Before the

FEDERAL TRADE COMMISSION

Docket No. _____________

COMPLAINT
AND REQUEST FOR
INVESTIGATION

In re: MTV's Jersey Shore
Submitted by

Eric Vaughn-Flam Esq.
SANDERS ORTOLI VAUGHN-FLAM ROSENSTADT LLP
Attorney for The Skin Cancer Foundation
501 Madison Avenue
New York NY 10022
(212) 588-0022

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Submitted to:

Office of the Secretary
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
COMPLAINT

The SKIN CANCER FOUNDATION, by its attorneys, SANDERS ORTOLI VAUGHN-FLAM ROSENSTADT LLP, hereby requests that the Federal Trade Commission (the "Commission") use its authority under Section 5 of the Federal Trade Commission Act to investigate MTV's "Jersey Shore," a television series together with its related television commercial advertisements, related websites, merchandise and gaming promotions, (hereinafter collectively referred to as the “Jersey Shore”). Enforcement action is warranted because the Jersey Shore encourages teens to engage in cancer causing behavior without a warning of the risk.

The Claimant is THE SKIN CANCER FOUNDATION, (also referred herein as "SCF") a not-for-profit organization existing under and by virtue of the law of the State of New York, with principal office located at 149 Madison Avenue, Suite 901, New York, NY 10016. Since its founding in 1979, The Skin Cancer Foundation has set the standard for educating the public and the medical profession about skin cancer, its prevention by means of sun protection, the need for early detection, and prompt, effective treatment. It is the only international organization devoted solely to combating the world's most common cancer, now occurring at epidemic levels.

The Respondent is VIACOM MEDIA NETWORKS, (also known as MTV Networks, hereinafter referred to as "MTV"), a division of VIACOM INTERNATIONAL INC., with principal offices located at One Astor Plaza, 1515 Broadway, New York, New York 10036.
INTRODUCTION

Just as this Commission has previously taken steps to prevent the promotion of tobacco smoking to susceptible consumers, in an effort to curb its cancer-causing effects, this Commission should do the same to prevent a relatively unknown cancer-causing activity - tanning. This complaint shall explain: 1) MTV's programming is geared to encourage its young viewership to engage in excessive tanning as a socially enhancing, safe and beneficial activity, while omitting its dangerous, cancer causing effects; 2) MTV's promotion of this dangerous activity has exceeded the bounds of protected television content, and has developed into a thematic recurring promotion of tanning, spanning the entire series, and further engaging in the promotion of tanning through the show's advertising, trailers, promotion and sale of merchandise, and the promotion of tanning through online and offline games for teens; and 3) that the medical community has now confirmed that tanning, especially excessive tanning, is a very serious carcinogen, causing an unprecedented increase in cancer especially among women.

In the fall of 2012, The Skin Cancer Foundation had formally requested that MTV include a warning with each episode and/or in connection with the sale of tanning promoting merchandise and games. MTV has refused. Now that the series has concluded, MTV should be less resistant to including appropriate warnings for its further reuses of the Jersey Shore. A warning would not censure or alter the content of the programming, infringe any first amendment rights, and would only lessen the harmful effects of the omissions created by MTV's promotions. Such a warning is the minimum this Commission should enforce against MTV's promotion and unbridled glamorization of a cancer causing activity.
I. THE JERSEY SHORE REALITY SHOW

MTV’s Jersey Shore show is an American reality television show that began in December 2009 and has lasted six seasons. The show follows eight housemates that spend their summers excessively partying, tanning and working out at the Jersey Shore in New Jersey. The MTV network is “the world’s premier youth entertainment brand” and targets men and women between the ages of 12 and 34. The show has garnered millions of viewers throughout the world, making it “MTV’s most viewed series telecast ever.” The Cable Network Information for the MTV network states, “MTV’s median age is exactly when a majority of young American adults begin to form lifelong brand loyalties. Young adults between 15 and 17 years of age are excited consumers and extremely impressionable. 12 and 34 year olds have higher brand recall and more recognition than 35-49 year olds. In fact 69% make their purchasing decisions based on brand name, not price.” Further, the MTV network reaches 91 million people between the ages of 12 and 34, which represent as much as 33% of the U.S. population.

