

complaint alleges that respondent engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent order contains four provisions designed to prevent respondent from engaging in similar acts and practices in the future. Part I addresses the marketing of VOC-free and chemical free mattresses. It prohibits respondent from making zero-VOC claims unless the VOC emission level is zero micrograms per meter cubed or the company possesses and relies upon competent and reliable scientific evidence that their mattresses contain no more than a trace level of VOCs based on the Green Guides' guidance on making free-of claims.<sup>2</sup> It also prohibits respondent from making chemical-free claims.

Part II addresses VOC claims, non-toxic claims, environmental benefit or attribute claims, and certain health claims made about mattresses. It prohibits such representations unless the representation is true, not misleading, and substantiated by competent and reliable scientific evidence.

Part III addresses representations about third-party certifications. It prohibits any misrepresentations about the degree to which an independent third-party certifier has evaluated respondents mattresses based on environmental or health attributes, or evaluated those attributes based on the application of objective standards.

Part IV addresses claims that testing supports respondents' advertising claims for its mattresses. It prohibits any misrepresentations about the existence, contents, validity, results, conclusion, or interpretations of any test, study, or research.

Parts V through VIII require Ecobaby to: keep copies of advertisements and materials relied upon in disseminating any representation covered by the order; provide copies of the order to certain personnel, agents, and representatives having supervisory responsibilities with respect to the subject matter of the order; notify the Commission of changes in its structure that might affect compliance obligations under the order; and file a compliance report with the Commission and respond to other requests from FTC staff. Part IX provides that the order will terminate after twenty (20) years, with certain exceptions.

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 complaint or the proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

**Richard C. Donohue,**  
*Acting Secretary.*

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## FEDERAL TRADE COMMISSION

[File No. 122 3128]

### Relief-Mart, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before August 26, 2013.

**ADDRESSES:** Interested parties may file a comment at <https://ftcpublic.commentworks.com/ftc/reliefmartincconsent> online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Relief Mart, File No. 122 3128" on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/reliefmartincconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Robin Moore (202-326-2167), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been

placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 25, 2013), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 26, 2013. Write "Relief Mart, File No. 122 3128" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR

<sup>2</sup> See Guides for the Use of Environmental Marketing Claims, 77 FR 62, 122, 62,123 (Oct. 11, 2012).

4.9(c).<sup>1</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/reliefmartinconsent> by following the instructions on the Web-based form. If this Notice appears at <http://www.regulations.gov/#!/home>, you also may file a comment through that Web site.

If you file your comment on paper, write "Relief Mart, File No. 122 3128" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before August 26, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

#### **Analysis of Agreement Containing Consent Order To Aid Public Comment**

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from Relief-Mart, Inc., a corporation ("respondent").

The proposed consent order has been placed on the public record for thirty (30) days for receipt 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 respondent's marketing and sale of memory foam mattresses. According to the FTC's complaint, respondent represented that its mattresses do not contain volatile organic compounds ("VOCs"), have no VOC off-gassing, and lack the odors commonly associated with memory foam. The complaint alleges that respondent did not possess and rely upon a reasonable basis substantiating these representations when it made them. Thus, the complaint alleges that respondent engaged in deceptive practices in violation of Section 5(a) of the FTC Act. The Commission does not typically challenge subjective claims, such as smell.<sup>2</sup> However, a consumer acting reasonably under the circumstances is likely to interpret representations that a memory foam mattress lacks the common smell associated with memory foam to mean that the mattress is free of VOCs.

The proposed consent order contains two provisions designed to prevent respondent from engaging in similar acts and practices in the future. Part I addresses the marketing of VOC-free mattresses. It prohibits respondent from making zero-VOC claims unless the VOC emission level is zero micrograms per meter cubed or the company possesses and relies upon competent and reliable scientific evidence that their mattresses contain no more than a trace level of VOCs based on the Green Guides' guidance on making free-of claims.<sup>3</sup> Part II addresses VOC claims, odor-free claims and comparative odor claims, environmental benefit or attribute claims, and certain health claims made about mattresses. It prohibits such representations unless the representation is true, not misleading, and substantiated by competent and reliable scientific evidence.

Parts III through VI require Relief-Mart to: Keep copies of advertisements and materials relied upon in disseminating any representation covered by the order; provide copies of the order to certain personnel, agents, and representatives having supervisory responsibilities with respect to the subject matter of the order; notify the Commission of changes in its structure that might affect compliance obligations under the order; and file a compliance report with the Commission and respond to other

requests from FTC staff. Part VII provides that the order will terminate after twenty (20) years, with certain exceptions.

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 complaint or the proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

**Richard C. Donohue,**

*Acting Secretary.*

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Disease Control and Prevention**

#### **CDC and ATSDR Use of the SF-424 Research and Related Forms (Application Packages) in Grants.gov and the eRA Commons**

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

**ACTION:** Notice.

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#### **Purpose**

NIH's electronic Research Administration (eRA) periodically implements updated versions of the federal grant application forms in order to remain current with the most recent Office of Management and Budget approved form sets available through Grants.gov. CDC and other agencies serviced by eRA use the 'Competition ID' field of Grants.gov application packages for quick and easy identification of the forms being used for a particular Funding Opportunity Announcement or individual application package.

The purpose of this **Federal Register** Notice is to alert applicants that CDC is transitioning to the updated electronic application forms packages entitled "SF-424 Research and Related (R&R) forms." The new packages will identify the Competition ID of "FORMS-C" and will include the form changes documented at [http://grants.nih.gov/grants/ElectronicReceipt/files/FORMS-C\\_Changes.pdf](http://grants.nih.gov/grants/ElectronicReceipt/files/FORMS-C_Changes.pdf).

For due dates on or after September 25, 2013, all applicants will be required to use FORMS-C packages, with the exceptions noted below. The requirement includes electronic applications submitted under the continuous submission policy,

<sup>1</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

<sup>2</sup> See FTC, FTC Policy Statement on Deception, appended to *Cliffdale Assocs., Inc.*, 103 F.T.C. 110, 174 (1984).

<sup>3</sup> See Guides for the Use of Environmental Marketing Claims, 77 FR 62, 122, 62,123 (Oct. 11, 2012).