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# From the inside out

*By John Larson Correspondent NBC News*

33-42 minutes

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Want clear skin? A fresh new look? Want to lose weight? Or get strong? Then somewhere, there's an infomercial airing just for you.

The infomercial industry is booming, enjoying \$91 billion dollars a year in sales, offering safe, reliable products, and making household names of super pitchmen who offer you products to buy from the comfort of your own home.

But despite offering thousands of reputable products, the industry does have its blemishes. The Federal Trade Commission has launched an on-going crackdown targeting ads after the FTC found deceptive weight loss ads running 'rampant' and more than half of all weight loss ads studied contained at least one false claim.

And then there's Kevin Trudeau, leader of what the FTC calls an "infomercial empire that's misled Americans for years." After an ad aired for a product called Coral Calcium Supreme, which claimed to cure everything from cancer to heart disease. The FTC banned Trudeau from infomercials for life. But thanks to a loophole in the settlement, within months, Trudeau was back on the air, hawking his book, which became a national best seller.

**Greg Renker, infomercial industry pioneer:** 10 percent of your marketers are serial offenders, television terrorists, I call them!

Greg Renker has produced some of the most successful infomercials of all time. He says his company has annual sales of one billion dollars. While Guthy-Renker has not been without controversy— years ago consumers even complained about one of its products here on Dateline— Renker is considered a leader in the industry. His company has no record of any FTC fines or actions. And Renker is worried about what he calls “renegades” in his industry.

**Renker:** They seem to be comfortable taking advantage of consumers, selling them bogus products, and running to the bank.

**John Larson, Dateline correspondent:** Do they get caught? From your experience, do the bad guys pay?

**Renker:** In our experience, the bad guys don't pay enough. And sometimes they don't pay at all. It's embarrassing to be in an industry that works so hard to put out good products, to deal with competitors who don't follow any guidelines and they take the money and run.

All this raises questions: if someone wants to rip you off with the help of an infomercial, who is going to stop them? Dateline has learned that while the federal government has essentially doubled its efforts to stop false and misleading infomercial claims in recent years, the FTC still only brings an average of five cases a year. That, in an industry that releases as many as two new infomercials a day; more than 700 year. There are those inside the industry warning that the FTC's efforts are not

enough.

On Friday night, we bring you a Dateline hidden camera investigation takes you behind the scenes to show you an infomercial for a product that should never be sold.

From meetings on how to get a genuine expert to endorse a product with no science behind it, to a doctor who ought to know better, to consumers who swear by the products, but may not be consumers at all!

How did we get such an inside look at how infomercials are made? Well, it occurred to us that to find out how a fake product might make its way to the marketplace, you'd almost have follow a marketer trying to sell a product with little more than exaggerated claims and empty promises. And to do that, you'd almost have to go into the infomercial business, yourselves. So that's precisely what Dateline did.

### **The 'company' and its 'product'**

We began in Oregon, in a small town nestled near the California border, home to a small company called Johnston Products.

Meet Dirk Johnston (that's not his real name): He's a Dateline producer, playing the part of the front man for our company.

And there's another catch: The company is a phantom, a figment of Dateline's imagination, created by NBC News for just one purpose: to go inside the world of infomercials.

Then we came up with an idea for a product — a pill — that could not possibly work as advertised: a skin moisturizer that would claim to take your lines and wrinkles away. We decided we needed a secret ingredient for our pill. So we went shopping.

We took what we'd bought to NBC where the prop department began filling our product with the secret ingredient.

What was it? Nestle Quik.

Normally, if you wanted to sell a legitimate product, you might next put the product through rigorous scientific testing to make sure it was safe and effective — but Dateline did the opposite. We took it to a doctor to make sure it was safe and *ineffective*. We know, for example, of claims that cocoa butter, when rubbed onto the body, softens the skin. So we wanted to make sure that with our pill, we had not accidentally stumbled upon a magic skin moisturizer.

We showed it to Dr. Zoe Draelos, a clinical associate professor at Wake Forest University, and a nationally recognized skin expert.

**Dr. Zoe Draelos, a clinical associate professor:** Two gel caps of Nestle's Quik might satisfy your chocolate craving but would do absolutely nothing to moisturize the skin.

So we had a product— a skin moisturizer we knew could not possibly work. Now all we needed was a name. Something catchy.