The show revolves around “GTL,” a motto created by the cast indicating that they must “gym, tan and laundry” everyday. Because of the Jersey Shore’s popularity, “GTL” has become a common American phrase among teenagers and young adults. Throughout the show, the cast members are often shown going to tanning salons, tanning at the beach and talking about their obsessive need to be extremely tan. This type of lifestyle, especially the aspect of excessive tanning, has been glamorized, promoted and merchandised by the show’s producers, leading

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4 *Id.*
young viewers to believe that excessive tanning is positive, acceptable and socially enhancing without any warning of the cancerous dangers associated with such activity.

Tanning is a reoccurring theme throughout the show. In season 3, the Jersey Shore cast members had 12 GTL references, 48 images of tanning beds or tanning at the beach, 46 mentions of tanning, totaling 109 representations of tanning. Episode 11 alone had 48 references to tanning, either by showing a cast member in a tanning bed, Simply Sun Tanning salon in the background, or mentioning the need to tan to feel normal. (Exhibit D) The cast never talks about the risks of tanning or the danger associated with tanning. Instead, they revolve their lives around being tan at any cost, implying to their viewers that tanning is socially acceptable.

In just six episodes of season 5, there were 11 GTL references, 20 images of tanning, 24 tanning mentions, and 22 general tanning references, totaling 77 deceptive representations of the risks and hazards associated with tanning. In episode 1 of this season, 43 tanning representations were made, illustrating how important and central tanning is for the show. (Exhibit E)

A. The Jersey Shore's Advertisements, Promotional Videos and Trailers

The Jersey Shore commercials and trailers specifically portray the cast members in tanning beds, going to the beach to tan, heavily drinking at bars, physically fighting with one another, and exercising. The Jersey Shore promotional videos also show the cast members repeatedly discussing their desperate need to tan indoors and outdoors. After the fourth season, where the cast went to Italy, the promotional video describes their lack of sun and tanning beds in Italy as “tanorexia.” The promotional video for the fifth season shows "Pauly-D", a main

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5 Jersey Shore Trailer: http://www.youtube.com/watch?v=ru7FLCwlStE&feature=related (EXHIBIT F).
character on the show, obsessing over his need to tan, and his excessive tanning habits which resulted in a severe facial burn.  

B. The Jersey Shore Website, Online Store and Foursquare

The MTV website has a separate page devoted to The Jersey Shore show, allowing viewers to view full episodes of each season. The website also has promotional games such as “Jersey Shore Yourself GTL,” where a viewer can create a severely tanned avatar of himself or herself in the Jersey Shore and gain reward points for sharing, and “Jersey Shore GTL Shoutout Soundboard.” These games and promotions are currently among the top ten arcade games on the MTV website.

On the MTV website, the Jersey Shore has an online store where viewers and fans can purchase GTL towels, GTL shirts, GTL water bottles and many more products dealing with their GTL motto. MTV has extensively merchandised the GTL motto, encouraging young adults to buy these products and live the GTL lifestyle.

Further, MTV has partnered with Foursquare, a location-based social networking website, to encourage viewers to check-in at tanning salons or beaches in order to unlock the “GTL Badge.”

The Jersey Shore show promotes tanning, indoor and outdoor, as risk-free and socially enhancing.

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6 Jersey Shore Promotional Video: [http://www.youtube.com/watch?v=owvtcnnKmHg](http://www.youtube.com/watch?v=owvtcnnKmHg) (EXHIBIT G).


The online games and promotions have highly encouraged teenagers and young adults to excessively tan in order to be like the Jersey Shore cast. The Jersey Shore online store 10 allows viewers and fans to purchase GTL products, prompting young adults to buy these products and live the GTL lifestyle. The commercials and trailers show the cast members in tanning beds, 11 going to the beach to tan, and discussing the need to excessively tan.

None of these references or depictions disclose the risks associated with tanning, leaving consumers and viewers uninformed of such serious risks.

