

The National Advertising Division (NAD) of BBB National Programs provides independent self-regulation and dispute resolution services, guiding the truthfulness of advertising across the U.S. NAD reviews national advertising in all media and its decisions set consistent standards for advertising truth and accuracy, delivering meaningful protection to consumers and leveling the playing field for business.

NAD cases can be initiated through NAD's independent monitoring of advertising claims or through "challenges" to advertising claims filed by competitors, consumers, or public interest groups. This digest includes excerpts from environmental claims cases since 2010. Each case involves consideration of the claims made in the advertising and labeling and the supporting evidence provided by the advertiser.

Compliance with NAD decisions is voluntary. Nevertheless, NAD enjoys a high rate of compliance. Advertisers that either refuse to participate in the self-regulatory process or do not implement the NAD recommendations are referred to appropriate government agencies such as the Federal Trade Commission (FTC).

### Chipotle Mexican Grill, Inc.

#### Advertising by Chipotle Mexican Grill

Case #7020 (February 2022)

In a case opened as part of NAD's routine and ongoing monitoring program, NAD determined that Chipotle Mexican Grill, Inc. provided a reasonable basis for the following claims related to its sustainability practices:

- A Chipotle burrito "could make our farmers . . . more organic . . . less carbon emitting";
- "Water Saved: We're sourcing from farms with sustainable agriculture practices that save more water primarily through greywater reduction";
- "Improved Soil Health: Ingredients sourced from farms with sustainable agriculture practices, like planting over crops, can improve soil health"; and
- "We commit to divert 50% of waste from landfills during 2020."

However, NAD recommended that the advertiser modify the claim "Reduced Carbon Emissions: From Farm to foil, we're reducing greenhouse gas emissions by optimizing our supply chain, compared to conventional ingredients" to make clear the parts of its supply chain that have reduced carbon emissions.

NAD also recommended modification to claims related to the advertiser's Real Foodprint sustainability program, to clarify that the metrics shown in Chipotle's mobile app, email receipts, and account profiles are based on average sustainability assessment, not a consumer's specific purchase. The claims at issue were challenged by NAD as part of its independent routine monitoring of truth and transparency in U.S. national advertising.

#### Claims Regarding Real Foodprint

Chipotle runs a sustainability program called Real Foodprint that aims to inform consumers about how much more environmentally friendly each ingredient in their Chipotle meal is as compared to "conventional" ingredients. For example, after consumers purchase food using Chipotle's mobile app, they have the opportunity to view the gallons of water saved, grams of less carbon in the

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atmosphere, square footage of improved soil health, and milligrams of less antibiotics used for each ingredient.

NAD assessed two broad environmental claims related to Real Foodprint, which appear on the Chipotle website:

- “With Real Foodprint, you’ll see how the Chipotle difference is real. From how ingredients are raised, grown and cared for, Chipotle’s impact on real food and the planet starts at the source”; and
- “Foodprint calculates an average sustainability impact across each of our 53 real ingredients based on our leading sourcing standards as compared to conventional ingredients.”

NAD found that these claims reasonably convey the message that Real Foodprint metrics are specific to each customer’s order and show the precise impact reduction for the meal consumed. In support of its Real Foodprint claims, the advertiser relied on analysis provided by HowGood, a third-party SaaS data platform independent from Chipotle with a database on food and personal care product sustainability. NAD concluded that although the HowGood analysis provided a reasonable basis for the Real Foodprint claims, in certain contexts the claims communicate a level of personalization beyond the support provided. Therefore, NAD recommended that the advertiser modify its Real FoodPrint claims to clarify that the metrics shown in Chipotle’s mobile app, email receipts, and account profiles are based on average sustainability assessment and not a consumer’s specific purchase.

### Aspirational Claim

NAD determined one of the messages reasonably conveyed by the claim that a Chipotle burrito “could make our farmers . . . more organic . . . less carbon emitting” is a forward-looking aspirational message that Chipotle is in fact engaged in genuine efforts towards these goals. Based on the evidence in the record, NAD found that Chipotle has made significant efforts at achieving the goals that its suppliers would be “more organic” and “less carbon emitting.” For example, Chipotle makes large purchases of organic ingredients, which help bolster the market for organic food products as a whole, and indicated its intent to continue to do so in the future. In addition, reducing carbon emissions is a focus of the advertiser’s sustainability efforts, as shown for instance by the fact that Chipotle sources a significant portion of the beef it uses from grass-fed, grass-finished animals, which reduces carbon emissions when compared with animals raised on conventional farms. NAD concluded that the advertiser provided support for these aspirational claims as communicated in the context of the “Can A Burrito Change the World?” television commercial.

### Specific Sustainability Claims

NAD determined that Chipotle provided a reasonable basis for the following claims:

- “Water Saved: We’re sourcing from farms with sustainable agriculture practice that save more water primarily through greywater reduction”;
- “Improved Soil Health: Ingredients sourced from farms with sustainable agriculture practices, like planting over crops, can improve soil health”; and
- “We commit to divert 50% of waste from landfills during 2020.”

NAD determined that one reasonable takeaway from the claim “Reduced Carbon Emissions: From Farm to foil, we’re reducing greenhouse gas emissions by optimizing our supply chain, compared to conventional ingredients” is that Chipotle is reducing greenhouse gas emissions throughout its entire supply chain. However, the advertiser submitted no evidence of how far conventional ingredients are typically transported, nor did it provide any evidence demonstrating that its cooking processes, for example, have any reduced carbon emissions compared to any competitors. Therefore, NAD concluded that the advertiser did not support the broad message reasonably conveyed and recommended that the “farm to foil claim” be modified to make clear the parts of its supply chain that have reduced carbon emissions.

Chipotle agreed to comply with NAD’s recommendations.

## PurposeBuilt Brands

### Green Gobbler Drain Clog Dissolve

Case #6982 (January 2022)

NAD determined that the evidence in the record does not amount to a reasonable basis for the claim that Green Gobbler Dissolver has “no harsh chemicals” and recommended that it be discontinued. During the proceeding, the advertiser modified its “safe formulation” and “non-corrosive” claims to limit the message to pipes and avoid conveying a broader safety message. NAD concluded that the advertiser’s testing amounts to a reasonable basis for these modified pipe safety claims. NAD found that while the listed active ingredients in Green Gobbler Dissolver may be safer along certain metrics than ingredients in traditional drain openers, the evidence presented does not reliably support a broad, comparative safety message that the product itself is “safer” than the ingredients in competing products. Therefore, NAD recommended that the advertiser discontinue its use of the term “safer” or modify the claim to indicate the relative safety of certain ingredients for specific metrics.

NAD also cautioned the advertiser to avoid conveying unsubstantiated broader product safety claims and presenting claims regarding the absence of sodium hydroxide in its product in a manner which conveys the implied message that its product is “safer.”

NAD determined that the evidence in the record supports the advertiser’s “biodegradable” claim, which was modified to ensure that “biodegradable” references the product contents and not the package. NAD also found that the claim “Finally . . . POWER meets Green” reasonably conveys a general environmental benefit message that Green Gobbler Dissolver has achieved the unlikely combination of a drain opener that is both sufficiently powerful to unclog drains and “green,” that is, broadly environmentally friendly. Because the evidence in the record does not support such broad environmental benefit messages, NAD recommended that the claim be discontinued.

The advertiser agreed to comply with NAD’s recommendations.

## Everlane, Inc.

### Everlane ReNew Clothing

Case #7019 (October 2021)

In a case opened against Everlane, Inc. (“Everlane”) as part of NAD’s independent routine monitoring of truth and transparency in U.S. national advertising, NAD recommended that the claim “Safer For The Environment: This product is dyed with bluesign®-approved dyes, which are safer for dyehouse workers and better for the environment,” be modified to explain that Bluesign is an independent third-party certification designed to remove harmful chemicals from the manufacturing process. In doing so, NAD noted that:

- Everlane’s adoption of Bluesign certification is at a nascent stage. At present, 12 percent of Everlane’s mills (fabric suppliers) and 10 percent of its factories (finished goods suppliers) are Bluesign-certified; and
- This is a qualified environmental benefit claim which limits the safety benefit to use of bluesign-approved dyes pursuant to this independent third-party standard designed to remove many harmful chemicals from the manufacturing process.

Because the “Safer for the Environment” claim in context does not make clear that chemical safety is one aspect of an environmental impact assessment, or that Everlane’s use of Bluesign is in a nascent stage, NAD recommended that the claim be further qualified to note Bluesign’s limited environmental impact on manufacturing practices and Everlane’s nascent incorporation of Bluesign certification in its clothing line.

