



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

Division of Advertising Practices

April 21, 2011

Nancy L. Stagg  
Fish & Richardson P.C.  
12390 El Camino Real  
San Diego, CA 92130

Re: Provide Commerce, Inc., FTC File No. 112-3111

Dear Ms. Stagg:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into advertising by your client, Provide Commerce, Inc., for possible violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. The staff's investigation followed a referral from the National Advertising Division of the Council of Better Business Bureaus ("NAD") regarding Provide Commerce's failure to comply with the NAD's decision regarding the use of a bar graph in making certain advertising claims for its ProFlowers brand of online flowers. For the reasons stated below, the staff has decided to close the investigation.

The staff's investigation focused on whether certain ProFlowers advertising, which used a bar graph to depict the results of a consumer survey of three competing brand of online flowers, was misleading. FTC staff was concerned that the company's data, including the results of the consumer survey, did not support the bar graph depiction. In a recent letter, you stated that Provide Commerce had agreed to discontinue use of the bar graph to depict the claims at issue in the FTC's investigation.

Upon review of this matter, including non-public information submitted to the staff, the staff has decided not to recommend enforcement action at this time. Among the factors considered is the company's decision to discontinue use of the bar graph in its advertising. This action is not to be construed as a determination that a violation may not have occurred, 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 cursive script that reads "Mary K. Engle".

Mary K. Engle  
Associate Director

cc: Andrea Levine, NAD