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FTC Reminds Media to Perform a ‘Gut Check’ Before Accepting Weight-Loss Advertising

The Federal Trade Commission (FTC) kicked off the year with a press conference to announce “Operation Failed Resolution,” which was initiated as part of the FTC’s ongoing effort to stop misleading claims for products promoting easy weight loss and slimmer bodies. In addition to the announcement of the enforcement actions taken against four different weight-loss operations, the FTC announced an updated guidance for publishers, broadcasters and other media that identified ways to spot phony weight-loss claims when screening ads for publication. Now that spring is in full swing and summer is right around the corner, the FTC recently renewed its message to media outlets that “if you or your client run ads for weight loss products, it’s time for a gut check.”

The FTC reissued the guidance entitled, “Gut Check: A Reference Guide for Media on Spotting False Weight-Loss Claims” to media outlets around the country, a copy of which can be viewed [here](#). The guidance details seven weight loss claims that the FTC asserts can’t be true and that should prompt a “gut check” for outlets considering weight loss advertisements. The FTC hopes media personnel will think twice before running advertisements that expressly or implicitly indicate that a product:

1. causes weight loss of two pounds or more a week for a month or more without dieting or exercise;
2. causes substantial weight loss no matter what or how much the consumer eats;
3. causes permanent weight loss even after the consumer stops using product
4. blocks the absorption of fat or calories to enable consumers to lose substantial weight
5. safely enables consumers to lose more than three pounds per week for more than four weeks
6. causes substantial weight loss for all users; or
7. causes substantial weight loss by wearing a product on the body or rubbing it into the skin

The guidance cautions media to watch for the subtle ways in which “gut check” claims may be made. The FTC wants media to be on the look-out for limiting phrases that consumers may not catch like “helps” people lose “up to” 10 pounds a week...” Consumer endorsements are also called out as a regular feature in weight loss ads. Media outlets are reminded that results in an advertisement must be typical of what consumers can expect to achieve or the advertisement must clearly and conspicuously disclose what the typical results are.

Finally, disclosures must be “clear and conspicuous.” In general, disclosures should be:

- > close to the claims they relate to;
- > in an easy to read font;

- > in a shade that stands out against the background;
- > for video advertisements, on the screen long enough to be noticed, read and understood;
- > spoken in a cadence that is easy for consumers to follow; and
- > in words consumers will understand.

It is clear that federal regulatory agencies like the Federal Trade Commission and the Food and Drug Administration continue to view weight-loss claims with close scrutiny. Now, they are calling on media outlets to assist them in their efforts to prevent false weight loss claims from pervading the print, radio and television arenas.

This *GT Client Advisory* was prepared by **Justin J. Prochnow**. Questions about this information can be directed to:

- > [Justin J. Prochnow](mailto:prochnowjj@gtlaw.com) | +1 303.572.6562 | prochnowjj@gtlaw.com
- > Or your [Greenberg Traurig attorney](#)

Albany +1 518.689.1400	Denver +1 303.572.6500	New York +1 212.801.9200	Shanghai +86 (21) 6391.6633
Amsterdam +31 (0) 20 301 7300	Fort Lauderdale +1 954.765.0500	Northern Virginia +1 703.749.1300	Silicon Valley +1 650.328.8500
Atlanta +1 678.553.2100	Houston +1 713.374.3500	Orange County +1 949.732.6500	Tallahassee +1 850.222.6891
Austin +1 512.320.7200	Las Vegas +1 702.792.3773	Orlando +1 407.420.1000	Tampa +1 813.318.5700
Boca Raton +1 561.955.7600	London* +44 (0) 203 349 8700	Philadelphia +1 215.988.7800	Tel Aviv^ +972 (0) 3 636 6000
Boston +1 617.310.6000	Los Angeles +1 310.586.7700	Phoenix +1 602.445.8000	Warsaw~ +48 22 690 6100
Chicago +1 312.456.8400	Mexico City+ +52 (1) 55 5029 0000	Sacramento +1 916.442.1111	Washington, D.C. +1 202.331.3100
Dallas +1 214.665.3600	Miami +1 305.579.0500	San Francisco +1 415.655.1300	West Palm Beach +1 561.650.7900
Delaware +1 302.661.7000	New Jersey +1 973.360.7900	Seoul∞ +82 (0) 2 369 1000	White Plains +1 914.286.2900

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