This and other claims which appeared on the advertiser’s website related to its ReNew line of clothing.

### **Aspirational and Recycled Materials Claims**

NAD determined that the “No New Plastic” claim is a qualified environmental benefit claim because it is limited to a specific environmental benefit – removing all virgin plastic from its supply chain. NAD noted that the advertiser’s webpage explains how far Everlane has come in achieving this goal. As support for the “No New Plastic” and “Recycled Materials” claims, Everlane indicated that it complies with GRS. GRS is a voluntary international standard that relies on well-established international and regulatory guidance for what constitutes recycled content, including the Federal Trade Commission’s (FTC) Guides for the Use of Environmental Marketing Claims and International Organization of Standardization Standard (ISO) 14021 (for example, pre- or post-consumer waste).

GRS also has established stringent rules for third-party certification of chain of custody (or traceability) of recycled materials, content claims, social and environmental production practices, and chemical restrictions across manufacturing processes.

### **Claims Regarding the Number of Recycled Bottles**

NAD determined that the advertiser provided a reasonable basis for the challenged claims as to the number of recycled bottles used in the identified garments, as well as the number of bottles it has recycled:

- “To date, we have recycled over nine million plastic bottles”;
- “The parka - 60 plastic bottles renewed”;
- “The half zip -15 plastic bottles renewed”; and
- “The sweatshirt - 15 plastic bottles renewed.”

Everlane explained that its mills and yarn spinners work with plastic pellet producers to calculate the quantity of plastic needed to produce a fixed amount of recycled polyester yarns. The mills then use this information to calculate the amount of plastic used to create the finished fabric per yard, based on the quantity of yarn needed. An industry standard (average) bottle size is used to represent the “number of bottles” equivalent to the total plastics consumption. The mills then quote the kilos of plastic as well as number of bottles per yard of each ReNew fabric sold to Everlane.

To support the challenged claims, Everlane multiplied the quantities per yard of fabric by the average garment yield, to arrive at the final bottle count per garment. Further, NAD noted that the total number of bottles recycled is based on the number of garments Everlane has produced since 2018.

Finally, during the pendency of the proceeding, the advertiser permanently discontinued the claims:

- “Plastic is a really big problem, we use it constantly sometimes without even realizing. And more is being made every day. What if we could take the plastic that is already here and turn it into something meaningful . . . Turns out we can. Introducing Renew. A collection of outerwear made from discarded plastic bottles, about 3 million of them. . . . Made to last for decades instead of seconds. Its Outerwear with an outlook”; and
- “[Number increasing quickly to the millions] plastic bottles made since you landed on this page.” Therefore, NAD did not review these claims on the merits. NAD noted that it appreciated Everlane’s demonstrated commitment to sustainability efforts and the comprehensive efforts it has undertaken to ensure that its claims are supported.

Everlane agreed to comply with NAD’s recommendations.

**Georgia-Pacific Consumer Products LP****Quilted Northern Ultra Soft & Strong Bathroom Tissue**

Case #7018 (September 2021)

NAD challenged various environmental benefit claims which appeared on the advertiser's Quilted Northern website and product packaging as part of its independent routine monitoring of truth and transparency in U.S. national advertising.

**Tree-Planting Claims**

NAD determined that the advertiser provided a reasonable basis for the claims:

- "3 trees planted for every tree used"; and
- "Our plan is to plant 2 million new trees by the end of 2021."

As support for its claim "3 trees planted for every tree used," Georgia-Pacific demonstrated that it accurately tracks the number of trees consumed throughout its manufacturing process and that it can ensure that three trees are regrown for each tree used. Further, with regard to the aspirational claim that "our plan is to plant 2 million new trees by the end of 2021," NAD concluded that the advertiser adequately demonstrated that it is committed to achieving its goal to "plant 2 million trees" and that it has implemented a plan to do so. Energy-

**Efficient-Manufacturing Claims**

NAD determined that the advertiser provided a reasonable basis for the claims:

- "[o]ver 90% of bath tissue's environmental impact occurs in the manufacturing process"; and
- "Our proprietary, efficient manufacturing technology squeezes out more water from the paper before drying. This saves 30% more water and uses 30% less energy."

NAD found, however, that while these two highly technical claims are literally true, it is not necessarily clear that the environmental benefit being touted relates to one specific step in the manufacturing process. Therefore, NAD recommended that Georgia-Pacific modify these claims to more clearly disclose that the 30% savings is limited to a portion of the manufacturing process and not the total environmental impact of its product. Further, NAD determined that Georgia-Pacific's "Energy Efficient Manufacturing" claim, which communicates the message that its manufacturing process uses less energy to perform the same function as competing processes, was substantiated.

**Real-Life Energy and Water Savings Examples**

NAD determined that the advertiser provided a reasonable basis for its real-life energy and water savings examples:

- "If everyone in the U.S. who bought Premium 2-ply toilet paper switched to Quilted Northern Ultra Soft & Strong for 1 year, we would save enough water to:
  - o Take over 7.5 million showers.
  - o Provide almost half of the United States' population with a day's worth of drinking water.
  - o Flush a toilet 25 million times";
- "If just one household switched to Quilted Northern Ultra Soft & Strong for a year, it would save enough energy to:
  - Watch 21 college football games.
  - Microwave 104 bags of popcorn.
  - Charge a smart phone battery every day for 5 years."

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NAD was satisfied that robust disclosures explaining the basis of the calculations made the claims understandable to consumers. Further, NAD was sufficiently persuaded that reasonable consumers would understand that the examples were illustrative and based on hypothetical usages and would accurately get a sense of the scale of energy and water savings afforded consumers that choose Quilted Northern Ultra Soft & Strong. However, NAD found that the advertising does not make clear the savings resulting from switching to Quilted Northern would only accomplish each example individually, as opposed to all the examples together. Therefore, NAD recommended that Georgia-Pacific modify the presentation of the claims to avoid the unsupported message that switching to Quilted Northern Ultra Soft & Strong would save enough water or energy to accomplish all the savings in aggregate.

### Sustainability Claims

NAD determined that the claim “Premium comfort made sustainably,” as it appears on both the back of product packaging and on the advertiser’s Quilted Northern website, conveys a supported message about specific environmental benefits provided by purchasing the product. However, NAD recommended that the advertiser discontinue or modify the front of package claim by clearly qualifying it so that consumers understand that “sustainably” is limited to the specific highlighted environmental benefits (i.e., tree planting and energy efficiency). Regarding the claim “premium design with the environment in mind” on the advertiser’s Quilted Northern homepage, NAD determined that usage of a “learn more” hyperlink to a page containing information on the specific environmental benefits of the product appropriately qualified this general benefit claim. However, NAD recommended that the advertiser modify the label of its disclosure hyperlink to more clearly indicate the nature of the information to be found by clicking on it. As for the instance of this claim that appears in a banner at the top of the Quilted Northern Ultra Soft & Strong sub-brand page, NAD was satisfied that the context in which the claim was presented – in close proximity to other claims about the environmental benefits of the product – adequately qualified the claim. Finally, during the pendency of the proceeding, the advertiser informed NAD that it would voluntarily discontinue the claim “You don’t have to choose between comfort and sustainability. You can have both.” Therefore, NAD did not review this claim on the merits.

Georgia-Pacific agreed to comply with NAD’s recommendations.

## Butterball, LLC

### BUTTERBALL Turkey Products

Case #6930 (August 2021)

NAD determined that the advertiser provided a reasonable basis for:

- “All natural” claims on its website that include the clear and conspicuous disclosure “\*all natural means minimally processed and no artificial ingredients.”
- General “humane” claims, when presented in close proximity to claims about or an explanation of its American Humane Association Certification (“AH Certification”), including: o “Commitment to animal care and well-being.”
- “It is our responsibility to produce health, high-quality turkeys in a responsible way.”
- “Animal Care and Well-Being is central to who we are as a company, and we are committed to maintaining the health and well-being of our turkeys.”
- “From our family farms to our processing facilities, we commit significant resources to strengthen our already rigorous standards for animal care and well-being.”
- The claim that it has a “Zero-tolerance policy against any form of animal mistreatment.”
- Its vague, non-specific aspirational claims that it “recognizes” its “responsibility” to “preserve the plant.”



However, NAD recommended that Butterball discontinue:

- The claim “Farmers humanely raise our turkeys every day” or modify it so that it appears in close proximity to the reference to Butterball’s AH Certification.
- “Humane” claims that were couched in comparative, superlative or absolute terms, including: o The best possible care for our turkeys.”
- “Does Butterball Treat Its Turkeys Humanely? . . . Absolutely!”
- “Butterball continues to lead the turkey industry in animal care and well-being standards.”
- “Industry-leading results.”
- The claim “making good food in the most responsible and sustainable way” or modify it to avoid conveying a broad environmental benefit message about its practices.
- The claim “Embracing Sustainable Practices Defines a Butterball Grower.”

