



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Division of Advertising Practices

Mary K. Engle
Associate Director

January 9, 2015

Richard Mann, Esq.
Melvin Drozen, Esq.
Keller and Heckman LLP
1001 G Street, NW
Suite 500 West
Washington, D.C. 20001

Re: Pedigree Dentastix, FTC File No. 132-3287

Dear Mr. Mann and Mr. Drozen:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into whether your client, Mars, Inc., violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, in connection with the advertising and marketing of Pedigree Dentastix.

Our inquiry focused on: (1) the claims that Dentastix treats or prevents gum disease in dogs, and is clinically proven to reduce tartar build-up by up to 80%, and (2) the manner in which Mars engaged expert endorsers and social media influencers to promote the Dentastix product line.

Section 5 of the FTC Act requires that advertising claims be truthful and non-misleading. We were concerned that the claim "up to 80% tartar build-up reduction" – which appeared prominently in television, radio, web, print, and display advertising – gave consumers the impression that typical dog owners could expect an 80% reduction in their dogs' tartar after using Dentastix. In fact, Mars's own studies of the product showed that 80% tartar reduction was an outlier result and that the mean tartar reduction was 47%. We were also concerned that Mars's inconsistent use of a disclosure stating, "average reduction was 47%" – which, when present, appeared in fine print, often far-removed from the 80% claim – was inadequate to prevent consumers from being misled.¹

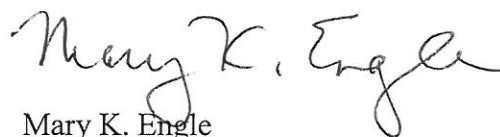
¹ Staff notes that a 2012 FTC-commissioned study of consumer perceptions indicated that when marketers use the phrase "up to" in claims about their products, many consumers are likely to believe that they will achieve the maximum "up to" result. Manoj Hastak & Dennis Murphy, *Effects of a Bristol Windows Advertisement with an "Up To" Savings Claim on Consumer Take-Away and Beliefs* (2012), *available at* <http://www.ftc.gov/reports/effects-bristol-windows-advertisement-savings-claim-consumer-take-away-beliefs>.

Section 5 of the FTC Act also requires the disclosure of a material connection, such as a financial relationship or compensation, between a marketer and an endorser when that relationship is not otherwise apparent from the context of the communication that contains the endorsement. Mars engaged veterinarians, via television shows such as *Dr. Oz*, and bloggers, via their own blogs, to increase awareness of the Dentastix brand and make claims about tartar reduction to the public. We were concerned that some of these endorsers did not clearly disclose, or disclose at all, their connections to Mars.

Upon review of this matter, we have decided not to recommend enforcement action at this time. We considered a number of factors in reaching this decision. First, as a result of a separate proceeding at the National Advertising Division of the Council of Better Business Bureaus, Mars voluntarily agreed to cease the use of the 80% tartar reduction claim in all future Dentastix advertising. You have confirmed that Mars has already changed its advertising to remove this claim. Mars also discontinued any references in its advertising that could imply that Dentastix prevents or treats gum disease. In addition, Mars has revised its internal endorsement guidelines to adequately address our concerns regarding disclosure of material connections. Pursuant to Mars's revised policy, FTC staff expects that Mars will take reasonable steps to monitor its social media influencers' and other endorsers' compliance with their obligation to disclose material connections when endorsing Mars's products.

Our decision not to pursue enforcement action should not be construed as a determination that a violation 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 further action as the public interest may warrant.

Very truly yours,

A handwritten signature in cursive script that reads "Mary K. Engle". The signature is written in black ink and is positioned above the printed name and title.

Mary K. Engle
Associate Director for Advertising Practices