

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Civil Action No. _____

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

GLOBAL CONCEPTS LIMITED, INC., a
corporation, also d/b/a Global TV Concepts, Ltd.;

GCL PRODUCT HOLDINGS LLC, a limited
liability company;

MSA 30X LLC, a limited liability company; and

LAURIE BRADEN, individually, and as an
officer of Global Concepts Limited, Inc. and GCL
Product Holdings LLC, and as trustee of the
Laurie Braden Revocable Trust,

Defendants.

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the labeling, advertising, marketing, promotion, distribution, and sale of MSA 30X, a wearable sound amplifier product.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b) and 56(a)(2)(A).

DEFENDANTS

6. Defendant Global Concepts Limited, Inc. (“GCLI”), also doing business as Global TV Concepts, Ltd., is a Florida corporation with its principal office or place of business at 676 S. Military Trail, Deerfield Beach, FL 33442. GCLI transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, GCLI has labeled, advertised, marketed, promoted, distributed, or sold MSA 30X to consumers throughout the United States.

7. Defendant GCL Product Holdings LLC (“GCLPHL”) is a Florida limited liability corporation, and is the 100 percent owner and Authorized Member of MSA 30X LLC. GCLPHL has its principal office or place of business at 676 S. Military Trail, Deerfield Beach, FL 33442. GCLPHL transacts or has transacted business in this district and throughout the United States. At times material to this Complaint, acting alone or in concert with others, GCLPHL has labeled, advertised, marketed, promoted, distributed, or sold MSA 30X to consumers throughout the United States.

8. Defendant MSA 30X LLC is a Florida limited liability corporation with its principal office or place of business at 676 S. Military Trail, Deerfield Beach, FL 33442. MSA 30X LLC transacts or has transacted business in this district and throughout the United States. At times material to this Complaint, acting alone or in concert with others, MSA 30X LLC has labeled, advertised, marketed, promoted, distributed, or sold MSA 30X to consumers throughout the United States.

9. Defendant Laurie Braden is the President, Director, and Registered Agent of GCLI; Manager and Registered Agent of GCLPHL; and Registered Agent of MSA 30X LLC. As Trustee of the Laurie Braden Revocable Trust, she is 51 percent owner of GCLI and 100 percent owner of GCLPHL. At all times material to this Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. She resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

10. Defendants GCLI, GCLPHL, and MSA 30X LLC (collectively, “Corporate Defendants”) have operated as a common enterprise while engaging in the deceptive acts and practices alleged below. Defendants have conducted the business practices described below through interrelated companies that have common control, officers, business functions, employees, and office locations. Because these defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendant Laurie Braden (“Individual Defendant”) has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of GCLI, GCLPHL, and MSA 30X LLC that constitute the common enterprise.

COMMERCE

11. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

12. Since at least 2012, Defendants have labeled, advertised, marketed, promoted, distributed, or sold MSA 30X, a small, rechargeable electronic wearable sound amplifier product. Defendants have offered MSA 30X for approximately \$29.95 plus \$7.95 shipping and handling for one device, a charging base, cleaning brush, and five silicone tips. At times, they have offered buy-one-get-one pricing that included two devices, two charging stations, two cleaning brushes, and ten silicone tips for approximately \$29.95 or \$19.95 plus \$15.90 shipping and handling. At the time of ordering, Defendants have offered consumers extra recharging stations for approximately \$6.95 each.

13. Hearing loss is estimated to affect millions of Americans, particularly older persons. However, hearing aids are costly, are not covered by traditional Medicare and most insurance plans, and require consultation with a licensed professional. Consequently, only a fraction of people with age-related hearing loss wear hearing aids.

14. Since at least 2012, Defendants have marketed MSA 30X directly to consumers from websites, including msa30x.com, msa30xsale.com, buymsa30x.com, and compramsa30x.com, the last of which is a Spanish-language website. They also have marketed MSA 30X directly to consumers via television advertisements that contain a toll-free telephone number for placing orders. Many such advertisements are either two minutes or one minute in duration. Both longer and shorter ads contain at least some of the claims challenged in this Complaint, including “hear better now” and “hear up to 30 times better.” At least one such television advertisement – which is referenced below in Paragraph 16.A and Exhibit A – also has appeared prominently on the home pages of some of Defendants’ websites.

15. Through 2016, Defendants spent approximately \$3 million to advertise MSA 30X. Their TV advertisements aired on broadcast and cable channels throughout the United States. Consumers viewing Defendants’ websites and TV advertisements could purchase directly from Defendants or from third-party retailers such as CVS, Walgreens, and Walmart.

16. To induce consumers to purchase MSA 30X, Defendants have disseminated or have caused to be disseminated advertisements, including, but not limited to, the attached Exhibits A through C. Many versions of Defendants’ television advertisements feature visibly older persons demonstrating the device; moreover, the most prominent persons with dialogue

(other than the Announcer) in such ads are visibly older persons. Many of Defendants' two-minute advertisements combine oral statements set forth in Paragraph 16.A, with depictions of use in social settings or varied ambient sound and noise conditions.

A. Dialogue in two-minute video advertisements¹

Announcer: Listen up for an amazing offer that can change the way you hear.

Female: I'm sorry, I didn't hear you. Can you repeat that?

Announcer: Frustrated with your hearing?

Male: What did he say?

Announcer: Well, hear better now.

