. 4073 (citing the FTC’s Endorsement Guides, NAD found a reasonable basis for the price claims made in the testimonials).

¹⁴ Better Business Bureau Code of Advertising, available at <http://www.bbb.org/membership/codeofad.asp>.

¹⁵ See ERA’s Online Marketing Guidelines, available at http://www.retailing.org/new_site/memresources/policies_procedures/online_marketing.htm.

¹⁶ See DMA’s Ethical Business Practices, available at <http://www.the-dma.org/guidelines/EthicsGuidelines.pdf>.

III. Change To The Guides Could Have A Chilling Effect On A Well-Accepted And Valuable Advertising Technique

A. Consumer Endorsements And Testimonials Are A Well-Accepted And Valuable Advertising Technique

Advertisers have used endorsements and testimonials as an effective and powerful marketing technique for hundreds of years. Endorsements and testimonials continue to this day to be a well-accepted and valuable method of advertising legitimate products and services. Even Chairman Platt Majoras acknowledged that the “the type of advertising claims addressed in the Guides are persuasive to consumers” and “the endorsement can be a powerful statement – giving enhanced credibility to a seller’s own product claims - because it comes from a third party, one with either relevant expertise or actual experience with the product.”¹⁷ For such reasons, endorsements and testimonials are used frequently by advertisers to connect with consumers and truthfully advise them about their services and products.

In fact, endorsements and testimonials are used throughout the entire advertising industry by almost each and every advertiser, regardless of the product category. Endorsements and testimonials have played a major role in everything from the cola wars of the 1980’s to the most recent summer blockbuster movies. It is a misconception that endorsements and testimonials are used primarily to target consumers in certain categories, which are considered to be “vulnerable,” such as in the weight loss category (a concern that is already addressed by the FTC’s *Red Flag Guide for Media on Bogus Weight Loss Claim Detection* and increased FTC vigilance and scrutiny of the weight loss industry under Section 5 of the FTC Act). In truth, endorsements and testimonials are used to effectively communicate messages about all types of products in all product categories—from cosmetics to paper goods, to hair care products, to telephone/wireless services, to videogames and movies, and many more. Accordingly, any

¹⁷ Chairman’s Remarks before ANA, *supra* note 3.

change to the Guides would have a significant impact on the entire advertising industry and not just a small segment of it.

Consumers themselves rely on endorsements and testimonials in making some of their most important purchasing decisions. Consequently, any change to the Guides could also deprive consumers of this valuable technique which is useful in helping them make their buying decisions.

B. Changes To The Guides May Be Impractical Or Impossible To Implement And Impose An Unnecessary Burden On Advertisers, Thereby Having A Chilling Effect

As noted above, the Guides currently state that unless the advertiser possesses and relies on adequate substantiation for the representation, the advertisement should either clearly and conspicuously disclose what the generally expected performance would be in the depicted circumstances or clearly and conspicuously disclose the limited applicability if the endorser's experience of what consumers may generally expect to achieve.

This Guideline grants advertisers the flexibility to create disclaimers that reflect the specific issues raised by each consumer endorsement.¹⁸ As noted above in Sections I (A) and (B), such claims must still be substantiated. For example, if an advertiser has one consumer testimonial which advises that the consumer lost 50 pounds in one month with a certain product

¹⁸ Indeed, Example 1 of § 255.2 presents the endorsement of an owner on of the advertiser's television sets; the consumer states that she needed to take the set to the shop for repairs only one time during her 2-year period ownership and the costs of servicing the set to date were under \$10.00. *See* Guides Concerning the Use to Endorsements and Testimonials in Advertising, <http://www.ftc.gov/bcp/guides/endorse.htm>. The Guides state that unless the advertiser possesses and relied upon adequate substantiation for the implied claim that such performance reflects that which a significant proportion of consumers would likely experience, the advertiser should either include a disclosure that states clearly and conspicuously what generally expectable performance would be or clearly or conspicuously informs consumers that the performance experienced by the endorser is not what they should expect to experience. *See id.* Thus, mere disclosure that "not all consumers will get this result" is insufficient because it can imply that while all consumers cannot expect the advertised results, a substantial number can expect them. *Id.*

but has no other support for the claim, the claim would not be supported under the Guides and thus deceptive under the Section 5 of the FTC Act.

The FTC Request for Public Comments, however, suggests a deviation from this well-accepted guideline. Indeed, Section III 9(a) of the Request for Comments asks what would be the effect on advertisers and consumers of requiring clear and conspicuous disclosure of “generally accepted performance” whenever the testimonial is not generally representative of what consumers can expect from the advertised product. The answer to this question is that such a change would likely impose unnecessary and impractical burdens on advertisers. This proposal is fundamentally flawed because unlike the existing Guides, which allows for flexibility, it assumes that all types of claims of products featured in consumer endorsement advertising can be measured by generally expected results. A requirement that the advertiser disclose generally accepted performance suggests a mandatory typicality disclosures for each and every consumer endorsement, regardless of the products or services advertised or claims made by the consumer endorsement.

Indeed, this mandatory typicality disclosure would not appear to be applicable to all types of claims, such as preference claims or personal experience claims, or to all products or services, and thus it would be impractical and almost impossible to adequately measure. Despite this impracticability, such advertisers would still be required to spend thousands to millions of dollars developing research and studies to support a disclosure of “generally accepted performance”, when such claims cannot be measured in that way. Thus, this proposal would force the advertiser who uses consumer endorsements to promote their video games, movies or restaurants to conduct research to determine whether the likeability of their video game, restaurant or movie is supported by the generally expected results. This forced disclosure would likely impose too

many burdens on such advertisers so that the result would be that many advertisers could no longer use this valuable advertising technique.

