

NAD Recommends Changes to “Green” Claims

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The National Advertising Division (“NAD”) recently concluded that an advertiser had insufficient evidence to support “biodegradable” claims made in connection with its packing peanuts. The challenged claims appeared on packaging, labeling, and print materials, and included “Biodegradable Super 8 Loosefill Environmentally Friendly Packaging” and Super 8 Loosefill Packaging “will decompose completely within 9 to 60 months...whether it is sent to a landfill or ends up as litter in the soil.” In recommending changes to the advertising, NAD relied on the proposed Revised Green Guides, which provide, “it is deceptive to make an unqualified degradable claim for solid items if the items do not completely decompose within one year after customary disposal.” The Revised Green Guides indicate that environmental claims should be “qualified clearly and prominently to the extent necessary to avoid deception about: 1) the product or package’s ability to degrade in the environment where it is customarily disposed; and 2) the rate and extent of degradation.”

The NAD concluded that the advertiser was making an unqualified biodegradable claim and recommended that the advertiser discontinue the use. NAD also recommended that the advertiser discontinue its claim that its material would biodegrade within nine to 60 months, because the advertiser’s evidence did not constitute reliable evidence that the product would biodegrade when disposed of in landfills.

TIP: Even though the FTC’s proposed Revised Green Guides have not yet been finalized, it is important to consider modifying your advertising to comply with the general tenants of the Guides’ requirements at this time.

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