

## NYAG: Five Years Later, What Did We Learn?

By Steve Mister, President & CEO, Council for Responsible Nutrition

I remember the moment CRN's communications staff came to me on Feb. 2, 2015. The *New York Times* (NYT) was about to run a front-page article alleging herbal dietary supplements didn't really contain the herbs on the label. The New York Attorney General (NYAG) had leaked the story to the paper even before the companies involved had been notified. "It's going to be bad," they said. And they were right.

For the next six months, CRN took on the NYAG, educated policymakers about the limitations of DNA testing for herbal extracts, informed reporters about the thoroughness of FDA (U.S. Food and Drug Administration) regulation, and reassured consumers their supplements contained the labeled ingredients. Ultimately, the negative press and the regulatory attention subsided. It was the closest thing to an existential crisis since ephedra in the early 2000s.

Five years later, what did we learn from that fiasco? Even though the NYAG's investigation ultimately was exposed as misguided and exploitative, several important learning

opportunities came from that experience.

First, it awoke many companies to the need for a crisis communication plan. When the NYT story published, many companies were caught flatfooted by the sudden spotlight shined on the industry. Whether your products were named in the investigation or not, every brand was under scrutiny. Companies who had predetermined spokespeople to answer media questions, launched proactive strategies to defend and distinguish their quality, and established channels to disseminate their own messages to change the narrative fared better. Suddenly, crisis communication plans were de rigueur—if you didn't have one, you created it on the fly.

We also learned that a single widely-publicized investigation creates ripples that last a long time, regardless of how discredited it becomes. Even today, industry critics cite to those headlines to question the accuracy of labeling and the quality of products. Dietary supplement firms must proactively promote science supporting their products and claims, and aggressively counter negative reports that are baseless.

Having a regular supply of positive news helps to blunt the negative.

Industry learned that the integrity of supply chains matter. Many companies had just assumed their suppliers were compliant, but overnight it wasn't enough to argue over the validity of DNA testing on herbal extracts; companies needed to show the pedigree of their ingredients and vouch for the strength of their supply chains. The investigation motivated companies to ask questions about their suppliers, and their suppliers' suppliers, and demand full verification of where ingredients come from. Ultimately, that has strengthened the industry.

We learned that transparency with consumers is imperative.

The NYAG investigation reminded supplement executives that if FDA is perceived as ineffectual, and the industry as cavalier, then states (and their AGs) will fill the void. Demonstrating transparency and accountability was, and remains, essential to soothe other AGs who might otherwise have joined the pursuit. That realization helped fuel the development of the Supplement OWL (Online Wellness Library) that now provides label transparency to regulators and consumers alike. And FDA's response to the NYAG crisis, conceding that it could not regulate what it could not see, began its calls for mandatory product listing that's being considered today.

The aftermath of the NYAG situation also demonstrated the value of a trade association. CRN was able to argue more vociferously with the investigators, to present a credible narrative of industry regulation, and to reshape the media messages about allegedly defective supplements far better than any single company could. Our abilities to disseminate updates quickly and speak collectively demonstrated the power of association.

But five years later, I worry that these lessons were short-lived. A prosperous market requires constant vigilance. Short memories and industry growth can create temptation to slip backward. Crisis communication plans gather dust on the shelf instead of being regularly consulted and updated for the ready. Exacting attention to supply chain integrity gets overlooked. Marketing plans and new product promotions compete for the resources that would fund regulatory compliance. Transparency with regulators and consumers can start to seem too expensive or burdensome to justify. Too many believe someone else will keep the trade associations going until the next calamity, so dues get redirected.

Unfortunately, the next existential crisis may be just around the corner. We need to remember those tumultuous days in February 2015 so they don't happen again.



Steve Mister is the president & CEO of the Council for Responsible Nutrition (CRN), the leading trade association for the dietary supplement and functional food industry.



### VITAMINS & NUTRITIONAL SUPPLEMENTS

\*\*\*

A COMPLETE LINE OF PRODUCTS  
PRIVATE LABEL - CONTRACT SERVICES

\*\*\*

GMP FACILITY - FDA INSPECTED - NSF CERTIFIED

\*\*\*\*\*

252 WAGNER STREET, MIDDLESEX, NJ 08846  
TEL. 732-271-3444 - WWW.SOMALABS.COM

Go to [www.niemagazine.com/somalabs](http://www.niemagazine.com/somalabs) for info about this advertiser