In addition, outside of the efficacy or performance claims, the suggested disclosures would not be useful or appropriate. This proposal may have the unwanted and unintentional effect of forcing advertisers who want to use consumer testimonials to make performance and efficacy claims, simply so that they can provide generally expected results. These advertisers too may also forego consumer endorsements as a result of these time-consuming and costly requirements. Accordingly, this proposal would likely have a chilling effect on the use of this valuable advertising technique, with advertisers unwilling to spend the thousands to millions of dollars to find the generally expected results of all claims, particularly when certain products or claims would be too difficult, impractical or even impossible to measure.

Of most concern is the fact that this proposal suggests that consumer endorsements and testimonials should be subject to a higher level of substantiation than if the advertiser had made the claim outside of the consumer endorsement. In the absence of any compelling evidence, which is further discussed below, there does not appear to be any justification to require certain advertising claims to be subject to a higher standard of substantiation simply because they are in the form of a consumer testimonial.

IV. The Two Studies Commissioned By The FTC Are Limited In Design And Methodology And Therefore Cannot Be Extrapolated So As To Apply To All Testimonials And Endorsements

We are not aware of any compelling data that would support a change in the Guides. Indeed, the two studies commissioned by the FTC are admittedly limited in design and methodology and therefore we do not believe should be extrapolated so as to apply to all consumer testimonials in all media, in all product categories, for all age groups. As further

explained below, their applicability may be limited to only these certain test conditions and should not be the basis for a change to the well-established Guides.

The first study, entitled “The Effect of Consumer Testimonials and Disclosures on Ad Communication for a Dietary Supplement” (“Study One”), examined the communication effects of a promotional booklet for a dietary supplement that contained multiple consumer testimonials promoting the product. According to the authors of the study, the results suggest that multiple testimonials about a product effectively communicates efficacy claims (i.e., that the product works for the uses discussed in the testimonial) and that the product will work for all, most, or about half of the people who use it (i.e., typicality). The study also suggests that prominent disclosures in advertisements containing multiple testimonials may be ineffective in qualifying such claims.

Notably, Study One itself acknowledges certain limitations in its design and methodology which could limit its application generally to all consumer testimonials. Study One was comprised of only 200 participants, eighty percent of whom were over 60 years of age. Because of the small sample size, Study One presents differences among the treatment groups that were not statistically significant. In addition, the study targeted individuals who reported suffering from breathing problems, low energy or chronic pain. Thus, it is quite possible that the sample was not representative of the audience to whom the advertisement is directed. Study One, conducted exclusively in malls, was also based on a single product category—dietary supplements, and thus not necessarily representative of all types of products. Indeed, the nature of this product category may make disclosures less effective, whereas those same disclosures might be successful in other product categories.

Moreover, Study One consisted solely of three pages of consumer endorsements, each which contained eighteen testimonials, primarily from senior citizens. This would not appear to be representative of general consumer testimonial usage, which normally includes only a select few endorsements in an advertisement, such as with a commercial or print ad. The fact that so many consumers testimonials are included in one document, reflect similar claims, and appear to be made by and to members of the same demographic groups, would likely inflate any typicality responses. As such, it is likely that advertisements containing a more representative number of testimonials would yield different findings.

The second study, entitled “Effects of Consumer Testimonials in Weight Loss, Dietary Supplements and Business Opportunity Advertisements” (“Study Two”), investigated the effects of testimonials on consumers in print advertisements for a weight-loss program, dietary supplement, and a business opportunity. According to the authors of the study, the results suggest that a significant percentage of consumers believed that the advertised products would enable new users to achieve results similar to those experienced in the testimonial and that two of the disclosures (“results not typical” and “experiences of a few”) failed in most instances to significantly qualify the message of the advertisement. However, a third disclosure (“average 10 pounds”) significantly reduced, in most cases, advertisement communication and typicality effects.

Like Study One, Study Two was heavily-skewed to the dietary supplement and weight loss industries, as the interviews conducted on advertisements outside of those industries accounted for less than one-third of the entire study. Study Two was also based on information obtained through interviews conducted exclusively from shopping malls within only a three-month time period, and the majority of the participants were all aged 45 and over.

Because of such limitations, we are concerned that the results of these two studies cannot be extrapolated so as to apply to all consumer testimonials in all media, in all product categories, for all age groups. Thus, we urge the FTC not to give too much weight to these two limited studies or assume that they are representative of all consumer testimonials.

V. Conclusion

The Guides are well-accepted by the advertising industry, consumers, self-regulating organizations, and regulators and their principles enforced by the FTC under Section 5 of the FTC Act, State Attorneys General, private litigants, and self-regulatory bodies. The Guides have been quite effective in facilitating truthful and non-deceptive endorsements and testimonials. For such reasons, we believe that any changes to the Guides would be unwarranted, particularly in the absence of compelling evidence that there is any need for such change and the fact that the proposed changes may have a chilling effect on advertiser's use of consumer testimonials.

The AAAA and AAF look forward to helping the FTC and the industry. We would be happy to facilitate the gathering of further information from AAAA's and AAF's members that might be of interest to the FTC on these important issues. However, based on what we know today, we strongly believe that no changes to the Guides are warranted.

Respectfully submitted,



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