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January 29, 2003

Secretary
Federal Trade Commission
Room 159
600 Pennsylvania Avenue, NW.
Washington, DC 20580

RE: Advertising of Weight Loss Products Workshop—Comment, P02457

Dear Sir/Madam,

Established in 1936, the National Nutritional Foods Association (NNFA) is the oldest and largest, non-profit trade organization dedicated to protecting and advancing the natural product industry. The organization is made up of more than 4,000 retailers, manufacturers, wholesalers and distributors of natural products including foods, dietary supplements and health and beauty aids. NNFA unites a diverse membership, from the smallest health food store to the largest dietary supplement manufacturer. Thank you for the opportunity to participate as an industry panelist during the public workshop on advertising weight loss products.

In 1999, the U.S. surgeon general reported that 61 percent of adults in the United States were overweight or obese. It is no surprise then that by 2001, weight loss supplements were one of the fastest growing segments in the \$17.7 billion dollar U.S. supplement industry, accounting for about \$1.8 billion in retail sales (*Nutritional Business Journal*, Vol. 7, Feb. 2002).

Unfortunately, as detailed in the FTC “Report on Weight-Loss Advertising: An Analysis of Current Trends,” false or misleading claims have also increased during this time. The entire industry, even those manufacturers who conscientiously obey the law, pay the price when the consumer is misled. NNFA strongly encourages FTC to target and continue taking enforcement actions against those companies who are clearly “over the line,” making exaggerated, misleading, and unsubstantiated claims.

NNFA also wholeheartedly supports the use of internet “surf days” to reduce the number of products on the internet with egregious claims. We have found that news of surf days are reported to companies in the press, through the trade associations, and used by industry legal counsel to put companies, who otherwise may not be aware of FTC and FDA enforcement initiatives, “on notice” that drug claims and unsubstantiated claims are illegal.

With regard to educating industry members, NNFA supports the development of guidelines to assist industry in lawfully selling products. In particular, guidance could be developed to address the use of claims during infomercial programs designed to sell weight loss products.

Furthermore, while NNFA definitely supports providing clear guidance to companies, we are concerned that a list of presumptively false claims can never be all encompassing; however companies may rely on it as such. That is, if a claim is not on the list, then it could be misunderstood as allowable. Furthermore, what effect will qualifying language or context have on a presumptively false claim?

Finally, as I mentioned during the workshop, NNFA is in a unique position to educate consumers about weight loss claims since the majority of our members deal with them on a daily basis in their stores. Because of this, NNFA has developed a “What You Should Know About...” series directed at educating consumers about healthier lifestyles. We would welcome the opportunity to work with FTC to publish a “What You Should Know About Weight Loss Claims” pamphlet for distribution to consumers through retail health food stores.

Thank you for your consideration of our views on this important matter and for including NNFA in the public workshop. I look forward to working with the FTC in future endeavors and can be reached at (800) 966-6632, ext. 232 should you need to contact me.

Sincerely,

David Seckman
Executive Director and CEO