II. SCIENTIFIC RESEARCH AND EVIDENCE OF TANNING AS A CAUSE OF SKIN CANCER

There are three major forms of skin cancer known today; basal cell carcinoma (BCC), squamous cell carcinoma (SCC), and melanoma. Basal cell carcinoma is “the most common form of skin cancer in the United States” and mostly “occur[s] on skin that is regularly exposed to sunlight or other ultraviolet radiation.” 12 Squamous cell carcinoma is also non-melanoma skin cancer caused by exposure to sunlight and ultraviolet radiation. Melanoma is the “most dangerous type of skin cancer and is the leading cause of death in regard to skin diseases.” 13 Exposure through indoor and outdoor ultraviolet radiation significantly increases the risk of getting any of these three skin cancers.

Sunlight contains three different types of ultraviolet radiation (UV rays); UVA, UVB, and UVC. Research has found that exposure to UVA and UVB causes DNA damage and is

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10 Above n 8.
11 Above n 5 & 6.
cancerous. Tanning beds can emit “as much as 10 or 15 times more powerful” UVA radiation than midday sunlight. Thus, indoor and outdoor tanning can cause all types of skin cancer because of the strong UV radiation emitted.

The Skin Cancer Foundation, along with many other organizations and researchers, has reported numerous scientific studies investigating the correlation between tanning and skin cancer. A recent study found that just one indoor tanning session increases users’ chances of developing melanoma by 20 percent, and each additional session during the same year boosts the risk almost another two percentage points. In 2002, a study reported that consistent use of indoor tanning “significantly increased the risk of basal cell carcinoma by 50%.” In 2009, The International Agency for Research on Cancer classified UV radiation from tanning beds as “carcinogenic to human[s] (group 1) on the basis of its meta-analysis.”

Recent studies have proven that for people between the ages of 18 and 29 years of age diagnosed with melanoma, “76% of melanomas were attributable to sunbed use.” Those who begin tanning before the age of 35 increase their melanoma risk by 87 percent. Because of these high risks associated with tanning, many states have enacted regulations and legislation banning the use of tanning beds for children under certain ages and some states require parental consent if younger than the age of 18. For example, New York requires that tanning facilities completely refuse tanning services to children under the age of 14, or they must get parental

15 Id.
19 Anne E. Cust et al., Sunbed Use During Adolescence and Early Adulthood Is Associated with Increased Risk of Early-Onset Melanoma, International Journal of Cancer (July 2010).
20 Above n 16.
consent at the actual facility if they are below the age of 18, and if they are above the age of 18 they must show valid form of identification. Evidence suggests however that most tanning facilities do not enforce this regulation.

Scientific research has therefore concluded that exposure to UV radiation, both natural and artificial, increases the risk of getting skin cancer. The three major forms of skin cancer are all related to UV radiation exposure. A recent study indicates that compared with tanning bed use at ages 25 to 35 years, there was a significantly higher risk of basal cell carcinoma for use during high school/college. The research suggests that a relationship between tanning and the risk of skin cancer is stronger for those exposed at younger ages. As discussed above, teenagers and young adults that are exposed to UV radiation, through indoor and outdoor tanning, are significantly more susceptible and at a higher risk to get skin cancer. There is also evidence that college students who watch reality television shows increased their use of indoor and outdoor tanning by as much as 35%.

In February, 2010 the Skin Cancer Foundation staged an intervention with the cast of the Jersey Shore, led by Dr. Deborah S. Sarnoff, the Senior Vice President of the Foundation. The intervention originally aired on the national television show "Extra" and can now be viewed on YouTube.

Many physicians now believe MTV should be held accountable for its promotion of this carcinogenic practice.

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23 Joshua Fogel MD and Faye Krausz. "Watching reality television beauty shows is associated with tanning lamp use and outdoor tanning among college students" December 20, 2012 Journal of the American Academy of Dermatology (EXHIBIT K).
24 Tanning Intervention: http://www.youtube.com/watch?v=UMRirNVcK48 (EXHIBIT L)
III. **APPLICABLE LEGAL STANDARDS**

Under section 5 of the Federal Trade Commission Act, the FTC is required to intervene when an omission of fact is likely to mislead a consumer acting reasonably under the circumstances, and that representation or omission is material to a consumer’s purchasing decision. 26

Actual deception need not be demonstrated. Instead, the deceptive practice needs only to be likely to mislead just a significant minority 27 of consumers, and in that case, only the net general impression is required in order to interpret the claim, 28 especially when it leads to their detriment. 29 Deceptive claims may be by implication. 30 Finally, actual evidence of intent to deceive is not required in order to find liability. 31

The “Commission can presume that consumers are likely to reach false beliefs about the product or service because of an omission” 32 without extrinsic evidence. Evidence of actual misled consumers or viewers is not necessary, as the FTC has noted that “the net general impression” is considered not “isolated excerpts.” 33 According to the FTC Policy Statement on Deception, 34 “if the representation or practice affects or is directed primarily to a particular group, the Commission examines reasonableness from the perspective of that group.” 35

29 Above n 24.
30 Above n 25. See also, *FTC Policy Statement on Deception*, 103 FTC at 176.
31 *Chrysler Corp. v. FTC*, 561 F.2d 357, 363 & n. 5 (D.Cir. 1977).
32 Above n. 24.
33 *Standard Oil of Calif.*, 84 F.T.C. 1401, 1471 (1974), aff’d as modified, 577 F.2d 653 (9th Cir. 1978), reissued, 96 F.T.C. 380 (1980).
34 Above n 24.
35 *Id.*
The Commission "considers claims or omissions material if they significantly involve health, safety or other areas with which the reasonable consumer would be concerned." 36 Further, a "finding of materiality is also a finding that injury is likely to exist because of the representation, omission, sales practice or marketing technique." 37

IV. FTC PRECEDENT FOR RESTRICTIONS OF TELEVISION & FILM CONTENT

There is no question that this Commission has used section 5 of the FTCA to impose limitations on how dangerous products were portrayed to the public. The exposure of alcoholic products to children on television has been severely restricted. 38 The same restrictions have been applied to films. 39 It has been widely acknowledged that these restrictions in television programs did not interfere with First Amendment rights and actually had a positive effect on underage drinking in the United States.

Since the mid-fifties, the FTC has imposed severe restrictions on the portrayal of tobacco use as well. 40 16 C.F.R. § 408 created disclosure requirements for such cancer-causing products in order to avoid material omissions. 41 In 1964 the FTC prohibited the false portrayal of tobacco

36 Id.
37 Id.
38 In the 1999 FTC Alcohol Report, guidelines were made to help decrease alcohol product exposure on television to underage children. Underage drinking was, like tanning, a serious health hazard and injurious to minors. Companies were denied requests to place alcohol products (product placement) in films and TV programs that show underage drinking. See Federal Trade Commission: Self-Regulation in the Alcohol Industry: A Review of Industry Efforts to Avoid Promoting Alcohol to Underage Consumers. September 1999. http://www.ftc.gov/reports/alcohol/alcoholreport.shtm.
39 The FTC created a best practice that required that companies restrict product placements to movies that are "R" rated (or, if unrated, those with similarly mature themes) and prohibit placement in films and programs in which an underage person was a primary character. In one instance, promotional placement of alcohol in film or television that dealt strictly with college life was prohibited. Id.
40 Beginning on September 15, 1955, the FTC promulgated the Cigarette Advertising Guides, which prohibited omissions of the health hazards of tobacco use. F.T.C. Ann. Rep., 1960, p. 82.
use as beneficial as an illegal omission. The FTC thus concluded that the public must have full disclosure of the health hazards and make an informed consumer decision.

Recently, in 2011, the FTC expressly restricted television and film content by issuing its Cigarette Report, which prohibited certain product placement of alcohol or tobacco.

A. FTC Precedent in the Tanning Industry:

In March 2008, the FTC filed a complaint against the Indoor Tanning Association, acknowledging the health risks associated with tanning and the potential for misleading the public. The claim stated “the association launched an advertising campaign designed to portray indoor tanning as safe and beneficial. The campaign included two national newspaper ads, television and video advertising, two web sites, a communications guide, and point-of-sale materials that were provided to association members for distribution in local markets.” The FTC concluded that the trade association’s claims were false, misleading or deceptive.

