

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580



Division of Advertising Practices

Mary K. Engle
Associate Director

November 7, 2012

John M. Shanahan
CEO
Newport Nutritionals, Inc.
5 Corporate Park, Suite 240
Irvine, CA 92606

Re: Anti-Concussion Products - Newport Nutritionals, Inc. (Sports Brain Guard)
FTC File No. 122-3015

Dear Mr. Shanahan:

As you are aware, the staff of the Division of Advertising Practices of the Federal Trade Commission conducted an investigation of Newport Nutritionals, Inc. for possible violations of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52. In particular, the investigation concerned Newport Nutritionals' advertising for the Sports Brain Guard dietary supplement. Our inquiry focused on whether Newport Nutritionals had adequate substantiation for representations that Sports Brain Guard prevented or treated brain injuries or concussions, especially for athletes who compete in contact sports.

Upon careful review of the matter, the staff has concluded that Newport Nutritionals did not possess competent and reliable scientific evidence to substantiate claims that Sports Brain Guard prevented or treated brain injuries or concussions. In addition, we are particularly concerned that users relying on Newport Nutritionals' unsupported claims might forgo appropriate medical treatment and return to competition before they have adequately recovered from their injuries.

Despite our concerns, we have determined not to recommend enforcement action at this time. The factors we considered in making this determination included: 1) the limited duration of the advertising campaign containing the claims at issue; 2) the extremely limited volume of sales of Sports Brain Guard; and 3) Newport Nutritionals' decision to permanently discontinue marketing and selling Sports Brain Guard and to take down the product's website. Newport Nutritionals has an obligation to ensure that all express or implied marketing claims the company

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creates for or disseminates to consumers in advertising and promotional materials are truthful and adequately supported.

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 black ink, appearing to read "Mary K. Engle". The signature is fluid and cursive, with the first name "Mary" and last name "Engle" clearly distinguishable.

Mary K. Engle
Associate Director
Division of Advertising Practices