

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of NBTY, Inc., File No. 102 3080

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from NBTY, Inc., NatureSmart LLC, and Rexall Sundown, Inc. (collectively, "Respondents").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves the advertising and promotion of the following products in Respondents' Disney/Marvel line of children's multivitamin and mineral dietary supplements: 1) Disney Princess Complete; 2) Disney Princess Gummies; 3) Disney Pixar Cars Gummies; 4) Disney Winnie the Pooh Gummies; 5) Disney Tigger & Pooh Gummies; 6) Disney Pixar Finding Nemo Gummies; 7) Disney Pixar Wall-E Gummies; 8) Disney Pixar Toy Story Gummies; 9) Marvel Heroes Complete; and 10) Marvel Heroes Gummies (collectively, the "NBTY Products").

According to the FTC complaint, Respondents asserted, in advertisements, that the NBTY Products contained a significant amount of DHA (docosahexaenoic acid, a polyunsaturated Omega-3 fatty acid) or an amount comparable to 100 mg of DHA. The complaint alleges that this claim is false or misleading because in fact, a daily serving of the NBTY products only contained either 0.1 mg of DHA (which is one thousandth of 100 mg) or 0.05 mg of DHA (which is five thousandths of 100 mg).

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