

Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:**

Kerry O'Brien, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356-5270.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for June 17, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

**Analysis of Proposed Consent Orders To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, agreements to a proposed consent order from Kent & Spiegel Direct, Inc., and its officers, Marsha Kent and Peter Spiegel, and a proposed consent order from Abflex, U.S.A., Inc., and its officer, Martin Van Der Hoeven (collectively "respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements and take other appropriate action or make final the agreements' proposed orders.

The Commission's complaints against respondents allege that they deceptively

advertised the "Abflex," an abdominal exercise device, primarily through an infomercial, over the internet, and through print advertisements. The Commission's complaints charge that respondents' advertising contained unsubstantiated weight loss success, rate of weight loss, and spot reduction representation. Specifically, the complaints allege that the respondents did not possess adequate substantiation for claims that: (1) The Abflex causes fast and significant weight loss; (2) Consumers lose at least ten pounds and five inches, or three to six inches, off their waistline within thirty days by using the Abflex for just three minutes a day; (3) The Abflex causes weight loss and fat reduction in specific, desired areas of the body; and (4) Testimonials from consumers appearing in the advertisements for the Abflex reflect the typical or ordinary experience of members of the public who use the product.

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the futures.

Part I of the proposed orders would prohibit respondents from making any claim for the "Abflex," for any exercise equipment, or for any weight-loss product: (1) About the number of pounds users can lose; (2) About the rate or speed at which users lose weight; (3) About the length of time users must use such product to achieve weight loss; (4) That such product causes fast and significant weight loss; (5) That such product causes a reduction in the size or shape of specific, desired areas of the body; (6) That such product causes a reduction in users' body size or shape, or body measurements; or (7) About the benefits, efficacy, or performance of such product in promoting weight loss, unless at the time of making them, they possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence.

Part II of the proposed orders address claims made through endorsements or testimonials. Under Part II, respondents may make such representations if they possess and rely upon competent and reliable scientific evidence that substantiates the representations; or respondents must disclose either what the generally expected results would be for users of the advertised product, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve.

The remaining provisions of the proposed orders relate to respondents'

obligations to make available to the Commission materials substantiating claims covered by the order; to notify the Commission of changes in the corporations' structure; to notify the Commission of changes in the individuals' employment or business affiliations; to provide copies of the orders to certain personnel of the corporations; and to file compliance reports with the Commission. The orders also provide that the orders will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

**Donald S. Clark,**

*Secretary.*

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**FEDERAL TRADE COMMISSION**

[File No. 962-3042]

**Life Fitness; Analysis To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before August 20, 1997.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Laura Fremont, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356-5270. Jeffrey Klurfeld, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356-5270.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the

above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis To Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for June 17, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

#### **Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Life Fitness ("respondent"), a New York general partnership that markets exercise equipment. Although not a respondent, Life Fitness' general partner, The Life Fitness Companies L.P., a Delaware limited partnership, has also agreed to be bound by the terms of the consent order.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint against respondent alleges that respondent deceptively advertised the Lifecycle exercise bicycle. The Commission's complaint charges that respondent's advertising contained unsubstantiated calorie burn representations. Specifically, the complaint alleges that the respondent did not possess adequate substantiation for the claim that users of the Lifecycle will burn calories at a rate of over 1,000 per hour under conditions of ordinary use. The complaint also

charges that respondent's representation that its calorie burn claim was based on competent and reliable research is false.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order would prohibit Life Fitness and The Life Fitness Companies L.P. from making any claim for the "Lifecycle," or for any other exercise equipment: (1) About the rate at which users burn calories, or the number of calories users burn, through use of such product; (2) about the weight loss or fat loss users achieve through use of such product; or (3) about the benefits, performance, or efficacy of such product with respect to calorie burning, fat burning, or weight loss; unless, at the time such a claim is made, the companies possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the claim. Part II of the order prohibits the companies from misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test, study, or research relating to calorie burning, fat burning, or weight loss.

The remaining provisions of the proposed order relate to respondents' obligation to make available to the Commission materials substantiating claims covered by the order; to notify the Commission of changes in the companies' structure; to provide copies of the order to certain personnel of the companies; and to file compliance reports with the Commission. The order also provides that the order will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

**Donald S. Clark,**

*Secretary.*

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Disease Control and Prevention**

[INFO-97-13]

#### **Proposed Data Collections Submitted for Public Comment and Recommendations**

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639-7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

#### **Proposed Projects**

1. Endometriosis and Exposure to Endocrine Disrupting Compounds—New—Exposure to endocrine disrupting compounds (determined by the concentration of these compounds and their metabolites in serum) may be associated with the incidence of endometriosis. Over two years, a case-control study will be conducted to compare serum levels of PCB's, pesticides, and dioxins in 50 women with newly diagnosed, laproscopically-confirmed endometriosis with serum levels in 50 women who are presumed free of endometriosis. Information on risk factors for endometriosis which may confound the association between endocrine disruptors and endometriosis will be obtained. These factors include demographics, smoking, and reproductive history. Information on potential sources of exposure to endocrine disrupting compounds (e.g.,