During the proceeding, Butterball permanently discontinued the challenged headline claim “Healthy, Natural Turkeys” and permanently modified the challenged “FARM TO FAMILY” video. In reliance on the advertiser’s written representation that it has permanently modified these challenged claims, NAD did not review these claims on their merits. NAD found that the replacement headline claim “Hormone- & Steroid-Free Turkeys” no longer conveys a broad “natural” message, but rather conveys a narrower, unchallenged message about hormones and steroids. NAD agreed with both parties that the modified video properly limits the claims therein.

Further, the advertiser modified its website claim that Butterball Fresh and Frozen Whole Turkeys are “all natural” by adding a clear and conspicuous disclosure that “all natural means minimally processed and no artificial ingredients.” NAD noted that this limited claim identifies for consumers that the term refers to what is in the product and the amount of processing involved. NAD determined that the claim is substantiated and that such a claim does not convey a broader message about the way the turkeys were raised or produced.

The challenger took issue with several “humane” claims that make general or non-specific claims about Butterball’s animal welfare practice and which appear in close proximity to claims about or an explanation of Butterball’s AH Certification. NAD determined that in the context that these claims are presented, consumers will reasonably take away the message that the AH seal defines what Butterball means when it claims its practices are “humane,” that is, that it meets standards set by the third-party certifier. Further, NAD determined that Butterball provided evidence demonstrating that AH is an independent third-party certifier with standards based on a scientific understanding of humaneness and appropriate animal welfare practices.

NAD determined that Butterball provided a reasonable basis for “humane” claims made in the context of the AH seal, including:

- “Commitment to animal care and well-being.”
- “It is our responsibility to produce health, high-quality turkeys in a responsible way.”
- “Animal Care and Well-Being is central to who we are as a company, and we are committed to maintaining the health and well-being of our turkeys.”
- “From our family farms to our processing facilities, we commit significant resources to strengthen our already rigorous standards for animal care and well-being.”

NAD found, however, that one of Butterball’s “humane” claims, appearing on the advertiser’s “Stance on Antibiotics” page – “farmers humanely raise [Butterball’s] turkeys every day” – was presented in a manner that is distant and removed from its AH Certification seal. Because consumers could reasonably take away a broad, unsupported message about Butterball’s animal welfare practices, NAD recommended that the claim be discontinued or modified so that it appears in close proximity to the reference to Butterball’s AH Certification.

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NAD determined that the advertiser's claim that it has a "zero-tolerance policy against any form of animal mistreatment" was substantiated because Butterball described its "zero tolerance" policy in detail and demonstrated that such a policy is required for AH Certification.

NAD determined that the claims "the best possible care for our turkeys" and "Does Butterball Treat Its Turkeys Humanely? . . . Absolutely!" convey a level of humane treatment that is not limited to a particular certification. NAD recommended that such claims be discontinued because the advertiser did not submit any evidence that its current practices for the care of turkeys is the "best possible" or that its practices are "Absolutely!" humane under all reasonable interpretations of that term.

Further, NAD found that the claims "Butterball continues to lead the turkey industry in animal care and well-being standards" and "industry-leading results" convey the message that both Butterball's procedures and its actual treatment of turkeys is superior to that of the rest of the industry and that it has the "most rigorous" animal welfare program among its competitors. NAD determined that these claims were not substantiated and should be discontinued.

NAD determined that the advertiser's animal welfare advertising, when presented in a manner that defines humane as meeting AH standards, did not convey a series of alleged implied claims that Butterball refrains from engaging in certain practices that consumers would find to be inhumane (e.g., grinding up live birds or subjecting them to painful mutilations). In addition, NAD did not find that the challenged advertising implies that Butterball's turkeys are raised on small, family farms where farmers provide individualized care for the animals.

NAD determined that when "sustainable" is used in connection with the phrase "the most responsible and sustainable way" as an introduction to Butterball's social responsibility report, it could be understood by customers to mean that Butterball's practices are optimized in relation to their impact on the environment. Because the evidence in the record did not support that message, NAD recommended that the advertiser discontinue this phrase or modify it to avoid conveying such a general broad environmental benefit message about its practices.

NAD also recommended that the advertiser discontinue the claim "Embracing Sustainable Practices Defines a Butterball Grower" because it conveys the unsupported message that its farmers have widely implemented or "embraced" sustainable practices and made significant efforts to reduce their impact on the environment, such that it "defines" the group.

Regarding the claim that Butterball "recognizes" its "responsibility" to "preserve the planet," NAD determined that the advertiser's efforts to improve its impact on the environment were sufficient to show that the vague, non-specific aspirations communicated by these challenged claims were not illusory, and sufficiently supported.

NAD determined that Butterball's advertising does not convey the challenged implied environmental benefit claims that Butterball:

- Exceeds industry standards for environmental stewardship.
- Protects the environment in all aspects of its business.
- Farmers use environmentally friendly practices.
- Production practices are not harmful to the environment.
- Has not repeatedly violated federal environmental regulations.
- Has not been subject to any EPA enforcement actions.
- Does not presently have any outstanding compliance violations.

In its advertiser statement, while Butterball respectfully disagreed with certain of NAD's findings regarding its animal welfare and environmental benefit claims, Butterball stated that it "accepts the NAD's recommendations to discontinue the few claims that the NAD sustained and will comply with the NAD's guidance."



**Natural Diamond Council USA, Inc.****Mined & Man-made Diamonds**

Case #6901 (April 2021)

Manufacturers of man-made diamonds such as Diamond Foundry rely on technological innovations which allow diamonds to be created in a laboratory, rather than extracted from the earth. Diamond Foundry challenged claims made by the Natural Diamond Council that carbon emissions associated with LGDs are three times greater than those associated with mined diamonds. NAD determined that the advertiser's evidence was not sufficiently reliable to support its comparative carbon emissions claims. Further, NAD was concerned that such claims conveyed a broader implied message about the overall environmental benefits of mined diamonds versus man-made diamonds, a message that was not supported. Therefore, NAD recommended that the advertiser discontinue the implied claim that mined diamonds are better for the environment than man-made diamonds, and express claims that:

- "... recent third-party research reveals that natural diamonds produce 3X less carbon emissions per carat than lab-grown diamonds, equal only to the carbon emissions required to produce 3 iPhones . . . .";
- "Estimated carbon emissions of laboratory created diamonds is 3 times more than natural diamonds"; and
- "While 'modern diamond miners produce 160 KG of carbon emissions per carat of polished diamond,' man-made diamonds produce 511 KG of carbon emissions per carat of polished diamond."

The advertiser agreed to comply with NAD's recommendations.

**One Home Brands, Inc. d/b/a Blueland****Blueland Cleaning Products**

Case #6416 (September 2020)

NAD recommended that One Home Brands, Inc. d/b/a Blueland modify claims that its bottle were 100% recyclable to clarify that, in the instances where a bottle fails, it is only recyclable through Blueland's take-back program. The challenger, The Clorox Company (Clorox), argued that the recyclable claim was not supported because the bottles are made of acrylic, which is not recyclable. Blueland advertised that "every piece of packaging – from our tablet wrapper, shipping materials, our Forever Bottles (which aren't intended for you to recycle) – is 100% recyclable." Because not all consumers have access to recycling centers that accept acrylic, Blueland takes the bottles back from the consumer for free and pays to have the acrylic bottles recycled. NAD determined that it was not clearly stated that Forever bottles are primarily recyclable through Blueland's take-back program. Reasonable consumers could understand the sentence "our shipping materials, and our Forever Bottles (which aren't intended for you to recycle) – are recyclable" to the fact that the bottles are intended to be used over-and-over again and not a limitation on the availability of recycling facilities. Also, Blueland did not provide a reasonable basis for a claim that its Forever bottles are "100% recyclable" because it was unclear of the percentage of resin from its bottles that is actually reused by the recycler in manufacturing or assembling another item. There was, however, a reasonable basis for the claim that the shipping materials were recyclable since paper recycling is widely available in the United States.

NAD determined that Blueland provided a reasonable basis for claims that its tablet wrappers were biodegradable and compostable. Blueland explained that the layers of the tablet wrappers include biodegradable paper made from Forest Stewardship Council certified wood pulp, biodegradable PLA film made from renewable plant starch, such as corn or sugarcane, a compostable sealant layer, and a metal film lining. There was also documentation from the suppliers of the biodegradable PLA film and the biobased metal film lining that the components will fully degrade into nothing but water, biomass, and CO<sub>2</sub>. Further, Blueland stated that the metal film lining is fully

compostable and submitted documentation from its supplier noting that the metal film can be placed in both industrial and home composting environments.

NAD also recommended that Blueland modify the claim “better for your home and our planet” to clearly indicate the specific environmental benefits of its packaging. The claim, “better for your home and our planet” is an unqualified general environmental benefit claim. Although Blueland provided evidence of the specific environmental benefits of its products, NAD was concerned that the claim did not adequately identify those benefits for consumers, and thus, a reasonable consumer could take away an overly broad message regarding the nature and extent of the benefits provided by Blueland products. Even when read with the statement “earth-friendly packaging,” a reasonable consumer could take away unintended and unsupported messages, such as that Blueland bottles can be recycled through an established recycling program.

NAD further recommended that Blueland discontinue using the phrase “bad for germs, good for earth” in its advertising or modify the claim to identify the specific ways in which its products and packaging are “good for the earth.” The claim appeared in the subject line of a single email Blueland sent to consumers who agreed to receive Blueland’s emails. The unqualified general environmental benefit claim could reasonably convey the message that Blueland products have far-reaching environmental benefits or that they have no negative environmental impact. An advertiser should not overstate the proven environmental benefits of its products. In the absence of any evidence in support of such a broad takeaway, NAD recommended that the “bad for germs, good for earth” claim be discontinued or modified to identify the specific ways in which its products and packaging are “good for the earth.”

Lastly, NAD determined that Blueland failed to support claims that its products cleaned “all without harmful chemicals” and “we also don’t use traditional disinfecting ingredients (like chlorine bleach or quaternary ammonium compounds) that may be harmful if ingested, so not great for kitchen and dining surfaces.” Although it is literally true that Blueland products do not contain the same alleged “harmful” chemicals as leading comparable brands, one of the messages reasonably conveyed is that conventional brand cleaning products are less safe than Blueland’s product when used as directed. There was no evidence that, when used as directed, Blueland’s product was safer than Clorox, or that Clorox’s product with “traditional disinfecting ingredients” is “not great for kitchen and dining surfaces” because it is likely to be ingested and cause harm. The fact that a particular ingredient may be linked to certain health risks when ingested, or linked to aquatic toxicity, is not reliable evidence of comparative product safety of the products at issue here, especially given the fact that EPA has specifically deemed Clorox’s products safe.

Blueland agreed to comply with NAD’s recommendations.

## The Procter & Gamble Company

### Tide purclean Laundry Detergent

Case #6392 (July 2020) // NARB Case #274 (November 2020)

Seventh Generation Company (Seventh Generation) challenged The Procter & Gamble Company’s (P&G’s) product packaging, video, and website advertising for its Tide purclean laundry detergent. The Tide purclean bottle’s front label prominently features the Tide logo against a green leafy backdrop. Under the Tide logo is the “purchlean” brand name, with “clean” in bolded letters. Directly under this, in smaller, all caps font, are the words “plant based.” These label elements are separated by a line, under which in even smaller font are the scent (“honey lavender”), the 4x cleaning power claim, a claim that the product contains “0% dyes, phosphates, chlorine brighteners.” Next to this is the USDA certified bio-based product seal, with the 75% bio-based content disclosed in very small font inside the seal itself.

NAD recommended that P&G use clear and conspicuous qualifying language that conveys the limitations of its plant-based claim, namely, that the product is “75% plant-based” instead of “plant-based” for its Tide purclean laundry detergent. NAD determined that the “plant-based” language on the front label reasonably conveys a message that the product is 100% “plant-based,” especially

when used in conjunction with the name “purclean.” Although the seal discloses the amount of bio-based content, 75%, it does so in very small font such that it does not meaningfully qualify the overarching unsupported message reasonably conveyed to consumers that the entire product is bio-based.

NAD determined that Tide “purclean” laundry detergent was not, by itself, misleading. Although the name blends “pure” and “clean,” the word “pure” has several potential meanings when modifying clean, including that the cleaning itself is complete. While the challenger argued that the product name is expressly false, NAD determined that the product name “purclean” alone does not by itself mean that the product is 100% plant-based and that a recommendation to modify the product name was not necessary. Absent extrinsic evidence that consumers have been confused or misled, NAD is reluctant to require an advertiser to change the name of a product simply because the challenger speculates that it might be misleading.

NAD also recommended that P&G modify labeling stating that its laundry detergent was “powerful plant-based clean you can feel good about” to avoid implying that the product is 100% plant-based or that the “powerful cleaning power” is derived solely from plant-based ingredients. The back label of the packaging features the claim “A Powerful Plant-Based Clean You Can Feel Good About” followed by a list of the product ingredients identified as “plant based” or “mineral based,” except for petroleum-based ingredients (polyethyleneimine ethoxylate; polyethyleneimine, alkoxylated) which are simply identified as “cleaning aids,” fragrance and water. The ingredient list is surrounded by environmentally and skin friendly claims. NAD determined that the unqualified headline claim may create the expectation that all the ingredients, as listed in the ingredients portion of the label, are plant-based when that is not the case. While highlighting the plant- and mineral-based ingredients was not, by itself, misleading, NAD determined that the identification of purclean’s petroleum-based ingredients as “cleaning aids,” could reasonably convey the message that the “cleaning aids” are also plant-based ingredients, resulting in an overall net impression from the rear label that Tide purclean does not contain petroleum ingredients, and that Tide purclean is made with no petroleum cleaning ingredients and that the base of all ingredients are disclosed.

NAD further recommended that P&G discontinue the claim “Tide purclean, it has nothing to hide. It’s made with plants...” or modify it to more clearly disclose the amount of plant-based content and avoid the implication that Tide purclean is 100% plant-based. Seventh Generation contended that the statements at issue concealed the presence of petroleum-based ingredients. Seventh Generation specifically challenged the “nothing to hide” portion of the claim, but this was unaddressed by P&G. NAD determined linking claims that it has nothing to hide and highlighting ingredients it does not have (like phosphates, dyes or chlorines), reasonably conveys the messages that Tide purclean also does not contain any petroleum-based ingredients. As discussed above, this message is unsupported. Similarly, the voiceover at the end of the commercial states, “The first plant-based detergent with the cleaning power of Tide,” and is accompanied by bold, green graphics indicating that the product has “no chlorine,” “no phosphates,” and is “gentle on skin,” while tying plant-based claims to cleaning. Although there is a disclaimer at the bottom of the screen that states “75% plant-based per USDA bio-based program,” the majority of this disclosure is in white font against a white background and unlikely to be noticed by viewers. NAD further recommended that the disclaimer at the end of the commercial, “75% plant-based per USDA bio-based program,” be modified to more clearly and conspicuously disclose the amount of plant-based content included in the product, 75%.

NAD determined that P&G supported its plant-based claims and that the omission of the petroleum-based products from the product description section was not misleading so long as those products are adequately disclosed in the accompanying ingredients tab. Seventh Generation took issue with a product description on the Tide purclean website, specifically contending that P&G omitted the petroleum-based ingredients when discussing the product formula, leading consumers to believe that the product is more plant-based than is actually the case. NAD determined that the surrounding claims made clear there is 75% plant-based content in the product, with that information clearly conveyed in bold font in an accompanying graphic, and also disclosed in the first product blurb viewers encounter upon entering the Tide purclean webpage. For these reasons, NAD determined that the advertiser’s plant-based claims were supported

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and that omitting petroleum-based ingredients from the product description section was not misleading as it did not convey a message that the product contains only plant-based ingredients.

Lastly, P&G provided a reasonable basis for its claims that Tide purclean is the “1st Plant-Based Detergent With The Cleaning Power of Tide,” “Finally, Plant-Based Power that Cleans Like Tide,” “Tide purclean is the first plant-based liquid laundry detergent that has the cleaning power that you expect and deserve from Tide, even in cold water,” and “Tide purclean performs as well as Tide Original liquid detergent regarding stain removal.”

P&G agreed to comply with NAD’s recommendations except for its determination as to the claim “4x the cleaning power of the leading natural detergent” \*1 dose Tide purclean vs. 4 doses leading natural detergent” which it appealed to the National Advertising Review Board (NARB).

NARB — (#274 — 11.02.2020) — In its decision, the NARB recommended that P&G discontinue (i) the claim “4x the cleaning power of [comparator product],” and (ii) reliance on the ASTM test comparing one dose of Tide purclean with four doses of Purex Natural Elements. P&G agreed to comply with NARB’s recommendations.