Introducing... Moisturol.

We planned to take our product — which we called Moisturol but was really just Nestle Quik in a pill — to marketing companies to see if anyone would be willing to help make an infomercial for us, to help us sell our useless skin care product.

Now, armed with hidden cameras, beginning in February of 2004, Dateline set up a series of meetings with infomercial

companies we had found on the Internet.

### **The search for an infomercial producer**

First stop, Arizona, where we met with a company that had made infomercials for weight loss products. We told them our idea for Moisturol. They asked if we had clinical studies. After we left, they never pursued a follow-up meeting.

We moved on to New York. There, we met with another company that had made infomercials for weight loss and penile enlargement products. This company wanted extra money from the sales of Moisturol down the road. Since we knew we were never going to sell it, we moved on.

Next stop, Las Vegas, where we met a representative of a third infomercial company. The man we met at that time was the president of a large infomercial production company based on the West Coast. His company had experience. And according to its Web site, big-name clients, including Universal Studios, owned by NBC's parent company. And no record of any government fines for producing deceptive ads.

We knew we'd have to make up a few things about Moisturol, a cover story if you will, to get the project off the ground. So we told the infomercial makers that an amateur inventor had come up with the formula, and thought maybe half the people who tried Moisturol would feel a difference. But we also waved what we thought were some very bright red warning flags. We repeatedly told the marketers that we had no proof at all that Moisturol worked—and we had no scientific tests behind our product.

That's when we asked him the key question.

*(Dateline as Johnston Products (hidden camera): So I guess*

*my question to you is... how important is it that it really works?*

*Infomercial producer: Well for us if it doesn't work at all, we wouldn't wanna get involved. If it works for a percentage of people, we would feel more comfortable then...*

*Dateline: What percentage? 70? 50?*

*Infomercial producer: Well that's a weird question because in the right circumstances, dirk, if it works for one out of four people we might feel comfortable. We won't sell something that doesn't work at all or that's potentially dangerous. But if it only worked for one out of four people y'know and those people buy it on a regular basis, then you have a business.*

One out of four? Without any proof, how could we claim it worked for one out of four? Under federal law, infomercial makers can be held responsible for deceptive claims if they knew, or should have known the claims have no reasonable basis. So did the company president press us harder for more evidence? He told us there were ways around scientific proof.

*Infomercial producer: The other way you could do it is you could do fake clinicals as part of the creative... what we're doing is...*

Fake clinicals?

*Producer: Well they're not quite clinicals but the way you do it is you say "Does it work? We're gonna show you."*

One of the marketer's ideas was to gather a small group of people to try Moisturool and talk about whether it worked for them. It wouldn't have any scientific value, but viewers might think it did.

*Producer: So you're not coming out and saying we've proven*

*anything. You're just more or less saying, hey, it's part of the creative..*

The company said one thing we would likely need would be an expert.

We asked if we would need an M.D. to give Moisturool a 'stamp of approval.'

*Producer: You're gonna want somebody in a white coat saying it works and it's safe.*

*Dateline as Johnston Products: So you're confident we can find somebody?*

*Producer: Oh, it's never a question of can you find somebody. It's a question of how good are they. And how much do they want?*

*Dateline as Johnston Products: It's all negotiable?*

*Producer: Everybody has their price!*

But what about the government, the Federal Trade Commission? Wouldn't we get in trouble making deceptive claims? We were told that the company knows the rules, and how to avoid problems.

*Producer: You won't have to worry about the FTC if it doesn't hurt people. We know exactly what you can say, what you can't say, and how to disclaim what you wanna say but you got a question about it. And what you can say in a way that they're not gonna y'know come after you.*

The infomercial maker did ask us how the product worked. So we bought a box of Nestle Quik, and looked at the list of ingredients on the side, which included, of course, cocoa.

We sent them published information we'd found in a quick search of Google, on how the same ingredients that go into Nestle Quik might somehow help promote healthy skin. Biotin, for example, promotes cell growth; zinc oxide protects skin from solar damage. But we sent them nothing claiming those ingredients would moisturize skin from the inside out.