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42 Acting upon the U.S. Surgeon General’s determination of the dangers of tobacco, on January 11, 1964 the FTC required the tobacco industry to stop marketing cigarettes as if it 1) “promotes health or physical wellbeing or is not a health hazard” and 2) “portrays cigarette smoking as being pleasurable or desirable, compatible with physical health, fitness or well-being or indispensable to full personal development and social success, without at the same time reminding the consumer of the serious health hazard of cigarette smoking.” The FTC was particularly concerned that the net effect of such marketing “may create a psychological and social barrier to the consuming public’s understanding and appreciation of the gravity of the risks to life and health involved in cigarette smoking.” Id. at 8326.

43 “The Commission began requiring the manufacturers to report expenditures on advertisements directed to youth or their parents that are intended to reduce youth smoking...Cigarette manufacturers reported that neither they nor anyone working for them or on their behalf paid money or any other form of compensation in connection with the production or filming of any motion pictures or television shows in 2007 or 2008, or paid money or any other form of compensation to anyone engaged in product placement in motion pictures or television shows.” See Federal Trade Commission Report Cigarette Report for 2007 and 2008. Issued 2011. http://www.ftc.gov/os/2011/07/110729cigarettefinalreport.pdf.


V. TECHNOLOGY HAS NARROWED THE LINE BETWEEN PROGRAMMING AND ADVERTISING

The Jersey Shore is a combination of television programming, direct advertising, and a complicated web of online promotion, merchandising, and promotional gaming, not to mention celebrity endorsements of tanning salons and products. Today’s available technology enables an unprecedented cross-promotion of content, which blurs the line between advertising through commercials and advertising through television programming. The Jersey Shore is an example of this.

A television program, if it consistently propounds a specific consumer activity, becomes analogous to a trade association. This agency has previously reprimanded the Indoor Tanning Association for falsely portraying tanning as healthy. The Jersey Shore is now accomplishing the same thing through its comprehensive marketing scheme. There is no question that television programming can have a high impact on consumers, especially if it is repeatedly geared toward the promotion and endorsement of a specific activity. Traditional media advertisements are no longer the only way consumers are being influenced. In this case, it is imperative to fully disclose to viewers, the serious health risks associated with tanning, if a television program becomes or advocates a general consumer activity or service.

This Commission has the authority to expand the application of Section 5 of the FTCA to this particular set of facts since it is “expected to proceed not only against practices forbidden by statute or common law, but also against practices not previously considered unlawful, and thus to create a new body of law— a law of unfair competition adapted to the diverse and changing needs of the complex and evolving modern American economy.”

When the activity is dangerous this Commission should exert its power to protect the public. The Jersey Shore is an example of programming which is especially designed to influence consumers in a manner which is clearly prescribed, increasing the need for the FTC to expand its regulatory influence. If the FTC continues to limit its jurisdiction to the traditional definition of “advertisements,” entertainment networks will have the ability to circumvent its guidelines by promoting activity or products otherwise banned in traditional advertising.

VI. THE JERSEY SHORE’S PORTRAYAL OF TANNING AS A BENEFICIAL ACTIVITY CONSTITUTES AN ILLEGAL OMISSION

The Jersey Shore presents an interesting confluence of law and technology. The reality series contains a clear theme in every episode of glamorizing tanning as beneficial. The theme of tanning is specifically promoted in the show's advertising, its website, online promotions, in electronic games, and its “GTL” merchandise. As a result, the portrayal of tanning as safe goes way beyond the mere content of its programming.

At the same time, the present legal precedent restricting the exposure to minors of hazardous activity and products has clearly extended to television and film content.

In addition, as a result of extensive scientific and medical investigation, there is no question that exposure to UV rays imposes serious health risks, including fatal forms of cancer.

Given the foregoing, the depiction and promotion by MTV of habitual tanning as beneficial imposes a severe danger to its audience, in a manner which has been found to constitute a violation of omission under Section 5 of the FTCA, warranting sanction from this Commission.