## S.C. Johnson & Son, Inc.

### Method Cleaning Products

Case #6354 (March 2020)

NAD determined that S.C. Johnson & Son, Inc. (S.C. Johnson) failed to support the claim that its Method Cleaning Products were “non-toxic.” The term “non-toxic” has no standardized definition, but conveys a strong message that the products it describes do not cause harm to humans or the environment. The FTC Green Guides state: “A non-toxic claim likely conveys that a product, package, or service is non-toxic both for humans and for the environment generally.” NAD determined that the term “non-toxic” as used on the label of Method cleaning products reasonably conveys a message that the product will not harm people (including small children), common pets, or the environment. Importantly, a reasonable consumer’s understanding of the concept of “will not harm” is not limited to death, but also various types of temporary physical illness, such as vomiting, rash, and gastrointestinal upset. Thus, the claim must be evaluated as both a health-related claim and an environmental benefit claim. NAD concluded that S.C. Johnson’s evidence supporting the claim was insufficient because it was based on a series of mathematical calculations, and theoretical bases of product performance are not typically sufficient to support product performance claims. On a broad spectrum of toxicity, it may be fair to place these products somewhere towards the lower end of the spectrum. However, without information regarding the real-world harms that may result from use or foreseeable misuse of the product, NAD cannot draw any reasonable conclusions about various types of temporary physical illness, such as vomiting or rash, that may be associated with these products.

S.C. Johnson fundamentally disagreed with NAD’s decision and while it initially sought to appeal NAD’s finding, it later withdrew its appeal and agreed to comply with NAD’s recommendation.

## S.C. Johnson & Son, Inc.

### Windex Vinegar Glass Cleaner

Case #6353 (March 2020) // NARB Case #266 (July 2020)

NAD determined that S.C. Johnson & Son, Inc. (S.C. Johnson) failed to support the claim that its Windex Vinegar Glass Cleaner was “non-toxic.” The term “non-toxic” has no standardized definition, but conveys a strong message that the products it describes do not cause harm to humans or the environment. The FTC Green Guides state: “A non-toxic claim likely conveys that a product, package, or service is non-toxic both for humans and for the environment generally.” NAD determined that the term “non-toxic” as used on the label of Windex Vinegar Glass Cleaner

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reasonably conveys a message that the product will not harm people (including small children), common pets, or the environment. Importantly, a reasonable consumer's understanding of the concept of "will not harm" is not limited to death, but also various types of temporary physical illness, such as vomiting, rash, and gastrointestinal upset. Thus, the claim must be evaluated as both a health-related claim and an environmental benefit claim. NAD concluded that S.C. Johnson's evidence supporting the claim was insufficient because it was based on a series of mathematical calculations, and theoretical bases of product performance are not typically sufficient to support product performance claims. Without information regarding the real-world harms that may result from use or foreseeable misuse of the product, NAD cannot draw any reasonable conclusions about various types of temporary physical illness, such as vomiting or rash, that may be associated with these products.

S.C. Johnson fundamentally disagreed with NAD's decision and appealed NAD's finding that the claim that Windex Vinegar Glass Cleaner is "non-toxic" is not adequately substantiated to the NARB.

NARB — (#266 — 07.20.2020) — In its decision, the NARB agreed that the unqualified "non-toxic" claim used to promote Windex Vinegar was unsupported and should be discontinued. However, the panel believed that S.C. Johnson could make a properly qualified non-toxic claim for a cleaning product that satisfies (passes) S.C. Johnson's "Non-Toxic Claims Framework." S.C. Johnson agreed to comply with NARB's recommendations.

### S.C. Johnson & Son, Inc.

#### Ecover Dish Soap

Case #6349 (February 2020)

The Procter & Gamble Company challenged, among other claims, the advertiser's "biodegradable" claim which appears on the front of the product label. The advertiser presented NAD with testing in support of the biodegradability of the dish soap product formula. While the advertiser submitted reliable evidence demonstrating that the soap was biodegradable, NAD determined that the advertiser's unqualified use of "biodegradable" requires it to demonstrate that the entire product, including its packaging biodegradable pursuant to the FTC's Green Guides. NAD considered, but was not persuaded by, the advertiser's argument that the fish illustration clearly limited the unqualified claim "biodegradable" on a modified front label. The fish label may refer to the dangers that non-biodegradable soaps pose to aquatic life, but it could also refer to the harms caused when plastics and other waste that are not properly disposed and found in our waterways. In addition, an explanatory statement on the back of the package is ineffective to qualify a statement on the front of the package, where the front panel features a claim that, absent clarifying language, conveys a false or misleading message. NAD recommended that the advertiser modify the use of the claim "biodegradable" on the front label of the product to make clear that it only applies to the product formula and not the product packaging.

The advertiser agreed to comply with NAD's recommendation.

### ENERGYbits Inc.

#### ENERGYbits Spirulina Algae

Case #6280 (May 2019) // NARB Case #256 (September 2019)

NAD brought this monitoring case and ultimately recommended that ENERGYbits Inc. discontinue the claim, "And not only are they great for you, they are great for the environment too because they throw off more oxygen into the air as they grow than the entire Amazon Rainforest. Want to repair the ozone layer? Eat our algae tabs!" for its ENERGYbits Spirulina Algae. NAD determined that one reasonable message conveyed by the challenged claim is that the production of ENERGYbits is beneficial to the environment because it specifically - rather than algae in general - creates enough oxygen to repair the ozone layer, a claim that was unsupported.



The advertiser appealed this and all adverse findings to the NARB and NARB affirmed NAD's decision in its entirety.

## Olivet International, Inc.

### Pet Food Storage Containers

Case #6149 (January 2018)

Olivet supported modified claims that its pet food storage containers "contains a minimum of 25% recycled material." Van Ness Plastic Molding Company, Inc., a competing manufacturer of plastic pet food storage containers, challenged Olivet's label claims that its containers are "Made of recycled material." Olivet informed NAD in writing that it had permanently discontinued the challenged claim. The "made of recycled material" claim was modified to state, "contains a minimum of 25% recycled material." Olivet asserted that its 25% claim was supported because the lids, latches, and wheels of the containers are made from 100% post-consumer recycled plastic and make up 25% of finished products by weight. Confidential information provided to NAD regarding its recycling process, including a description of its sourcing, sorting, and processing procedures that was submitted to FDA, was sufficient to support the claim. Van Ness maintained that it was not reasonable that Olivet could obtain sufficient post-consumer waste, undertake the laborious process needed to sort and process comingled plastic, and create uniformly colored product parts from post-consumer waste in the quantity required without expending incredible and unlikely costs. NAD found that the information provided by Olivet regarding the post-consumer waste stream that it obtains from Walmart, together with information about its internal processes, addressed these concerns.

Olivet also supported modified claims that its pet food storage containers are "food safe." Olivet informed NAD in writing that it had permanently discontinued the challenged claim. The claim "BPA free and food safe" was modified to state that the product is "food safe." Olivet provided a no objection letter from FDA that addressed its capability to clean and produce recycled plastic material for use in the manufacture of food contact articles. The letter, as well as the confidential submission upon which the letter is based, describe the sourcing of food safe bulk icing buckets and lids, the lack of polymer additives used during the process, and other elements of Olivet's recycling process.

Olivet International, Inc. is pleased with NAD's decision that our pet food container claims "contains a minimum of 25% recycled material" and "food safe" are substantiated.

## Kauai Coffee Company, LLC

### Certified 100% Compostable Pods

Case #6078 (May 2017)

Kauai Coffee provided a reasonable basis for its express claims that its coffee pods are "certified 100% compostable," "compostable in industrial facilities," that they "work in all K-Cup brewers" and "Don't trash the Earth with your coffee. Brew & Renew." Many of the claims at issue were featured in a print advertisement published in the American Association for Retired Persons' (AARP) Bulletin. The 2016 confirmation letter from BPI notes that Kauai coffee pods "meet all of the requirements of ASTM D6400 or ASTM D6868: they will disintegrate and biodegrade swiftly and safely in a professionally managed composting facility and not leave behind any non-compostable residues." This evidence showing that the Kauai coffee pods are 100% compostable in industrial composting facilities also provides a reasonable basis for the advertiser's express claim "Don't trash the Earth with your coffee. Brew & Renew."

NAD recommended that Kauai Coffee discontinue its "100% Compostable" claim, or include the language "Compostable in industrial facilities. Check locally, as these do not exist in many communities. Not certified for backyard composting." NAD determined that Kauai Coffee's print



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advertisement does not clearly and prominently disclose that the pods are not suitable for home composting, nor does it indicate the limited availability of industrial composting programs (i.e. that industrial composting facilities do not exist in many communities).

