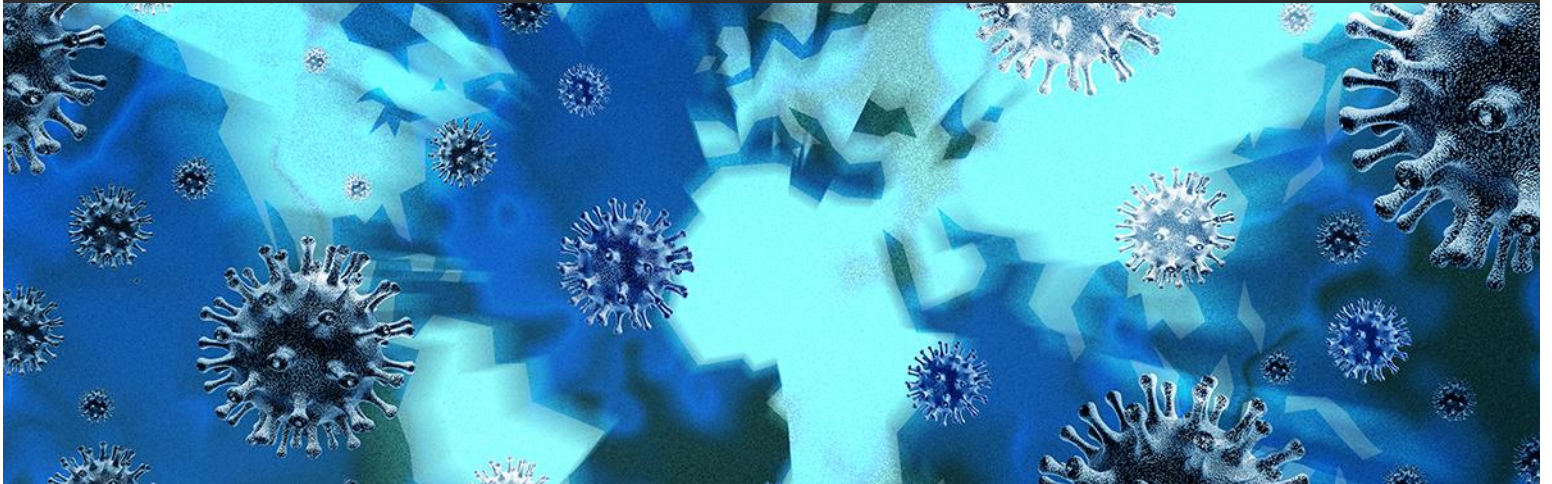


**Alert | Health Emergency Preparedness Task Force:
Coronavirus Disease 2019**



April 28, 2020

FTC Sends Numerous Warning Letters to Companies Making Alleged False and Unsubstantiated Claims Related to Coronavirus

The Federal Trade Commission (FTC) significantly turned up the heat during the month of April with respect to its enforcement of allegedly unlawful advertising claims made about products for the treatment or prevention of the Coronavirus Disease 2019 (COVID-19). While the FTC joined the U.S. Food and Drug Administration (FDA) last month in issuing joint warning letters to companies for improper claims related to COVID-19, the FTC issued an additional 40 warning letters during the month of April, including 10 on Friday, April 24, 2020 to multi-level marketing companies accused of making fraudulent claims. These warning letters demonstrate that the FTC takes seriously potential false, misleading, or unsubstantiated claims related to the treatment or prevention of COVID-19, and these companies could face serious repercussions for non-compliance.

In the batch of warning letters issued April 24, 2020, the FTC ordered the subject companies to remove and address claims that they or their participants were making about their products' ability to treat or prevent COVID-19. Some of the claims of concern to the FTC attempt to tie immune health to the treatment and prevention of COVID-19. For example, in one warning letter, the FTC identified the following claim as an example of impermissible claims being made: "[A] lot of us are worried about getting the virus and since a vaccine has yet to be developed we're going to have to rely on our good-old immune system to keep us healthy." The FTC warned that a company must possess "competent and reliable scientific evidence" to advertise that a product can prevent, treat, or cure human disease. No

study is currently known to exist supporting the treatment or prevention of COVID-19 for any of the products identified in these warning letters, so none of the claims are permissible, and the companies were ordered to immediately cease making the claims.

In addition, some of the multi-level marketing companies receiving warning letters were also taken to task for making what were perceived to be impermissible earnings opportunity claims. Such claims included “[F]or those of you working from home now, who says you ever have to go back? With a little education and a lot of uplifting support...you can take your health and your career future into your own hands.” Express and implied earnings claims must be truthful and non-misleading to avoid being deceptive, and claims about the potential to achieve a wealthy lifestyle, career-level income, or significant income are false or misleading if participants generally do not achieve such results. Advertising must make it clear as to what the amount is that most participants earn or lose.

The FTC also reminded companies that they are responsible for their “business opportunity participants and representatives.” Referencing its January 2019 guidance concerning multi-level marketing, the FTC indicated that companies should direct their participants not to make false, misleading or unsubstantiated claims, and that companies must monitor such participants to ensure they are not making improper claims.

In the case of all 10 warning letters, the subject companies were directed to review all claims immediately and cease making any impermissible claims, and the companies were given 48 hours to respond to the FTC’s COVID-19 Task Force as to how the company was going to address the FTC’s concerns.

Just one day earlier, on April 23, 2020, the FTC announced that it had sent 21 warning letters to companies marketing products with unsubstantiated claims that their products and/or therapies could treat or prevent COVID-19. The types of products and therapies were varied, ranging from vitamin and supplement products to, as the FTC put it, more “medically sophisticated” products and therapies like acupuncture, IV therapies with high doses of Vitamin C, ozone therapy, and stem cell treatments. However, while the products and therapies were varied, the FTC’s message to each was the same – there is currently no scientific evidence that any of these products or therapies can treat or cure COVID-19. As with the warning letters sent to multi-level marketers, these companies were given 48 hours to address the concerns of the FTC and to remove any false, misleading or unsubstantiated claims. The FTC also indicated that if the false claims did not cease, the FTC may seek a federal court injunction and order monetary redress to consumers.

For more information and updates on the developing COVID-19 situation, visit [GT’s Health Emergency Preparedness Task Force: Coronavirus Disease 2019](#).

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