Under applicable legal standards, the omission to state the health risks associated with the promoted activity, in this case the risks of cancer associated with tanning, is clearly material.
Given the magnitude of these omissions, that it can cause death, there is also no question that the portrayal of tanning as beneficial is misleading and deceptive.

Consumers are generally unaware that tanning poses serious health risks. To the contrary, most people believe that it is healthy because it is a source of vitamin D. The Jersey Shore plays upon this ignorance, and repeatedly propounds the notion that it is socially enhancing. Herein lies the immense danger to the general public. To promote an activity which the public misperceives as healthy, when in fact science has revealed that it is potentially deadly, is a terrible offense to the public safety and welfare - especially the young and impressionable demographic of this television show. For the sake of ratings and cheap merchandising, MTV is encouraging children to engage in cancer causing activity while omitting any disclosure of the health risks, and should therefore be subjected to severe penalty. At the very least, and in good conscience, this agency has the duty to require a warning of the risks of cancer. Public awareness must be raised.

The danger to the public from tanning is no less severe than alcohol or tobacco. When an activity, which is potentially life threatening, is promoted as safe and even beneficial, this agency must intervene. The Jersey Shore repeatedly portrays tanning "as being pleasurable or desirable, compatible with physical health, fitness or well-being or indispensable to full personal development and social success, without at the same time reminding the consumer of the serious health hazard." Without any warning of any kind, consumers are blatantly being misled about the hazards of tanning. Just like the FTC required television shows to regulate tobacco and

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47 In most cases the body stops producing vitamin D after just a few minutes of sun exposure, see, "The vitamin D questions: How much do you need and how should you get it?" Deon Wolpowitz, MD, PhD, and Barbara A. Gilchrest, MD. J Am Acad Dermatol Vol. 54 No. 2 Feb. 2006.
alcohol promotion, the FTC should now also regulate the promotion of tanning on television while omitting its health hazards.

The illegal omission in this case is the subtle combination of a thematic promotion in the series of a specific activity, namely tanning, and the advertising, on-line promotion, merchandising and electronic games created by the producers of the series to specifically induce the show’s viewers who are highly impressionable teens, into engaging in excessive tanning without any obligation to disclose the health risks is illegal and morally wrong.

A. The Jersey Shore’s Tanning Promotion without Disclosure of the Risks is a Deceptive Omission

While the Jersey Shore, through numerous promotional methods, incites its viewership to engage in excessive tanning, MTV has not taken any precautionary steps to provide information to its audience about the risks associated with such activity. Not a single episode contains any disclaimer or warning. The same is true for the website and promotional merchandise. The commercials and trailers go further, showing clips of tanning, as part of the character of the show. The Jersey Shore games encourage people to go to tanning salons. All together, the Jersey Shore promotes the idea that tanning is beneficial. These omissions are deceiving the public about their health risks and hazards associated with indoor and outdoor tanning.

MTV has done nothing to keep their viewers informed of such risks. To the contrary, MTV has encouraged them in a multitude of ways, to engage in what is a cancer causing activity. The increase in skin cancer cases is an issue of national importance. It is the FTC’s overarching goal and duty to protect consumers from such dangerous omissions, and allow them to make informed choices. A warning before the Jersey Shore show, on the website before you play the games or purchase merchandise, and/or a warning before you “check-in” at a tanning place would inform consumers about the deadly affects of indoor and outdoor tanning.
As discussed above, past warnings for other cancer causing activity, such as excessive alcohol consumption and tobacco usage, have significantly and successfully reduced cancer rates in the United States.

B. The Omission is Likely to Mislead

As a result of the multi-faceted campaign waged by MTV to portray tanning as beneficial, the Commission can easily presume that consumers are likely to reach false beliefs about tanning, misleading millions of viewers.

Moreover the Jersey Shore has consistently misled young adults into believing that tanning is necessary in order to look physically attractive, is socially enhancing and otherwise beneficial. Encouraging consumers to purchase GTL merchandise and sign in online while at tanning salons impliedly creates the impression that tanning is a safe activity. The commercials make it likely to believe that tanning is a major part of the cast members' lives because it is safe and acceptable.