NAD further recommended that the advertiser discontinue the claim “Don’t trash the Earth with your coffee. BREW & RENEW” along with the image of the trash can imprinted with a green/blue image of the earth and the “fact” that “Over 11 Billion K-CUPS go into America’s landfills each year” as these currently appear. There was no evidence in the record quantifying the actual reduction (or potential reduction) of solid waste from the use of Kauai compostable coffee pods. While the adoption and use of a compostable container could result in an environmental benefit if municipal (industrial) composting was available to a significant percent of consumers, NAD determined that, given the fact that industrial facilities do not currently exist in the majority of communities, the environmental benefits are significantly overstated.

NAD also recommended that the “Certified 100% Compostable Single-Serve Pods” on the Kauai coffee website be modified to clearly and conspicuously disclose, in immediate proximity, the qualifying language “Compostable in industrial facilities. Check locally, as these do not exist in many communities. Not certified for backyard composting.” The webpage ran afoul of the FTC’s Green Guides because it does not clearly and prominently disclose that the pods are not suitable for home composting, nor does it indicate the limited availability of industrial composting programs (i.e. that industrial composting facilities do not exist in most communities).

Lastly, NAD recommended that Kauai Coffee discontinue use of the phrase “Now you can enjoy the great taste and convenience of single-serve coffee without worrying about the environmental impact. Our certified 100% compostable pod is compatible with all K-cup brewers and is designed to go back to the land – not the landfill” as it currently appears. The phrase “now you can enjoy the great taste and convenience of single-serve coffee without worrying about the environmental impact” overstated the degree to which the Kauai coffee pods will make a “difference” by implying that the pods are compostable in all types of compost piles including home composting, when that was not the case.

Kauai Coffee agreed to comply with NAD’s recommendations.

### Beech-Nut Nutrition Company

#### Beech-Nut Baby Foods Case #6070 (April 2017)

NAD recommended that Beech-Nut discontinue its unsupported claims that “glass is the ultimate in sustainability.” Beech-Nut relied on a study conducted by its glass jar supplier to support the sustainability claim. However, the study did not evaluate the actual products which are the subject of the comparative advertising claim. Also, the jar supplier’s statement that glass containers can be “reused repeatedly,” are “infinitely recyclable,” and “100 percent recyclable” supported specific claims regarding the recyclability or longevity of glass jars, but did not support Beech-Nut’s claims regarding sustainability.

Beech-Nut agreed to comply with NAD’s recommendations.

### Nest Labs, Inc.

#### Learning Thermostat™ Case #6024 (November 2016)

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NAD determined that Nest did not reasonably convey an unqualified general environmental benefit message about its Learning Thermostat. Environmental benefits claims should be supported by competent and reliable scientific evidence. Nest Labs provided three studies to support its claims that the Learning Thermostat saved energy and money. Each study calculated energy savings based on comparisons of utility bills from before and after installation of the Learning Thermostat. NAD found that the methodology in calculating the overall kWh of energy saved was reasonable, the runtime data was robust and sufficiently represented its users' energy consumption, and the calculation provided a reasonable basis for the claim that the Learning Thermostats have saved 7.3 billion kilowatt-hours of energy.

NAD also determined that Nest provided a reasonable basis for its message that its Nest Learning Thermostat provides an energy efficient or energy saving benefit, and its express energy savings claims.

Nest agreed to comply with NAD's recommendations.

## Epson America, Inc.

### Epson EcoTank Supertank Printers

Case #6009 (October 2016)

Epson America, Inc. voluntarily discontinued advertising that its Epson EcoTank Supertank printers were "loaded and ready," "loaded and ready with up to two years of ink in the box," and its use of the phrase "loaded and ready" in its two YouTube videos. In order to confusion, NAD recommended that Epson clearly indicate that the ink is included in the box, rather than that "2 years of ink" had been pre-loaded into the ink tanks.

NAD determined that Epson provided a reasonable basis for the implied claim that there was a solid waste reduction environmental benefit associated with the high capacity refillable ink tank of its EcoTank Supertank printers, as compared to other inkjet printers which use disposable cartridges, and that this benefit is meaningful. The "EcoTank" name itself did not communicate a general environmental benefit.

While NAD determined that consumers could save money on ink by using the Epson EcoTank Supertank printer, it recommended that Epson discontinue the unqualified claims that EcoTank saves consumers "a small fortune" and "lots of money" on ink. Nothing precluded Epson from making the claim that consumers can "save money" on ink provided that the basis for the savings is clearly and conspicuously disclosed.

NAD determined that Epson's Internet advertising claim that its EcoTank Supertank prints provided an "unbeatable combination of convenience and value," in two YouTube videos was supported and that the videos adequately disclosed the basis for Epson's value claim. Respect to claims on Epson.com that Epson EcoTank printers offered "an unbeatable combination of convenience and value," and were "economical," NAD recommended that the font size of the disclosures be increased to a size that is more easily visible.

Epson agreed to comply with NAD's recommendations.

## Applegate Insulation

### Cellulose Insulation Products

Case #5961 (June 2016)

NAD recommended that Applegate Insulation discontinue its unsupported comparative performance claims that cellulose insulation provides superior energy savings over fiberglass insulation, resulting in consumers having reduced heating and cooling bills.

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NAD further recommended that Applegate discontinue the unsupported claim that “Some studies have shown boron might lower the risk of some cancers and is a chemical commonly found in vegetables such as almonds, apples, rising, and pears, according to BoraxPioneer,” and the claim that “The fire retardant additives used to manufacture Applegate are non-toxic. One of the additives, boric acid, is six times less toxic to humans than table salt!” Nothing precluded Applegate from making an appropriately qualified truthful claim about the safety of its product, provided that it refrain from making categorical “non-toxic” claims.

NAD determined that Applegate provided a reasonable basis for its “R-value per inch claims,” noting that the evidence in the record supports a finding that Applegate’s cellulose insulation meets the exception to the FTC’s R-value rule and therefore, Applegate is not prohibited by that rule from making “R-value per inch” claims.

Lastly, NAD recommended that Applegate discontinue the unsupported claim that “Applegate Insulation quiets a home better than fiberglass by reducing air infiltration through wall cavities. Applegate Cellulose completely fills the intended space making it difficult for sound to pass,” and the graph depicting the superior acoustic performance of cellulose over fiberglass batts. Applegate failed to demonstrate any real world consumer relevance for its sound bucket demonstration.

Applegate agreed comply with NAD’s recommendations.

## LEI Electronics Inc.

### Eco Alkalines Batteries

Case #5927 (February 2016)

NAD appreciated LEI’s voluntary permanent discontinuance of a challenged Internet commercial that appeared both on its website and YouTube channel that contained claims regarding recycled content. The voluntarily discontinued claims will be treated, for compliance purposes, as though NAD recommended their discontinuance and the advertiser agreed to comply.

LEI did not provide a reasonable basis for its unqualified recyclability claim about its batteries, but did support a recyclability claim regarding its product packaging. The FTC Green Guides state that a product or package is recyclable if it “can be collected, separated, or otherwise recovered from the waste stream through an established recycling program for reuse or use in manufacturing or assembling another item.” In cases concerning recyclability claims, advertisers have presented evidence that included end of life studies and/or testing conducted by material recovery facilities that analyzed the product’s actual recyclability. LEI did not provide any evidence to support the claims that the batteries were recyclable, or that battery recycling facilities were available to at least 60 percent of consumers where the products are sold in the U.S. The product packaging was made of paper and PET plastic. Paper and PET plastic recycling is widely available in the United States.

NAD appreciated LEI’s commitment to qualifying and clarifying its recycled content claims and recommended that, in doing so, LEI follow the FTC Green Guides. In trying to honor the FTC Green Guides, LEI agreed to change the term “recyclable” to “recoverable” on product packaging and other applications, and clarify the availability, cost, and effort to the consumer for recycling spent alkaline batteries. However, LEI stated that it will continue to use the phrase “Eco-Responsible Batteries” as it forms part of the Eco Alkalines registered trademark.

NAD also recommended that LEI modify its advertising to avoid the implication that its Eco Alkalines are made with or provide renewable energy, and to expressly disclose that the “Alternative Energy” image on its website banner refers to LEI’s support of carbon offset projects through Carbonfund.org.

