

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of The Erickson Marketing Group Inc.
d/b/a Rocky Mountain Sunscreen, Matter No. 152 3268

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order as to The Erickson Marketing Group Inc., d/b/a Rocky Mountain Sunscreen (hereafter “respondent”).

The proposed consent order (“order”) has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the order and the comments received, and will decide whether it should withdraw the order or make it final.

This matter involves the respondent’s advertising for its sunscreen products. The Commission’s complaint alleges that the respondent violated Sections 5(a) and 12 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) and 52, by falsely representing that its sunscreen products are “all natural.” It also alleges that the sunscreen products are not “all natural” because they contain the synthetic ingredients Dimethicone, Polyethylene, Butyloctyl Salicylate, and Neopentyl Glycol Diethylhexanoate.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related violations. It also includes provisions to assist the Commission in monitoring and enforcing compliance with the order.

Part I prohibits any representation regarding whether any product is all natural or 100% natural; the extent to which such product contains any natural or synthetic ingredient or component; the ingredients or composition of such product; or the environmental or health benefits of such product, unless the representation is non-misleading. The respondent must have competent and reliable evidence, sufficient in quality and quantity based on standards generally accepted in the relevant fields when considered in light of the entire body of relevant and reliable evidence, to substantiate that the representation is true. When appropriate, based on the expertise of professionals in the relevant area, the substantiation must be competent and reliable scientific evidence. “Competent and reliable evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by qualified persons, using procedures generally accepted in the profession to yield accurate and reliable results. “Competent and reliable scientific evidence” means tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, using procedures generally accepted in the profession to yield accurate and reliable results.

Parts II through V require the respondent to: (1) keep records of advertisements and substantiation relevant to representations covered by Part I; (2) deliver a copy of the order to principals, officers, directors, and managers, and to employees, agents, and

representatives having responsibilities with respect to the subject matter of the order; (3) notify the Commission of changes in corporate structure that might affect compliance obligations; and (4) file compliance reports with the Commission.

Part VI provides that, with exceptions, the order will terminate in twenty years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.