Without a warning or disclaimer stating that tanning is directly correlated to skin cancer and poses major health risks, consumers are likely to believe that tanning is safe. Past warnings for other cancer-causing behavior, such as excessive alcohol consumption and tobacco usage, have significantly and successfully reduced cancer rates in the United States.

C. Consumers Would Be Reasonably Misled

Just as this Commission has previously commented on how “the extensive advertising on television for cigarettes, on programs widely watched by young people, continuously projecting an image of cigarette smoking as a socially desirable and accepted activity, consistent with good health and physical well-being, may have a great impact on impressionable young minds, and
may block appreciation of the serious health hazards of smoking cigarettes. This suggests the importance of protecting young people, lacking mature judgment, from being unduly influenced by cigarette advertising to take up smoking, a habit difficult to break.” 49

The complex promotion of tanning, as a cancer-causing activity, is no different than cigarette smoking, especially when directed at the Jersey Shore’s young demographic of 12-34 years of age, who are highly impressionable and easily influenced by social media and celebrities. This age group is easily susceptible to peer pressure, societal influence and celebrity idealization. This age group, consisting primarily of high school and college students, will continue to be misled and deceived about their health risks associated with tanning unless a warning or notice is given to them. The MTV network omits any type of warning, despite knowing that their viewers are impressionable and influenced by the reality TV stars’ lifestyle and representations.

“An interpretation will be presumed reasonable if it is the one the respondent intended to convey.” 50 In this case, it can be presumed that no other message can be conveyed other than the representation that tanning is beneficial and safe. Therefore, the Commission can presume that the popularity of the show with teenager and young adults has made viewers and consumers likely to be misled and reach false beliefs about the practice because of the excessive representation of tanning as safe and the omission of a warning.

D. The Omission is Material

Materiality is presumed when the omission of information may result in injury. Given all of the facts and scientific data, it can be inferred that omitting information about the health risks

associated with tanning to young adults and teenagers is a material omission. As previously discussed, teenagers and young adults are highly impressionable and influenced by the media. Without knowledge that tanning at a young age increases the risk of getting skin cancer by 50%, these young adults will continue to engage in a harmful and deadly activity. This information directly influences and affects the viewers' and consumers' choice. Further information regarding the health risks is material because it deals with the public's health and safety that a reasonable consumer would be concerned with. Lastly, such impressionable viewers and consumers are likely to be injured because of the omission of a warning of the health risks.

VII. CONCLUSION AND RELIEF REQUESTED

MTV, in its television series The Jersey Shore, in conjunction with the advertising for the show, its related online marketing, social networking, its merchandising, and related electronic games, has thematically portrayed tanning as beneficial and safe, in violation of Section 5 of the Federal Trade Commission Act. MTV has made material omissions concerning the serious health risks of tanning, including the risks of cancer and death, thereby deceiving and misleading the public at large, especially the vulnerable and impressionable age group that the show targets. A warning stating the high risks associated with tanning and skin cancer would deter many individuals from tanning, decreasing the number of skin cancer cases among young adults. Such warnings and restrictions have been used by the FTC before and a similar relief is requested in this complaint.

WHEREFORE the Complainant respectfully requests that the Commission:

(A) Bring an action pursuant to Section 5 of the FTCA, 15 U.S.C. § 53, to obtain preliminary and permanent injunctive relief against the MTV Network for their deceptive representations and omission regarding tanning and the health which may result therefrom;
(B) Require the MTV Network to clearly and conspicuously disclose the health risks associated with indoor and outdoor tanning before each reuse of the Jersey Shore episodes, on the MTV website for the Jersey Shore, and/or before the commercials and trailers for the Jersey Shore, in all promotions for the Jersey Shore, in all sales of GTL merchandise, in all electronic games related to the Jersey Shore involving tanning or which promote the act of tanning; and

(C) Provide such other relief as the Commission deems appropriate.

Dated: January 17, 2013
New York, New York

By: Eric Vaughn-Flam, Esq.
Counsel for The Skin Cancer Foundation
501 Madison Avenue, 14th Floor
New York, New York 10022
(212) 588-0022