NAD further recommended that Lei discontinue its unsupported degradability claims, non-toxic claims, carbon neutral claims, general environmental benefits claims, comparative environmental claims, and comparative performance claims. The FTC Green Guides observes that “third-party certification does not eliminate a marketer’s obligation to ensure that it has substantiation for all

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claims reasonably communicated by the certification.” An advertiser must still have competent and reliable scientific evidence in order to substantiate environmental claims in its advertising. Thus, NAD determined that the Carbonfund.org and CarboNZero certifications, by themselves, were insufficient to substantiate the advertiser’s carbon neutral or carbon offset claims. LEI refused to discontinue its claim that its EcoAlkalines batteries are carbon neutral.

LEI thanked NAD for inclusion and its consideration in this self-regulatory process, but was disappointed with some of NAD’s findings with which it did not agree to comply. Consequently, NAD referred this case to the attention of the appropriate government agency for possible enforcement action.

## Comcast Cable Communications, LLC

### Xfinity Cable Television Service

Case #5926 (February 2016)

Comcast’s “save energy” claim was supported, but NAD recommended that Comcast avoid the potential for consumer confusion by making it clear that the claim refers to the savings that consumers can achieve by virtue of the programmable thermostat that is provided as part of the Xfinity home service.

The advertiser agreed to comply with NAD’s recommendation.

## New WinCup Holdings, Inc.

### Vio Cups

Case #5902 (November 2015)

New WinCup Holdings, Inc. provided a reasonable basis for its narrowly tailored biodegradability claims. A competitor in the single-use foodservice products market Dart Container Corporation challenged WinCup’s advertising for its Vio Cups as the first biodegradable expandable polystyrene foam cup. The claims at issue identified the specific types of landfills simulated by the laboratory test conditions, and expressly stated the actual test duration/extent of degradation shown in the results of ASTM D5511 testing. ASTM D5511 was the proper level of substantiation for the biodegradability claims. However, WinCup should further qualify its biodegradable claim by stating the percentage of consumers or communities that have access to landfills where the Vio material will biodegrade, or WinCup may use language which accurately indicates to consumers the limited availability of such landfills.

NAD also determined that WinCup’s biodegradability claims must be clearly and prominently qualified. NAD appreciated that WinCup made the comprehensive change of adding an asterisk following the word “biodegradable” throughout the [www.wincup.com](http://www.wincup.com) website. However, NAD determined that the qualification, which appears at the very bottom of WinCup’s website home page, is not conspicuous or in close proximity to the biodegradability claims it is qualifying and recommended that the advertiser modify its website advertising by moving the disclosure in close proximity to the triggering claims.

NAD further appreciated that WinCup removed its Facebook post which included a “biodegradable” claim without any qualifying language. This was necessary to meet FTC regulations requiring that biodegradability claims be qualified where the product will not decompose within one year after customary disposal. Further, unless WinCup is capable of properly qualifying its biodegradability claims on Twitter, NAD recommended that it refrain from making biodegradability claims on this platform. With regard to WinCup’s Vio video on YouTube, NAD recommended that the qualification in the description box be moved in immediate proximity to the heading “Vio™ Biodegradable\* Foam Cups,” and that the font size be increased to a size that is more easily visible. With regard to the Vio video itself, NAD determined that the qualifications for WinCup’s biodegradability claims were sufficiently clear and prominent.

NAD recommended that the following claims be discontinued: (1) “99% of all plastic foodservice disposables end up in a landfill\*\* And that is exactly where Vio makes a difference” and (2) “It all comes together with Vio™, the breakthrough biodegradable\* foam cup. Vio™ tells customers, ‘IT’S OK TO THROW ME AWAY,’ so you won’t have to modify your waste stream one bit in order to do good.”

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Lastly, NAD recommended that an advertisement be modified to remove the claim “Did you know 99% of plastic foodservice disposables end up in a landfill? And that is exactly where Vio makes a difference. You don’t have to modify your waste stream one bit to complete the eco-friendly story,” and accompanying imagery.

New WinCup Holdings, Inc. agreed to comply with NAD’s recommendations.

### Gobble, Inc.

#### Gobble Meal Delivery Service

Case #5896 (November 2015)

Gobble, Inc. voluntarily discontinued claims that its meal delivery service used eco-friendly materials. FTC guidelines require that biodegradability claims be qualified where the product will not decompose within one year after customary disposal. Gobble stated that, although it had a good faith belief that its claims were true when it made them, it permanently discontinued the claims given its understanding of NAD’s concerns and the FTC Green Guides. NAD did not review these claims on their merits.

### Energizer Holdings, Inc.

#### EcoAdvanced Recycled Batteries

Case #5893 (October 2015)

Energizer Holdings, Inc. provided a reasonable basis for its expressly quantified claims that its EcoAdvanced batteries were made with 4% recycled batteries (by weight). NAD requested substantiation for website and print advertising for Energizer’s recycled batteries. Energizer provided a detailed description of the proprietary process by which EcoAdvanced batteries are manufactured using one of the key active ingredients from recycled batteries, and the environmental claim validation conducted by Underwriters Laboratories which confirmed that the batteries are made with 4% recycled batteries by weight (which is 10% of a key active ingredient). Also, an Internet search did not find any evidence to contradict the claim that Energizer was the world’s first battery manufacturer to produce and market alkaline batteries composed of recycled batteries. With regard to Energizer’s claim that EcoAdvanced batteries are “The world’s first long-lasting battery made with recycled batteries,” NAD recommended that the claim should be qualified by the recycled content amount of 4%.

Energizer Holdings, Inc. also provided sufficient support of its claim that its EcoAdvanced batteries produced less impact on the environment. A study on the life-cycle assessment of alkaline batteries submitted by Energizer noted that battery recycling could be beneficial in the right circumstances, and that in terms of energy, carbon, the ecosystem, and human health, “the main benefit from recycling stems from the recovery of zinc, manganese, and steel.” The results of the study showed that the use of recycled material in EcoAdvanced batteries resulted in a 5% reduction in global warming potential, an 8% reduction in acidification, less eutrophication, and less energy demand. These reductions constituted meaningful reductions in environmental impact. NAD also acknowledged the general proposition that less consumer waste would be generated by a longer lasting battery. With regard to Energizer’s print advertising, NAD recommended that the qualifying language regarding the percentage, by weight, of recycled content in the EcoAdvanced batteries (4%) appear in immediate proximity to the triggering claim that the batteries contain recycled content (that EcoAdvanced “Isn’t 100% New”).

Lastly, Energizer Holdings, Inc. provided a reasonable basis for claims that its EcoAdvanced batteries produce less impact on the environment. The advertising implied that Energizer’s technological breakthrough was significant and that the ultimate benefit this technology will have on the environment was meaningful.

Energizer agreed to comply with NAD’s recommendations.

**Vogue International, Inc.****OGX Shampoos and Conditioners**

Case #5844 (May 2015)

NAD recommended that Vogue International, Inc. discontinue claims that its Weightless Hydration Coconut Water Shampoo had “Zero SLS/SLES” or otherwise implying that the shampoo contained sulfate-free surfactants. Sodium Lauryl Sulfate and Sodium Lauryl Ether Sulfate are two common shampoo ingredients. A “free of” is not appropriate if “the product, package or service contains or uses substances that pose the same or similar environmental risks as the substance that is not present.” Ammonium Lauryl Sulfate, which was found in the shampoo, is a sulfate-based surfactant like SLS and SLES. Vogue failed to demonstrate that it was different from or lacked the undesirable attributes associated with other sulfates which consumers seek to avoid when choosing products with sulfate-free surfactants.

Vogue agreed to comply with NAD’s recommendations.

**MicroGreen Polymers, Inc.****InCycle Food Service Products**

Case #5836 (April 2015)

MicroGREEN Polymers, Inc. (“MicroGREEN”) voluntarily committed to properly qualify or remove all unqualified recycled content claims from its marketing campaigns and website. MicroGREEN also agreed to discontinue or revise graphics and claims used on its InCycle products to specifically list the environmental benefits of its InCycle products and avoid making general environmental benefit claims that cannot be substantiated. It also voluntarily discontinued its unsubstantiated claims that foam products are “dangerous to marine life” and “impossible to recycle.”

MicroGREEN failed to provide a reasonable basis for its unqualified recyclability claims for its InCycle cups because it did not show that that a “substantial majority” of consumers have access to recycling facilities for its InCycle cups. NAD advised MicroGREEN to follow Federal Trade Commission (FTC) Guidelines in developing future marketing communications concerning the recyclability of its InCycle cups.

NAD was unable to obtain an advertiser’s statement because there was no one remaining at the company with the authority to act on its behalf.

