Concurring Statement of Commissioner Maureen K. Ohlhausen
In the Matter of Carrot Neurotechnology, Inc.
Matter No. 1423132
February 23, 2016

On September 17, 2015, the Commission issued an administrative complaint and accepted a proposed administrative consent agreement with Carrot Neurotechnology, Inc., regarding allegedly false and unsubstantiated vision improvement claims for Ultimeyes, a video game app.[1] The Commission subsequently published a description of the consent agreement package in the Federal Register, seeking public comment.[2] The Commission received seventy-seven comments, including many from experts and researchers in the relevant field of perceptual learning.

The Commission now votes to issue the consent agreement without modification and to address commenter concerns in a responsive letter. I concur, but write separately to emphasize our response to one particular set of concerns raised by commenters.

Part I of the consent agreement requires that Carrot substantiate any future vision improvement claims through testing that is "double-blinded."[3] Many commenters expressed concern about this blinding requirement.[4] For example, one commenter explained that "[i]n perceptual experiments it is impossible to produce an intervention to which the participant is 'blinded' in the way that a pill or a cream can appear to be identical regardless of whether or not the active ingredient is present."[5] Another noted that it is difficult to control for a test subject's expectations "for learning from behavioral training techniques where a person is actively engaged with learning materials that they are aware of."[6] Still another argued that so-called "placebo" effects are mental changes that are relevant to perceptual and cognitive learning.[7]

These are legitimate concerns about the apparent rigidity of the agreement's blinding requirement.[8] However, the blinding requirement already is context-sensitive and flexible –

[1] In the Matter of Carrot Neurotechnology, Inc., FTC File No. 1423132 (Sept. 17, 2015).
[2] Carrot Neurotechnology, Inc., Analysis of Proposed Consent Order To Aid Public Comment, 80 Fed. Reg. 57614 (Sept. 24, 2015), https://www.federalregister.gov/articles/2015/09/24/2015-24220/carrot-neurotechnology-

more so than the commenters may realize. As our letter to commenters properly explains, the blinding requirement is flexible because "[w]hat constitutes appropriate blinding and controls … may differ depending on the nature of the intervention and other circumstances."[9] The letter also provides examples of practices that may constitute adequate blinding in this context.

It might be more straightforward if the agreement itself explained the blinding requirement's flexibility. However, I believe our letter to commenters adequately explains the Commission's position on double-blinding in this case. Therefore, I concur.