We wanted to make sure the company understood once and for all that we had no real proof Moisturol worked. So we sent them this e-mail to remind them we had done “no clinical trials,” that we had “no doctors” behind the product. And that we had “no scientific evidence” Moisturol worked at all. If infomercial maker was going to back out—because we clearly couldn't substantiate any of the claims we had made, as the government requires— we figured this would be the time.

Our answer came in an e-mail reply in just 11 minutes. The company was not backing out, in fact, just the opposite: They agreed to, “find the host, expert doctor, and create the right marketing approach to give you maximum results.” And to “determine the best way to create credibility and market the product to the masses.”

Finally, the infomercial maker sent us a contract confirming Johnston Products substantiated all the claims we'd made to the company, and that broadcasting the infomercial or selling the product as intended by the agreement would not violate any laws or FTC rules. We signed it, because we knew we would never sell the product, so we knew we'd never be violating any laws.

With the contract signed, it was time to watch the company begin marketing the magic of Moisturol.



## **First step: a strategy session**

We told the company that while we were confident it would work, we did not think people who took Moisturool would see dramatic results. The president had this response:

*Infomercial producer: Even if there aren't noticeable physical differences, and I think that you know, let's go into it assuming that there's not going to be, and if there is, then great. We're pleasantly surprised. But if there's not, then we really want to talk everything about how it felt...*

In other words, we did not have to tell people the product worked, we could still sell it by talking about *feelings*.

*Producer: The thing about it all being visual, it either is or it isn't—but with feeling there's a much wider range of interpretation.*

The company told us that in 10 weeks, it would deliver a finished half-hour infomercial suitable for air on any TV station in America. The price? More than \$140,000 dollars.

And when we started writing checks—as they like to say in the infomercial industry “we began seeing results almost immediately.”

## **Finding a host, people for testimonials, and a script**

The next step? Finding a host.

**Host:** With just a single tablet once a day you'll be on your way to glowing younger looking skin.

Then, people to offer testimonials. The infomercial makers found women to sample Moisturool.

Next, the company sent us a script. And we approved it without changing a word. Finally, remember what the president

said about finding a medical expert?

*(Producer: Everybody has their price!*

Apparently he was right. The company found a doctor to endorse Moisturol in exchange for \$5,000.

Her name was Margaret Olson. How would she justify endorsing our pills? In July 2004, four months after our first meeting, we were about to get our first look at the finished infomercial for a useless skin product called Moisturol.

### **The final product**

Four months after our first meeting with the president of a West Coast infomercial production company, the final product was delivered. Our infomercial arrived in the mail.

The infomercial makers had rented a mansion in Malibu, with an exquisite poolside setting.

*(Moisturol infomercial hostess: We all know water is essential to life. Moisturol is the first ever product designed to give your skin the moisture it needs from the inside out!*

And there were our testimonial women.

*(Woman giving her testimonial: I would feel my cheeks and they were like velvety smooth and I'd go, "Wow this is just totally amazing!"*

*(Woman giving her testimonial: I wanted something that worked from the inside and that's exactly what this product did. Moisturol is great!*

Is this our Nestle Quik they're talking about?

*(Woman giving her testimonial: Moisturol really blew me away because it was just... it's so easy and it's so effective!*

And finally, there was the doctor.

*Dr. Margaret Olson (in the infomercial): So in this situation Moisturol would be really very helpful for people. Moisturol is one of the new products out that is going to help get rid of lines and wrinkles from the inside out. The idea being is if you can make happier, healthier cells that make better collagen and this is a very innovative way to do it and very practical.*

Dr. Olsen, board certified, and at the time Chief Of Dermatology at Saint John's Hospital in Santa Monica, was clearly endorsing Moisturol.

*Dr. Olson (in the infomercial): I think Moisturol is useful because it's going to be an efficient way to get what you need, that you may not get if you're not very good to yourself and you're trying to undo the damage of the past.*

With the doctor's credibility and endorsement, we now had a powerful, convincing sales tool for a product that did not work as advertised.

Dateline was never going to sell Moisturol to the public, so it seemed a good time to find the people who'd been involved in the production and start asking questions.

### **Talking to the women who gave us their testimonial**

We first called the women who said they'd tried Moisturol and had given those testimonial endorsements. We told them we were NBC News, doing a story about infomercials, and seven agreed to talk with us. We did not tell them that NBC was behind the product. At least not yet.

But then we asked one direct question:

**John Larson, Dateline correspondent:** Did it really help

your skin?

**Woman in infomercial:** It didn't help as much as I said it did, but it definitely helped!

... and the veneer began to crack.

**Woman giving her testimonial:** I mean it did work. I found some potential in it, but I mean I went on to say that y'know, I'm using this for the rest of my life! I'm telling everybody that I'm throwing everything in my medicine cabinet out because all I'm gonna have is this little bottle of pills!

**Larson:** How many of you have taken the little bit of truth for an infomercial and stretched it? Raise your hand.

Hands go up.

**Woman giving her testimonial:** I stretch it a whole lot!

They said on a typical infomercial set, there is a lot of pressure to please the producers, who, they say, influence and even trick them a little bit to better sell the product. And the Moisturoil set was no different.

**Woman giving her testimonial:** The day that I went, they told me that they had been there for a few hours and they hadn't gotten a good interview from anyone prior to me. So I really wanted to do a good job.

**Another woman giving her testimonial:** They told you that too?

**Larson:** They told you that too? Who else got told that there hadn't been any good ones?

**Woman giving her testimonial:** Yeah! The day that I went.

**Larson:** So, in other words, the pressure's on?

**All:** Yes.

But why would they feel such pressure? Because these women are not what they seem to be, everyday people who love our product.

**Larson:** How many of you folks are in fact, actresses? Raise your hand.

Hands go up.

**Larson:** All right, six out of seven.

It turned out that nearly all the actresses had done other infomercials. And all were recruited by the company, whose president told us in our very first meeting that he had the names of hundreds of people like them: part-time actresses who were just flattered to appear on camera.

*Infomercial producer (on hidden camera): There are tens of thousands of women in Los Angeles who came to L.A. when they were 18 to be stars. It didn't turn out, they got married when they were 25, they now have a kid or two, they live in the valley, they're attractive compared to most of the country. But when our producer calls them up and says "Hey, how you doing? Listen, we got this thing, it's not really any money but do you wanna do it?"*

And for just \$50 dollars, these women did just what the company president said they would.

**Larson:** If you're not making a lot of money, why do you do it?

**Woman giving her testimonial:** Exposure! There's always a chance somebody will see you and say, "Hey I want her in my next movie..."

The women were supposedly in the infomercial to testify about

their own experiences with Moisturol. And at one point, we asked if any of the women would say that it was the ‘best product they’d ever seen’. No one took our suggestion, but meantime, just off camera, the company’s producers were feeding them their own lines.

So what would they say when they found out that Moisturol, just like them, was not what it appeared to be?

**Larson:** I have a secret for you. The maker of Moisturol is not some big pharmaceutical company. It’s, in fact, NBC News. And the secret ingredient in Moisturol is... Nestle Quik. Chocolate powdered drink!

**All:** Oh my god! Are you serious?

**Larson:** So the question is, how did this make your scar go away? Help your flakiness? Make your skin feel softer than you ever could have imagined? And get rid of those crow’s feet?

**Woman in infomercial:** It was a stretch. I was trying to be creative in my testimony.

And now that our secret was out, the stories changed.

**Woman giving her testimonial:** I’m thinking how I didn’t like ask questions, I didn’t care, y’know? And I’m sitting here going, why did I do that? You know what I mean? And for 50 dollars?

**Woman giving her testimonial:** The exciting part was I had submitted my picture and I was chosen! So I wanted to do a really good job. And in my heart I knew I didn’t see a difference, after using it.

**Woman giving her testimonial:** We were not exactly honest

about it. And I don't know about anybody else but I was a little uncomfortable about that, yeah.

**Larson:** You were?

**Woman giving her testimonial:** A little bit. I mean not enough to not take the 50 bucks thank you...

In the end, there was one holdout; One who still believed in the wonders of Moisturool.

**Larson:** Do you still think it really changed your skin from the inside out?

**Woman giving her testimonial:** Absolutely. I'm gonna go buy some and do a two week trial and see what happens.

She did, and after a couple of weeks of drinking Quik, now admits she's not so sure. In many ways, most of these women were just doing what they were trained to do as actresses. But the woman we would interview next... would have no such excuse.

### **But what about the host?**

Actress Ann Marie Howard was hired to read a script—a script which said, she had used Moisturool.

The only problem? That's not what she told us the very same day on the set.

*(Hidden camera) Dateline as Johnston products employee:  
Have you tried the product? Did they give it to you?*

*Ann Marie Howard: No I have not tried it.*

*Dateline: 'cause I could get you some*

*Howard: Yeah I would love to try it. I would.*

We asked for an on-camera interview with Ann Marie Howard

to ask her, among other things, how viewers are supposed to know the difference between people who have really tried the product and actresses who read a script. She declined, pointing to what she called our story's "negative angle."

Next, it was time to go to the doctor.

We told Doctor Margaret Olsen we wished to ask her about skin care products she had endorsed.

**Dr. Margaret Olsen:** I endorse products that I have used, and I don't have a problem with.

Dr Olsen told us repeatedly that she only endorses products she uses, and that she had in fact used Moisturol.

**John Larson, Dateline correspondent:** Did you have it tested?

**Dr. Olsen:** No I just tried it on me.

**Larson:** You did?

**Dr. Olsen:** Yeah and I didn't have a problem.

So she claimed she'd actually used the product. Next, we asked her if she had seen any proof, any clinical trials for Moisturol. Of course we knew there were no clinical trials.

**Dr. Olsen:** I'm sure everything has clinical trials. The question is how extensive are the clinical trials.

She couldn't remember, but claimed, she had seen clinical trials for Moisturol.

**Dr. Olsen:** There were clinical trials and they were showing that it helped? Supposedly it made a difference.

It was time to tell the doctor our secret. And we didn't anticipate her reaction.



**Larson:** Moisturol is Nestle Quik.

**Dr. Olsen:** Love it. It's great.

**Larson:** Love it?

**Dr. Olsen:** Well, I love the fact that it's as simple as doing something like that. The unfortunate thing is somebody's going to have to spend a fortune on getting a product that they could get simply.

Did the doctor fully understand what we were saying?

**Larson:** You appeared in an infomercial basically saying that they had a revolutionary new product that would fix your wrinkles from the inside out.

**Dr. Olsen:** Trying to improve your skin, trying to improve your whole body, yeah.

**Larson:** It's chocolate powdered milk! I mean this stuff can't help fix your skin from the inside out.

**Dr. Olsen:** If it helps fix your body from the inside out, remember, it talks..doing..strong bones? But you're absolutely right. Fixing wrinkles is, talk about an overstatement by a billion percent. You're absolutely right.

This from the same doctor who'd endorsed the product as a "clever supplement" that "may be helpful for your skin." Claims made without any clinical studies or scientific proof.

**Larson:** Are you curious how we know all this?

**Dr. Olsen:** Yes.

**Larson:** The company that developed Moisturol was NBC News.

**Dr. Olsen:** Oh I love it. That's wonderful. That's great.

Thrilling. I mean, that's fun.

But the doctor's smile was about to vanish. Remember, Dr. Olsen told us she only endorses products she uses, and she had used Moisturool herself. So we played for her a clip we obtained that did not make the infomercial's final version; taped when the cameras were rolling backstage.

*Dateline (undercover, on hidden camera): Did you get to try it by any chance, I left you a bottle. Did you try it?*

*Dr. Olsen: No. Not only did I not try it. I didn't even see it!*

(On interview with John Larson)

**Dr. Olsen:** I don't even know if it's a capsule or a pill. I tried it when I got home.

**Larson:** But you didn't try it before you endorsed it?

**Dr. Olsen:** No. But I read the label.

After our interview, an attorney representing the doctor said she was tricked because the ingredients on the Moisturool bottle were not listed in the same order of concentration as they exist in Nestle Quik. The attorney claimed ingestible skin care products are booming, and that studies show chocolate is indeed good for the skin. While experts tell us there's some scientific truth to those claims, there are no studies that suggest consuming chocolate in a pill can moisturize the skin. And remember, Doctor Olsen told us on tape that she hadn't even seen the product.

**Larson:** Obviously there's a big problem here.

**Dr. Olsen:** It's very embarrassing. Absolutely.

Dr. Olsen told us that she got involved with Moisturool as a

favor to someone she knew from the infomercial company. She said her husband warned her about taking part, but regrettably, she didn't listen.

**Larson:** How could a woman this smart, without any clinical trials, without having tried it herself, without any proof that something like this works, be willing to go on television and help sell a product to maybe millions of people?

**Dr. Olsen:** I don't know. I guess it seemed like a good idea at the time.

In the doctor's defense, after reviewing the entire tape of her interview with the company, we did see that she had, at first, tried to be careful.

**Dr. Olsen:** This is a very innovative way to do it and very practical that may in fact actually work.

Notice the doctor said it may work, not that it did work. But watch this, as a producer for the company off camera tried to push her to go further.

*Infomercial producer (on hidden camera during the taping):  
You tell me if I can get away with this. I know where... you're hedging your bet a little bit.*

*Dr. Olsen: Darn right! We had that conversation already.*

And we had noticed something else. During the taping of her endorsement, the doctor had frequently hedged, saying Moisturool is going to "try to help."

*Dr. Olsen (in the infomercial): Its going to try to help get rid of lines and wrinkles.*

..try to help, not that it *did*.

But in the infomercial, “try to” had been taken out by the company’s producers; the edit, covered up.

*Dr. Olsen (from the infomercial finished product): Moisturol is one of the new products that is going to help get rid of lines and wrinkles from the inside out.*

Nonetheless, the doctor did endorse the product without scientific proof making no fewer than eight statements extolling the virtues of Moisturol or its ingredients for money, though she now says she never received her payment from the infomercial maker.

Of course, Dateline was never going sell Moisturol and rip off Americans. But we were about to find out whether anyone would have stopped us.

### **Would consumers be interested?**

We now had our infomercial for Moisturol. But we knew we couldn’t air it on television and take money from viewers by selling them a product that didn’t work. But we wondered if our infomercial was effective. To find out, we went to a mall in Las Vegas, and set up a kiosk to screen our infomercial and show off our product.

*John Larson, Dateline correspondent: Do you feel like it’d be something you’d be willing to buy?*

*Girl in mall: Oh yeah definitely. It’s a lot easier to take a pill rather than to smother your whole body in lotion.*

*Woman in mall: I’m always on the lookout for moisture, things that will make the skin look younger.*

*Some shoppers even told us how much they’d pay!*

*Woman in mall: I wouldn’t go over \$59 a month.*

*Woman in mall: \$39.99 at the most.*

*Woman in mall: No more than a hundred dollars.*

Of course none of them knew Moisturool's secret ingredient.

*Larson: This particular product actually is...*

*Woman in mall: That's a group of liars on that screen?*

*Larson: It's Nestle Quik is what's in the pill!*

*Woman in mall: (Laughter) I'm going away now...*

But when these women realized they were ready to spend good money on Moisturool because it had been endorsed by women who turned out to be actresses and by a medical doctor, the laughter stopped.

*Woman in mall: I personally wanna take her license away! Because if she's a doctor and she just certified that Nestle Quik will change your skin?*

*Woman in mall: It kind of appalls me that people are gonna support something that's not truthful.*

### **Would anyone stop an infomercial for an ineffective product?**

The mall was as close as we'd get to test the sales potential of Moisturool. But had we wanted to put our infomercial on television, would anyone have stopped us? We took that question to our parent company, NBC Universal.

**Allan Wurtzel, NBC President of Research and Media Development:** If Moisturool did not have the substantiation that we require with respect to its efficacy, with respect to its safety, then it never would have aired at NBC.

Alan Wurtzel is NBC's President of Research and Media

Development. He oversees NBC's effort to make sure questionable ads do not air on the NBC Television Network. Wurtzel admits the network has no say over what infomercials air on most of its 226 NBC affiliate stations, but says his department is sometimes consulted when questions arise at the 10 stations NBC owns and NBC's 12 cable channels.

**John Larson, Dateline correspondent:** What do you think about an NBC cable outlet?

**Wurtzel:** It wouldn't have aired on an NBC cable outlet unless there was a mistake that was made. In other words, there is no intention to do it.

After the interview, we checked with the Infomercial Monitoring Service. It found that NBC cable properties—including CNBC, Bravo, Sci-Fi and USA have taken in nearly \$11 million dollars running just four questionable infomercials since 2004. Those include one ad whose makers paid a \$20 million dollar settlement to the FTC, the largest ever settlement of an infomercial case.

So if Moisturoil had aired somewhere, what would the Federal Trade Commission, the government agency charged with protecting you from deceptive infomercials, have done about it?

**Mary Engle, Federal Trade Commission:** I think there's a good likelihood that we would have seen you in court.

The FTC's Mary Engle believes Moisturoil would have been flagged.

**Engle:** A pill that helps you take away wrinkles and smoothes your skin sounds suspicious to me. so there's a good likelihood that we would have gone after you.

**Larson:** Do you ever stop infomercials before they get to the air?

**Engle:** No, the First Amendment to the constitution guarantees free speech in this country. And that means that until a deceptive claim is made the government can't stop it beforehand.

Now the FTC is getting help from the infomercial industry.

Meet Barbara Tulipane, President of the Electronic Retailing Association, which represents 350 companies, many involved in making or distributing infomercials. Here's what she said when we told her about Moisturool.

**Barbara Tulipane, president of Electronic Retailing**

**Association:** There are shows that I look at and think "My god, how did they get that on the air?" I'm appalled. You have to have substantiation. If you make a claim, you'd better have the study to back it up or you will be sought after.

Sought after by the infomercial industry's self-regulation program, established in 2004. Its aim? To identify marketers behind questionable infomercials, and then attempt to get the ads either changed or off-the-air.

And there are signs it's beginning to work: Remember the ad whose makers paid an FTC record settlement of \$20 million? ERA's self-regulation program brought the ad to the government's attention.

**A money-maker?**

No one knows whether Moisturool would have been targeted or fined. But infomercial industry pioneer Greg Renker says even if the government eventually caught up with us, Moisturool would have made a bundle.

**Greg Renker, infomercial industry pioneer:** I think a product like that on the air might have made \$10 million dollars in net profit in the first year alone, before the FTC or other government agencies were even stepping up to go after you.

**Larson:** And if they did go after us, how much would they have fined us?

**Renker:** They'd be lucky to get two million out of you. They'd tell you you can't do ingestible skin care anymore. So next year you're going to do weight loss!

**Larson:** With \$8 million dollars in my pocket?

**Renker:** With \$8 million dollars in your pocket, you're going to double your money on another false and misleading claim.

The infomercial maker set conditions for an on-camera interview that we found unacceptable. But in letters, the infomercial company's attorneys allege that NBC used deception to "manufacture news."

The company's attorneys write, "Like the shameless scripted 'reality' television programs broadcast today, Dateline NBC hatched a deceitful plan and then day after day after day after day told lies and made false statements and representations to perpetuate it."

The attorneys say the marketer was merely a production company, making an infomercial for a product that Dateline created, relying on information that Dateline provided. Specifically they point to our statement that individual ingredients in the product had been approved by the FDA. They also point to information we provided claiming each of those ingredients has been known to improve the skin—the



information we gathered from a simple Google search.

Finally, they say that under the contract we signed it was Johnston Products, not their client, that was responsible for substantiating all the claims in the infomercial—and making sure it did not violate any laws or FTC regulations.

But remember, the company wrote the Moisturol script, and hired the doctor and all the women who appeared in the infomercial. And the FTC told us that an infomercial maker can be held liable for deceptive claims *if* it played an active role in developing the claims and “if the company knew or should have known that the claims had no reasonable basis.”

Our investigation was complete. We’d learned that of the 700 hundred new infomercials hitting the air each year, a percentage make deceptive claims— a percentage critics suggest could cost Americans billions of dollars a year.

We figured it was time to take what we had learned—about how a successful infomercial company creates credibility where there is none, how it hires actresses who admit they lie in infomercials, how a medical doctor endorses a product without ever checking it out— and take all this to the nation’s Capitol.

**U.S. Senator Mark Pryor, Senate Subcommittee for Consumer Affairs:** We need to step in and stop this.

U.S. Senator Mark Pryor of Arkansas is the ranking Democrat on the Senate Subcommittee for Consumer Affairs. We showed him portions of our investigation.

**Larson:** I think most Americans, they think, "If it’s on TV there must be somebody making sure that this is okay. It’s met some standard."

**Pryor:** People think there's no way that these people are just actors, there's no way that they're lying to me, or someone, the government would step in and wouldn't allow this to happen. But what Dateline NBC has found is that it is in fact happening. We need to have the FTC send a very clear signal to the industry that these type infomercials will not be tolerated.

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