



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Division of Advertising Practices

October 8, 2020

Via Electronic Mail (lbrett@bbbn.org)

Laura Brett, Esq.
Vice President
National Advertising Division
112 Madison Avenue, 3rd Floor
New York, NY 10016

Re: Advertising by Little Spoon, Inc. for Little Spoon Baby Food

Dear Ms. Brett:

Thank you for your May 19, 2020 letter referring an NAD Decision regarding advertising by Little Spoon, Inc. (“Little Spoon”) for Little Spoon Baby Food. We understand that this referral arose out of an NAD Challenge filed against Little Spoon by Plum Organics, PBC, a division of Campbell Soup Company (“Plum”). Plum challenged Little Spoon’s advertising claims that Little Spoon Baby Food is “fresh” and that its competitors’ shelf-stable baby food is unhealthy. After participating in the NAD proceeding, Little Spoon declined to follow the recommendations set forth in NAD’s Decision. Accordingly, you referred this matter to both the Federal Trade Commission and the Food and Drug Administration.

In addition to contacting Little Spoon’s counsel, we consulted with staff of FDA’s Center for Food Safety and Applied Nutrition, which regulates “fresh” claims in food labeling.¹ In deference to FDA’s expertise regarding the claims at issue, the FTC has determined not to take additional action at this time. In coming to this conclusion, we considered a number of factors related to resource allocation and enforcement priorities, as well as the nature of any FTC Act violation and the type and severity of any consumer injury.

¹ See, e.g., 21 C.F.R. § 101.95 (food labeling regulation defining “fresh” and related terms), available at https://www.ecfr.gov/cgi-bin/text-idx?SID=bc561543dfe4b9268c77ea6960b66d37&mc=true&node=se21.2.101_195&rgn=div8 (last accessed Oct. 8, 2020).

The Commission reserves the right to take such further action as the public interest may require. We appreciate your referral and the opportunity to continue supporting the NAD self-regulatory process.

Very truly yours,

V&DURO~~Q~~

Carolyn L. Hann
Chief of Staff for Advertising Practices

cc: J. Alexander Hershey, Clark Hill PLC