FEDERAL TRADE COMMISSION

[File No. 182 3038]

Nectar Brand LLC; Analysis 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. The attached Analysis to Aid Public Comment describes both the allegations in the 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 April 12, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write: “In the Matter of Nectar Brand LLC, a limited liability company, also doing business as Nectar Sleep; DreamCloud, LLC; and DreamCloud Brand LLC’’ on your comment, and file your comment online at https://ftcpublic.commentworks.com/ftc/nectarbrandconsent by following the instructions on the web-based form. If you prefer to file your comment on paper, write “In the Matter of Nectar Brand LLC, a limited liability company, also doing business as Nectar Sleep; DreamCloud, LLC; and DreamCloud Brand LLC’’ on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.


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 March 13, 2018), on the World Wide Web, at https://www.ftc.gov/news-events/press-releases/2018/03/ftc-announces-proposed-consent-agreement

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 12, 2018. Write “In the Matter of Nectar Brand LLC, a limited liability company, also doing business as Nectar Sleep; DreamCloud, LLC; and DreamCloud Brand LLC’’ 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 website, at https://www.ftc.gov/privacy/public-comments.

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/nectarbrandconsent 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 website.

If you prefer to file your comment on paper, write “In the Matter of Nectar Brand LLC, a limited liability company, also doing business as Nectar Sleep; DreamCloud, LLC; and DreamCloud Brand LLC’’ on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

Please visit the FTC website at 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 April 12, 2018. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see https://www.ftc.gov/site-information/privacy-policy.

Analysis of Proposed 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 Nectar Brand LLC, also d/b/a Noctar Sleep; Dreamcloud, LLC; and Dreamcloud Brand LLC ("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, sale, and distribution of mattresses with claims that the products are assembled in the United States.

According to the FTC’s complaint, respondent represented that its products are “assembled in the USA.” In fact, the respondent’s mattresses are wholly imported. Therefore, this representation was false or misleading. Based on the foregoing, the 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 provisions designed to prevent respondent from engaging in similar acts and practices in the future.

Consistent with the FTC’s Enforcement Policy Statement on U.S. Origin Claims, Part I prohibits respondent from making U.S.-origin claims for their products unless either: (1) The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or (3) for a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product’s principal assembly takes place in the United States, and United States assembly operations are substantial.

Part II prohibits respondent from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and respondent has a reasonable basis substantiating the representation.

Parts III through V are reporting and compliance provisions. Part III requires the filing of compliance reports within one year after the order becomes final and within 14 days of any change that would affect compliance with the order. Part IV requires respondent to maintain certain records, including records necessary to demonstrate compliance with the order. Part V requires respondent to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondent’s personnel.

Finally, Part VI is a “sunset” provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,
Secretary.

For Further Information Contact:
Hylan Shoob, Ph.D., Scientific Review Officer, Center for Global Health, CDC, 1600 Clifton Drive, Atlanta, GA 30331, (404) 639–4796; HShoob@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,
Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—GH14–002, Addressing Emerging Infectious Diseases in Bangladesh; GH16–003, Conducting Public Health Research in Thailand: Technical collaboration with the Ministry of Public Health in the Kingdom of Thailand (MOPH); GH16–006, Conducting Public Health Research in Kenya; GH17–005, Conducting Public Health Research in China.

Date: April 10, 2018.
Time: 9:00 a.m.–2:00 p.m., EDT.
Place: Teleconference.
Agenda: To review and evaluate grant applications.

For Further Information Contact:
Hylan Shoob, Ph.D., Scientific Review Officer, Center for Global Health, CDC,