Company Settles “Natural” Class Action Claims for $1.5 Million

Tuesday, March 19, 2019

A recent class action lawsuit that claimed a manufacturer misrepresented its laundry detergent products as “all natural” when they, in fact, contained synthetic ingredients, has resulted in a $1.5 million settlement. A New York federal court gave preliminary approval to the settlement, which also requires the company to add qualifying language that states “contains naturally derived and other ingredients” and to add a “USDA Certified Bio-Based” label. The company must modify its website content to reflect the labeling changes and refrain from selling products that do not adhere to the new labeling mandates. Importantly, the settlement does not constitute an admission of liability by the company.

With the increase in interest in environmental claims, it is a useful time to briefly review the Federal Trade Commission (FTC) Green Guides. First published in 1992 (the guides were updated and revised in 1996, 1998, and 2012), the Guides provide guidance on ways to properly structure many specific environmental claims so that they are not deemed misleading to consumers under Section 5 of the FTC Act. The Green Guides provide guidance on 1) general principles that apply to all environmental marketing claims; 2) how consumers are likely to interpret particular claims; and 3) how marketers can substantiate and qualify their claims to avoid deceiving consumers.

While “natural” claims are not specifically addressed by the Green Guides, the FTC has made clear it will vigorously pursue businesses that do not substantiate such claims, as it did when it took enforcement action against four companies for misrepresenting their products as “All-Natural” or “100% Natural” when they contained man-made ingredients. In a response to a submitted comment on the proposed orders settling those actions, the FTC rejected the suggestion that the term “natural” means the same thing as “all natural,” but the agency also stated:

…the order protects consumers by prohibiting “natural” and other composition claims unless they are true and not misleading. For example, if an advertisement states that a product is “natural,” and if reasonable consumers would interpret that advertisement as a whole to imply that the product is “all natural,” this claim would violate the order unless it is true and not misleading.

Certain claims, such as “organic,” “all-natural,” and “x-chemical-free” resonate with consumers seeking products that they think might be healthier or better for the environment. Generally, claims that are material to a consumer’s decision to buy a product – including environmental claims – must be supported by competent and reliable evidence and qualified to the extent necessary. As FTC enforcement actions and court and self-regulatory challenges illustrate, regulators, competitors, and class action lawyers are taking aim at green claims, and advertisers are well-advised to take note.

© 2019 Keller and Heckman LLP