

Dear Ms. Brett:

We have reviewed the National Advertising Division's referral of the National Milk Producers Federation's ("NMPF") challenge that The a2 Milk Company (the "Company") made misleading advertising claims that its a2 Milk dairy products may help some people avoid gastrointestinal discomfort because the products do not contain one of the protein types found in ordinary cows' milk. The NMPF also challenged the Company's claims that ordinary cow's milk may induce "painful bloating, wind, cramps, inflammation" and "gut inflammation and other uncomfortable symptoms" because it contains the A1 protein type. NAD referred the matter to the Federal Trade Commission after the Company refused to formally participate in the NAD self-regulatory process.

The FTC fully supports the NAD and industry self-regulation, and we regret that the Company did not participate fully in the NAD proceeding. The Company's contention that it was not in a position to review advertising claims approved for use in labeling by the California Department of Food and Agriculture is meritless. Under California law, label revision is required if labels are found to promote consumer confusion or to be misleading. Any implication that label revision would be burdensome is simply untrue.

Furthermore, any suggestion by the Company that discussions with FTC staff make its participation unnecessary is also incorrect. FTC staff has not approved the Company's claims and has not opined as to the adequacy of any substantiation for those claims. Although staff recognizes that the Company has published a randomized controlled trial purporting to show minor improvements in digestive symptoms over ordinary cow's milk, the staff has not made a determination as to whether this study substantiates the Company's "easier on digestion"

After reviewing this referral, we have determined not to take additional action at this time. In reaching this conclusion, we considered a number of factors including resource allocation and enforcement priorities, the nature of any FTC Act violation, and the type and severity of any consumer injury. We also considered that the Company engaged in some informal discussions with the NAD and made some changes to its advertising. For exam

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statements from its website dur

This information may not be accurate at this time is not to be taken as a
a decision. A disclaimer through a vision statement may not have been made.
should not be taken as a statement of fact. The company reserves the right to
reserves the right to file such further information with the NAD.
applicable to the company and the NAD.

Very truly yours



Carolyn I. Hann
Chief of Staff
Division of Advertising Regulation

cc: Scott R. Bialecki, FSO
Sherry Han