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Walgreens Settles FTC Case Over Cold and Flu Treatment Ads

Pharmacy chain Walgreens has agreed to pay nearly \$6 million to settle Federal Trade Commission charges that it deceptively advertised its store brand of cold and flu dietary supplements.

Under the terms of the settlement, Walgreens is also barred from claiming that its supplement Wal-Born can prevent or treat colds and flu by boosting the immune system unless it provides scientific proof.

Walgreens is the latest company to be targeted by the FTC for making misleading cold and flu treatment claims. Last year, the FTC settled claims against CVS and Rite Aid for deceptively advertising similar supplements in their stores. And in 2008, Airborne Health, Inc settled FTC deceptive advertising charges over its supplement, Airborne. Walgreens had touted the similarity of Wal-Born to Airborne.

The FTC today also announced a \$565,000 settlement with two principal officers of Improvita Health Products Inc., the manufacturer of Wal-Born and other supplements. The FTC suit against the corporate defendant, Improvita Health Products, Inc., remains in litigation.

The FTC sued Walgreens in U.S. District Court for the Northern District of Illinois, charging that the company violated Sections 5 and 12 of the FTC Act. The company was represented by lawyers from McDermott, Will & Emery.

A Walgreens spokesman said that “We maintain there is evidence [Wal-Born] can support the immune system, and will continue to carry the product, but we have changed the packaging.”

The settlement includes \$1.2 million that was used to pay consumers as the result of a separate class action suit. Under the terms of the class settlement, consumers who bought Wal-Born were entitled to refunds of up to \$14.97 or a free flu shot.

According to court papers, plaintiffs firms in the case were Tycko & Zavareei; Wasserman, Comden & Casselman; and Keller Grover. Walgreens was again represented by McDermott, Will & Emery.

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