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June 4, 2020

The Honorable Joe Simons  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

The Honorable Stephen Hahn, M.D.  
Commissioner  
United States Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Dear Chairman Simons and Commissioner Hahn,

On March 9, 2020, I sent a letter to the Federal Trade Commission (FTC) and the Food and Drug Administration (FDA) calling on both agencies to take action to stop the marketing and sale of deceptive, potentially unsafe products that claim to prevent or cure coronavirus (COVID-19). There is still an urgent need for swift, well-publicized, and widely accessible information and prompt action to stop the sale of these products, hold scammers accountable, and refund consumers. The use of these claims despicably preys on the fears of vulnerable consumers during the COVID-19 pandemic. I write to urge the FTC and FDA to take enforcement action against snake oil supplements that are dangerously and illegally labeled as “antiviral” products that claim to protect against infection from viruses.

The coronavirus pandemic has fueled a market for so-called cures and preventative products, including some items that should not be available to the general American public or simply do not exist. Currently, there are no FDA-approved products available directly to consumers to treat COVID-19. Despite this, products with fraudulent claims continue to flood online marketplaces preying on coronavirus fears by illegally marketing their supplements as “antiviral” products. As these claims increase, and misinformation regarding the disease spreads, it is even more important that we stop and prevent the sale of misleading and potentially dangerous products posing as medicine during this crisis and beyond.

Companies capitalizing on, and hoping to profit from, public fear in times of crisis are rampant. In a recent market scan of products on Amazon, the Center for Science in the Public Interest (CSPI) found at least 46 dietary supplements with antiviral claims in their labeling and marketing. The products found in CSPI’s analysis made a range of antiviral assertions from “effective against an enormous array of disease causing...virus[es]” to “virus protection.” For example, one “cellular silver” product claims to “to achieve 99.9999% (complete) kill against 660 microorganisms.” A full appendix of the products and their claims found in this market scan from CSPI is attached to this letter.

Under FTC rules, advertisers must have a reasonable basis for making claims before they are disseminated to the public. Health-related claims, like those that a product will remedy a health condition, must be supported by reliable scientific evidence. It is unlawful to advertise health claims that lack such evidence, or to exaggerate the health benefits of products. Any dietary supplement marketed to prevent,

diagnose, mitigate, treat, or cure a disease (*e.g.*, a disease caused by a viral infection) is considered a new drug and may be legally sold only if it is FDA-approved.

I am extremely concerned that the antiviral claims from the products documented by CSPI have no reliable scientific basis and that, without necessary enforcement action, these potentially harmful dietary supplements will persist in the marketplace. In making unverifiable claims that a supplement has antiviral properties, the marketing and sale of these products potentially constitute a deceptive practice under FTC Act and impermissible disease claims under the enforcement jurisdiction of the FDA. Companies that are illegally marketing dietary supplements with antiviral claims should be held accountable for their dissemination of misinformation and their potential harm to human health and safety.

I urge the FDA and FTC to use their full authority to take immediate action against any offending supplement supplier, stop the sales of illegal antiviral supplements, remove fraudulent antiviral products from the marketplace, and develop a system to identify and prevent future misbranded supplements. The FDA should also continue to monitor the marketplace and continue to take action to send a clear, deterrent message to future bad actors.

At a time of spread health fears, when consumers are profoundly vulnerable to fraudulent and predatory claims, our enforcers must stand up and be vigorous in protecting the public. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Richard Blumenthal". The signature is fluid and cursive, with the first name being the most prominent.

Richard Blumenthal  
United States Senate