

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman  
William E. Kovacic  
J. Thomas Rosch  
Edith Ramirez  
Julie Brill

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In the Matter of	)	)	
	)	)	DOCKET NO.
NESTLÉ HEALTHCARE NUTRITION, INC.,	)	)	
a corporation.	)	)	
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COMPLAINT

The Federal Trade Commission, having reason to believe that Nestlé HealthCare Nutrition, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Nestlé HealthCare Nutrition, Inc. is a Delaware corporation with its principal office or place of business at 12 Vreeland Road, Floram Park, New Jersey 07932-0697.
2. Respondent has labeled, advertised, promoted, offered for



ON SCREEN: Boost Kid Essentials Nutritionally Complete Drink  
KidEssentials.com...

B. Product Packaging(Exhibit B)

Front Panel:

BOOST®

**Kid Essentials**

Nutritionally Complete Drink

**Immunity Protection\***

Patented PROBIOTIC straw

*\*Nutritionally Complete Drink with PROBIOTICS to **Help Keep Kids Healthy...***

Side Panel:

Complete, Balanced Nutrition for Your Child's  
Healthy Growth and Strong Immune System!

BOOST® Kid Essentials provides complete, balanced nutrition for kids 1-13.

Only BOOST Kid Essentials has the vitamins and minerals kids need plus  
immune-supporting probiotics and antioxidants to help keep them healthy!...

Talk to your pediatrician about using BOOST Kid Essentials  
as a supplement with a meal or as a snack. To learn more about  
immunity, probiotics, and antioxidants, visit [www.kidessentials.com](http://www.kidessentials.com)...

C. Internet Website [www.kidessentials.com](http://www.kidessentials.com) (excerpt) (Exhibit C)

FAQ:

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Q: What exactly do probiotics protect my kids from?

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A: Probiotics are healthy bacteria that must be consumed in order to build up in our digestive system- in the lining of the GI tract. While they occur throughout nature, they are less likely to be present in large numbers in our own GI tract, and therefore need to be consumed to derive a benefit. They help balance and keep the levels of bad bacteria in check. Most importantly, they help keep our immune system healthy by increasing disease-fighting antibodies.<sup>1,2</sup>

References:

1. Tuohy KM *et al.* Using probiotics and prebiotics to improve gut health. *DDT* 2003;8(15):692-700.
2. Isolauri E *et al.* Probiotics: effects on immunity. *Am J Clin Nutr* 2001;73(suppl):440S-50S.

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Q: Are probiotics effective against viruses?

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[Depiction of a graph showing a 79% relative risk reduction of



9. Through the means described in Paragraph 5, including the statements and depictions contained in the advertisements attached as Exhibits A, C, and D, among others, respondent has represented, expressly or by implication, that clinical studies prove that drinking BOOST Kid Essentials:

- A. Reduces the general incidence of illness in children, including upper respiratory tract infections;
- B. Reduces the duration of acute diarrhea in children up to the age of thirteen; and
- C. Strengthens the immune system, thereby providing protection against cold and flu viruses.

10. In truth and in fact, clinical studies do not prove that drinking BOOST Kid Essentials reduces the general incidence of illness in children, including upper respiratory tract infections, reduces the duration of acute diarrhea in children up to the age of thirteen, or strengthens the immune system, thereby providing protection against cold and flu viruses. Therefore, the representations set forth in Paragraph 9 were, and are, false and misleading.

11. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, has issued this complaint against respondent.

By the Commission.

Donald S. Clark  
Secretary