Announcer: Introducing the fully rechargeable MSA 30X, a revolutionary device that features the latest micro sound amplification technology that can barely be seen. Independently tested to help you hear up to 30 times better. It turns ordinary hearing into extraordinary hearing. MSA 30X works by capturing and amplifying soundwaves; yet, its lightweight, ergo-acoustic design is discreet. It form fits in and around either ear.

Male: I forget I'm even wearing it.

Announcer: And MSA 30X is powerful. Hear clearly in restaurants. Never miss another word on TV or at the movies.

Male: My wife complains that I have the volume up on the TV too loud.

¹ Defendants briefly display an inconspicuous disclaimer in some or all of their television advertisements, stating "The MSA 30X Sound Amplifier is not a substitute for a hearing aid or intended for use by hearing impaired people. The FDA advises anyone who suspects hearing loss to seek evaluation by a health care professional." A similar inconspicuous disclaimer appears on some or all of Defendants' websites.

Female: And I didn't want to be in the same room with him.

Male: Now, I can hear everything clearly.

Announcer: Simply adjust the volume as you desire. Other units use so many batteries, and they're difficult to change. But the MSA 30X is completely rechargeable. Simply plug it into the wall.

Female: I tried other devices that had batteries, but they were always such a pain to change and so costly. But this is rechargeable, so I figure I save hundreds a year.

Announcer: Bulky sound amplifiers can cost hundreds, but try MSA 30X for just \$59.95 and we'll include a cleaning brush and five comfort tips. But, wait, in this special TV offer, we'll cut the price in half. Now you can hear up to 30 times better for just \$29.95. But there's even more. We'll double the offer free. Just pay additional processing and handling. Wear them both, or give one to a loved one. Did you hear that? That's two MSA 30Xs for just \$29.95. The MSA 30X Hear Better Now Offer. Get two for just \$29.95.

Female: All I can say is just try it. It could change your life.

[DVD manually lodged herewith as **Exhibit A**, containing video file GTV012717-00000009.wmv, an ad with the above dialogue, received from Defendants]

B. Excerpt from www.msa30x.com, msa30xsale.com, buymsa30x.com homepages (attached as Exhibit B)

Don't be embarrassed by large, unsightly amplifiers. MSA 30X® is a discrete sound amplifier that is lightweight and comfortable. The clear tubing of MSA 30X® fits the contour of the ear making it almost invisible. Enjoy a movie or show without missing a word, have conversations with friends in a crowded restaurant without struggling to hear them all while being confident in your appearance. MSA 30X® is so small it's barely visible!

C. Excerpt from www.compramsa30x.com (attached as Exhibit C)

Olvídese de pasar vergüenza por culpa de amplificadores aparatosos y antiestéticos. MSA 30X® es un discreto amplificador de sonido ligero y cómodo. Los tubos transparentes de MSA 30X® se ajustan al contorno de la oreja, haciéndolo prácticamente invisible. Disfrute en el cine o en el teatro, sin perderte una palabra, converse con amigos en un restaurante lleno sin dificultades para oírlos a todos, guardando la confianza en su apariencia. ¡MSA 30X® es tan pequeño que apenas es visible!

[An English-language translation of this excerpt is attached as **Exhibit C.1.**]

17. Through 2017, Defendants sold 2,981,070 MSA 30X devices, including direct sales and wholesales, generating total sales less refunds of \$47,203,036.

VIOLATIONS OF THE FTC ACT

18. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

19. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

20. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of

Section 12 of the FTC Act, Defendants' MSA 30X is a "device" as defined in Sections 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b), (c).

COUNT I

FALSE OR UNSUBSTANTIATED EFFICACY CLAIMS

21. Through the means described in Paragraph 16, Defendants have represented, directly or indirectly, expressly or by implication, that MSA 30X:

- A. allows users who have trouble hearing to hear clearly when watching television at a moderate volume;
- B. helps users hear up to 30 times better; and
- C. allows users who have trouble hearing to hear clearly without missing a word, whether watching television, enjoying a movie or show, or in crowded places such as restaurants.

22. The representations set forth in Paragraph 21, above, are false or misleading or were not substantiated at the time the representations were made.

23. Therefore, the making of the representations as set forth in Paragraph 21, above, constitutes a deceptive act or practice, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

COUNT II

FALSE ESTABLISHMENT CLAIM

24. Through the means described in Paragraph 16, above, Defendants have represented, directly or indirectly, expressly or by implication, that independent studies prove that MSA 30X helps users hear up to 30 times better.

25. In fact, independent studies do not prove that MSA 30X helps users hear up to 30 times better.

26. Therefore, the representation set forth in Paragraph 24 is false or misleading, and constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

CONSUMER INJURY

27. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

28. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

29. Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

- A. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

- B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and
- C. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

ALDEN F. ABBOTT
Acting General Counsel

Dated: 5/2/18



MICHAEL J. DAVIS (Special Bar A5501005)
KRISTIN M. WILLIAMS (Special Bar A5501648)
Federal Trade Commission
Division of Advertising Practices
600 Pennsylvania Ave., N.W., Suite CC-10528
Washington, D.C. 20580
(202) 326-2458 (Davis)
mdavis@ftc.gov
(202) 326-2619 (Williams)
kwilliams2@ftc.gov
(202) 326-3259 (Fax)

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION