

## FEDERAL COURT OF AUSTRALIA MAKES INTERIM ORDERS CONCERNING SENSASLIM SOLUTION

The ACCC has alleged in proceedings brought in the Federal Court that Sensaslim and several of its officers engaged in misleading or deceptive conduct or made false representations in breach of the Trade Practices Act 1974 and the Australian Consumer Law in relation to the involvement of Peter Foster and the Sensaslim Solution by:

- failing to disclose the involvement of Peter Foster in the business of Sensaslim
- falsely representing that the Sensaslim Solution was the subject of a large worldwide clinical trial when in fact no such trial was conducted
- falsely representing that Dr Capehorn, an obesity specialist, gave unqualified support to the effectiveness of the Sensaslim Solution and the purported clinical trials
- falsely represented that Michael Boyle was managing the business of Sensaslim
- failing to disclose that Michael Boyle was intending to resign as director immediately following the launch of Sensaslim
- falsely representing that Sensaslim franchisees were already participating in, and profiting from, the Sensaslim franchise, that a Sensaslim franchise had a certain earnings potential and that there was a “money back buy back guarantee”

**WHILST NO FINAL DECISION HAS BEEN MADE**, the Federal Court has made interim orders as set out below:

- Until further order, the respondents, whether by themselves, their agents, servants or howsoever otherwise, be restrained from making representations in relation to the sale of a business opportunity for the promotion, sale or distribution of the Sensaslim Solution (Business Opportunity) to the effect that:
  - the Business Opportunity, once acquired by a purchaser, has the potential to generate earnings for the purchaser in any particular amount; or
  - there is little or no risk involved in the investment in the Business Opportunity;

- unless the respondent has reasonable grounds for the making of such representations.
- Until further order, the respondents, whether by themselves, their agents, servants or howsoever otherwise, be restrained from offering the Sensaslim Solution for sale or from offering a business opportunity for the promotion, sale or distribution of the Sensaslim Solution (Business Opportunity) without disclosing the involvement of Peter Foster in the promotion or marketing of the Sensaslim Solution or in the set up, promotion or marketing of the business offering the Business Opportunity, if he is so involved.
  - Until further order, the respondents, whether by themselves, their agents, servants or howsoever otherwise, be restrained from making representations regarding the efficacy of the Sensaslim Solution where the basis for the representation is a clinical trial or scientific report, unless the clinical trial was conducted and is the subject of a scientific report which has been published in a peer reviewed scientific journal.
  - Until further order, the respondents, whether by themselves, their agents, servants or howsoever otherwise, be restrained from publishing testimonials or making other statements regarding the efficacy of the Sensaslim Solution where those testimonials are not statements made by the person to whom it is attributed or the statement or testimonial is false.

The Australian Competition and Consumer Commission brought the proceedings in the Federal Court of Australia in relation to alleged breaches of sections 52, 53(a), 53(c), 53(d) and 59(2) of the Trade Practices Act 1974 and sections 18, 29(1)(a), 29(1)(f)(i), 29(1)(g), 29(1)(h) of the Australian Consumer Law which prohibit false, misleading and deceptive conduct.

The Court made interim orders that restrained Sensaslim and the relevant Officers from engaging in certain conduct and required them to publish this notice. The detailed orders can be found at [www.fedcourt.gov.au](http://www.fedcourt.gov.au).

