



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Division of Advertising Practices

January 26, 2010

CVS Caremark Corporation (d/b/a CVS Pharmacy, Inc.)  
Attn: Zenon Lankowsky, Esq., Vice President and General Counsel  
One CVS Drive  
Woonsocket, RI 02895

### WARNING LETTER

This letter is to advise you that the Division of Advertising Practices of the Federal Trade Commission ("FTC") has reviewed product packaging and advertising on the website [www.cvs.com](http://www.cvs.com) for a children's dietary supplement purported to contain docosahexaenoic acid ("DHA"), called Omega-3 Gummy Fish with DHA ("CVS Gummy Fish"). The product label for CVS Gummy Fish contains a logo for CVS Pharmacy, Inc. ("CVS") and states that the product is distributed by CVS. The product label also indicates that CVS Gummy Fish is intended for use by children ages 4 years and older, and one serving (2 gummy fish) contains 200 mg of a "Proprietary Omega-3 DHA Blend."

The FTC staff has identified various express and implied claims on product packaging and in advertising for CVS Gummy Fish representing that the product provides health benefits related to brain development and function in normal children ages 4 years and older. Some examples of the claims of these claims include:

- "Brain Booster";
- "Omega-3 promotes healthy brain function"; and
- Consuming CVS Gummy Fish boosts, improves, or promotes brain function in children ages 4 years and older.

Given the claims you are making, you should be aware of a recent law enforcement investigation we conducted into similar claims for another children's dietary supplement. Attached is a public closing letter related to an investigation that the FTC conducted of Northwest Natural Products, Inc. ("NNP") for possible violations of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52 ("FTC Act"). In particular, the FTC's investigation of NNP involved, among other things, the advertising and promotion of a children's gummy vitamin called L'il Critters Omega-3 Gummy Fish ("Gummy Fish"). Our inquiry focused on whether NNP had adequate substantiation for representations that Gummy Fish boosts, improves, or promotes brain function, brain development, intelligence, or academic achievement in children. In response to our inquiry, NNP quickly and voluntarily modified all marketing materials for Gummy Fish, including product packaging and labeling, to ensure

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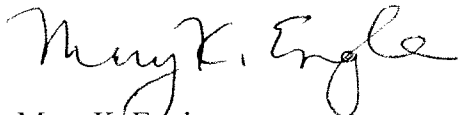
compliance with the FTC Act. In addition, NNP discontinued the dissemination of print advertisements and website materials for Gummy Fish that contained the claims at issue. The attached closing letter describes in detail the marketing claims at issue in that investigation and the modifications that NNP made to ensure compliance with the FTC Act.

It appears that CVS Gummy Fish may be a private label version of NNP Gummy Fish distributed for sale by CVS through the website [www.cvs.com](http://www.cvs.com) and at retail CVS stores. Regardless of whether your product is such, we strongly recommend that you review the attached closing letter involving NNP Gummy Fish and take immediate action to ensure that your company is not making health-related claims in advertising or product labeling for CVS Gummy Fish without competent and reliable scientific evidence to support such claims. The above claims from your product packaging and website are merely illustrative, and are not intended to be an all-inclusive list. It is your responsibility to ensure that promotional materials for your products, including all product packaging and labeling, are in compliance with the FTC Act.

Please send an email to [ddomond@ftc.gov](mailto:ddomond@ftc.gov) by **February 8, 2010**, describing any actions that you have taken or intend to take to ensure your company's compliance with the FTC Act. If you choose not to take any immediate action, please be advised that the FTC may take action to enforce and seek appropriate remedies for any violations of the FTC Act as the public interest may require.

Thank you for your immediate attention to this matter. Please direct any inquiries concerning this letter to Devin Domond at [ddomond@ftc.gov](mailto:ddomond@ftc.gov) or at (202) 326-2610.

Very truly yours,



Mary K. Engle  
Associate Director  
Division of Advertising Practices