

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of The M Group, Inc., et al., Docket No. 9340

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from The M Group, Inc., also doing business as Bamboosa, a corporation, and Mindy Johnson, Michael Moore, and Morris Saintsing, individually and as members of the corporation (together, “respondents”).

The proposed consent order has been placed on the public record for thirty (30) days for reception 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 or make final the agreement’s proposed order.

This matter involves respondents’ marketing and sale of textile fiber products purportedly made of bamboo fiber. The FTC complaint alleges that respondents violated Section 5(a) of the FTC Act by making false claims that their textile fiber products are bamboo fiber; retain the anti-microbial properties of the bamboo plant; and will completely break down and return to the elements found in nature within a reasonably short period of time after customary disposal. The complaint alleges that respondents’ textile fiber products are made of rayon; do not retain the anti-microbial properties of the bamboo plant; and that a substantial majority of household waste is disposed of by methods that do not present conditions that would allow for respondents’ textile fiber products to decompose into elements found in nature, within a reasonably short period of time. The complaint further alleges that the respondents failed to have substantiation for the foregoing claims.

The complaint also alleges that the respondents have violated the Textile Fiber Products Identification Act (“Textile Act”) and the Rules and Regulations promulgated thereunder (“Textile Rules”) by falsely and deceptively labeling and advertising their textile fiber products as bamboo.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Part I.A of the proposed order prohibits respondents from representing that any textile fiber product (1) is made of bamboo or bamboo fiber; (2) is anti-microbial or retains the anti-microbial properties of any material from which it is made; or (3) is degradable, biodegradable, or photodegradable, unless such representations are true, not misleading, and substantiated by competent and reliable scientific evidence. Part I.B prohibits respondents from making claims about the benefits, performance, or efficacy of any textile fiber product, unless at the time the representation is made, it is truthful and not misleading, and is substantiated by competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence. Part II makes clear that, although Part I prohibits respondents from making false and unsubstantiated representations that their textile fiber products are made of bamboo or bamboo fiber as opposed to rayon, the respondents nonetheless may describe such products using the generic name of any manufactured fiber and identifying bamboo as the cellulose source for such fiber (*e.g.*, rayon made from bamboo), so long as such representation is true and substantiated. Part III of the proposed order prohibits respondents from failing to comply with the Textile Act or the Textile Rules.

Parts IV through VIII require respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of their personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; to notify the Commission of changes in the individual respondents' current business or employment; and to file compliance reports with the Commission and respond to other requests from FTC staff. Part IX provides that the order will terminate after twenty (20) 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 its terms.