



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

Division of Advertising Practices

Mary K. Engle
Associate Director

October 30, 2009

Robert E. Armstong, Esq.
Law Offices of Robert E. Armstrong
200 South Wacker Drive
Suite 3100
Chicago, IL 60606

Re: Northwest Natural Products - L'il Critters, FTC File No. 092-3153

Dear Mr. Armstrong:

As you are aware, the staff of the Division of Advertising Practices of the Federal Trade Commission ("FTC") conducted an investigation of Northwest Natural Products, Inc. ("NNP"), for possible violations of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52 ("FTC Act"). In particular, the investigation involved the advertising and promotion of three dietary supplements in NNP's L'il Critters line of gummy vitamins for children, namely, L'il Critters Omega-3 Gummy Fish ("Gummy Fish"), L'il Critters Immune C Plus Zinc & Echinacea ("Immune C"), and L'il Critters Gummy Vites ("Gummy Vites"). Our inquiry focused on whether NNP had adequate substantiation for representations that: (1) Immune C boosts the immune system and prevents or treats colds or other types of illnesses in children; (2) Gummy Fish boosts, improves, or promotes brain function, brain development, intelligence, or academic achievement in children; and (3) the choline contained in Gummy Vites enhances or promotes brain function in children.

Upon careful review of the matter, including non-public information submitted to staff, we have determined not to recommend enforcement action at this time. The factors we considered in making this determination include the very limited duration of the print advertising campaign containing the claims at issue and NNP's swift and voluntary action to modify all marketing materials for these products, including product packaging and labeling, to ensure compliance with the FTC Act. Specifically, we understand that NNP has destroyed all remaining product labels containing the claims at issue and is in the process of distributing new labels, containing the modifications described below, to all distributors and retailers. In addition, NNP discontinued the dissemination of print advertisements and website materials for Gummy Fish, Immune C, and Gummy Vites that contained the claims at issue.

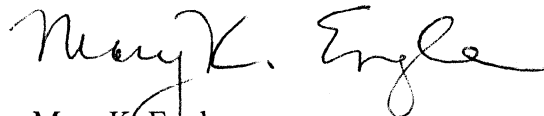
NNP has discontinued the use of the following claims in all print advertisements, website materials, and product labeling:

- When marketing Immune C, the phrases “Immune Booster,” “did you know kids get 6 to 8 colds per year!”, and “Germs are everywhere – schools, daycares, playgrounds”;
- When marketing Immune C, the depiction of a product bottle with a tissue coming out of its cap;
- When marketing Immune C, the comparison of a daily serving to a cup of soup;
- When marketing Gummy Fish, the phrases “Brain Booster,” “Smart Gummies For Smart Kids,” “Omega-3 Promotes Healthy Brain Function,” “for brain-boosting benefits,” “provide all the brain-boosting benefits of omega-3,” and “do you know why fish are so smart? Because they are always in schools!”
- When marketing Gummy Fish, the depiction of a product bottle wearing a mortarboard graduation cap;
- When marketing Gummy Fish, the depiction of a report card with a prominent “A” grade; and
- “Call-outs” for the products’ ingredients accompanied by particular establishment claims (e.g., “Choline For Brain Function,” “Zinc for Immune Boost,” “Echinacea For Immune Power,” and “Omega 3 Brain Booster”).

Finally, NNP has indicated that it will clearly and conspicuously disclose the actual amount of DHA in Gummy Fish when making the representation “with DHA” on the new product label.

The staff appreciates NNP’s significant cooperation in the prompt resolution of this matter. 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,



Mary K. Engle
Associate Director
Division of Advertising Practices