**Berry Plastics Corporation****Versatile Polypropylene Cups**

Case #5835 (April 2015)

NAD found that Berry Plastics Corporation could support properly qualified comparative superiority claims for the company’s Versalite polypropylene cups. In reaching its decision, NAD determined that the advertiser reasonably established that its Versalite cups would be treated as “non-bottle rigid poly propylene” in the real-world recycling stream where the Versalite items are marketed or sold – a threshold requirement for making unqualified recyclability claims under the Federal Trade Commission (FTC) Green Guides.

NAD determined that the advertiser’s unqualified recyclability claims were supported based on test results demonstrating that recycling centers could properly identify and separate the product. NAD also determined that the advertiser supported the claim that its cups were “easy to recycle.” NAD noted that the claim that, “More than 61% of Americans have access to recycle polypropylene, including many communities accepting #5 plastics curbside,” was factually accurate. However, NAD recommended that the phrase “Berry Plastics has created a technology that blends superior performance with environmental responsibility,” which appears on a web page standing alone, be modified to more clearly indicate, in close proximity to the claim of “environmental responsibility,” those attributes of Versalite that make it an environmentally responsible product.

Berry agreed to comply with NAD’s recommendation.



**Nurture, Inc.****Happy Baby and Happy Family Infant and Toddler Food Products**

Case #5710 (May 2014)

NAD reviewed advertising claims that promoted “Happy” brand baby and toddler food products as made without genetically modified ingredients and determined that the advertiser could support the claim that its products “meet the standard for non-GMO claims.” However, NAD determined that claims at the company website implied that food containing genetically modified ingredients are unhealthy or dangerous to children. NAD recommended that claims that tied the advertiser’s “no GMOs” claim to health or safety superiority be discontinued.

NAD determined the advertiser substantiated the claim that its products, “meet the standard for non-GMO claims.” The advertiser explained that several of its products were certified organic and subjected to Non-GMO Project Verification. Products unable to be verified by the Non-GMO Project were tested by an outside lab.

NAD found that as long as an advertiser followed the current marketplace and industry practice of what the industry considered to be GMO free, then the “no GMOs” claim was substantiated. NAD added that, “Until such time as science is capable of substantiating that there is a zero level of bioengineered material in a product, claims such as ‘No GMOs’ or ‘non-GMO’ accurately convey information regarding the manner in which a product has been produced (i.e. without the use of genetically engineering) and not that the products are actually GMO free.”

The advertiser agreed to comply with NAD’s recommendations.

**GreenPan Inc.****Thermolon Ceramic Coated Cookware**

Case #5519 (October 2012)

NAD was presented with the issue of whether GreenPan’s literally truthful claims about the composition of its product—its pans do not contain the chemicals PFOA or PTFE—were presented in a context which conveyed an unsubstantiated implied better for the environment or superior safety claims.

NAD concluded that the juxtaposition of GreenPan’s PFOA-free claims with broad “eco-friendly” claims, as well as the juxtaposition of PTFE-free claims and broad health and safety claims, conveyed an unsupported implied superiority message. NAD noted that most PTFE non-stick coatings are no longer made with PFOA. Accordingly, it recommended that the advertiser modify or discontinue these claims to avoid conveying the unsubstantiated message that its product is broadly better for the environment, healthier, or safer than non-stick pans that use PTFE.

NAD stated GreenPan could continue to describe the composition of its products as “PFOA-free” and “PTFE-free,” as long as the claim was not made in a way that could suggest to consumers that the product is superior to PTFE coatings.

NAD also recommended the discontinuance of the advertiser’s broad “eco-friendly” and energy savings claims. It noted that the claims conveyed the message that each pan provided this benefit, and could not be supported by evidence that GreenPan’s global manufacturing process emitted less CO2 emissions than competing PFOA processes. Likewise, the advertiser’s evidence regarding energy savings was not consumer relevant or meaningful.

NAD further recommended modification of the “please recycle” claim to avoid the message that the GreenPan cookware was recyclable, not just the product’s packaging. NAD found that the characterization of GreenPan as “ceramic” was appropriate but NAD recommended discontinuance of the “natural,” “mineral,” and “mineral based” claims because the product in its final form was chemically altered.

The advertiser agreed to comply with NAD’s recommendations.

**Generac Power Systems, Inc.****Home Stand-by Generators**

Case #5506 (September 2012)

Environmental benefits can influence the purchasing decision of consumers, yet consumers cannot typically verify the truth of environmental claims. As a result, advertising self-regulation plays an important role in ensuring that environmental claims are truthful, non-misleading and adequately substantiated. NAD has recognized in the past that products that consume substantial amounts of power cannot accurately characterize themselves as “environmentally friendly” without demonstrating significant environmental benefits. Generac did not substantiate the challenged claim “the most environmentally friendly generator on the market” with head-to-head testing of fuel efficiency and emissions of competing generators in multiple phases of operation. NAD therefore recommended that the broad unsupported claim, “the most environmentally friendly generator on the market,” be discontinued. However, NAD noted that Generac could tout the shortened exercise cycle of its generators.

The advertiser agreed to comply with NAD’s recommendation.

**EuroMedica, Inc.****PhosphOmega-3/Vectomega Supplements**

Case #5474 (June 2012)

NAD determined that the claim “PhosphOmega-3 is 100% sustainable and derived from 100% pure North Atlantic salmon” is an express environmental marketing claim. As such, NAD noted, consumers concerned with sustainable fishing practices might reasonably expect the advertiser’s sustainability claim to be supported with measures aimed at preventing over-fishing, assuring repopulation and minimizing habitat damage. The general term “sustainable” has become part of the national vernacular of environmental marketing. While there is currently no one standardized definition of sustainability, the term is often used broadly to encompass not just the typical associations with environmentalism – the protection and preservation of plant and wildlife – but also how the sustainable product intersects with other conditions such as economic development, labor and employment and local, national and global laws. For example, sustainable business practices have been described as “how an organization contributes, or aims to contribute in the future, to the improvement or deterioration of economic, environmental, and social conditions, developments, and trends at the local, regional, or global level.” NAD determined that the advertiser’s mere assertions that there is no depletion of wild salmon populations and the fillets of the salmon are used in the food industry after the head tissues are processed into raw material is insufficient to support the advertiser’s sustainability claim. Therefore, NAD recommended that the advertiser discontinue its claims that “PhosphOmega-3 is 100% sustainable and derived from 100% pure North Atlantic salmon.”

The advertiser agreed to comply with NAD’s recommendation.

**Chipotle Mexican Grill****Chipotle Restaurants**

Case #5450 (April 2012)

NAD determined that Chipotle Mexican Grill could support implied claims made in an animated feature, “Back to the Start,” that all animals which provide the meat for Chipotle products are naturally raised.

The advertising at issue appeared on the YouTube website, online at Chipotle.com, on Chipotle’s Facebook page, in movie theaters in advance of feature films, and on television. It uses stop-motion animation to depict a farmer’s journey to sustainable farming.

NAD requested that the advertiser provide substantiation for two implied messages:

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- Chipotle's goal is to exclusively use "naturally-raised" meat in its restaurants
- Chipotle has already achieved this goal and all of the animals which provide the meat (pork, chicken and beef) for Chipotle products are, in fact, "naturally-raised."

The video – a first for Chipotle – was directed by London-based John Kelly and featured a cover of the Coldplay song "The Scientist," sung by music icon and family farm advocate Willie Nelson.

NAD, in its decision, noted that it "appreciates the challenges faced by advertisers who wish to communicate information to consumers about sustainability measures taken by a company. NAD recognizes the positive role that advertising can play in raising consciousness about sustainability and informing consumers of the activities and commitments made by the company. Nevertheless, because images and terms suggestive of sustainability can give rise to so many different meanings and expectations on the part of consumers, such claims can be difficult to substantiate."

NAD recognized that there is a distinction between, on one hand, an advertisement that claims the advertiser possesses green attributes or sustainable practices, and, on the other hand, an advertisement that communicates a goal of sustainability or a more aspirational message. NAD noted however, that even if the advertisement's message of sustainability is merely aspirational, the advertising claim still requires substantiation.

The advertiser explained that its website, other marketing materials and its filings before the Securities and Exchange Commission include in-depth information about the company's Food with Integrity programs, including indications of how much meat is "naturally-raised" – using Chipotle's definition of "naturally-raised," (a more stringent definition than the one established by the U.S. Department of Agriculture), how much produce is organic or locally sourced, and how much dairy comes from pasture-raised cows.

Following its review of the evidence in the record, NAD found that the advertiser provided a reasonable basis for the two messages implied in the "Back to the Start" film – both its aspirational message and the message that all of the animals which provide the meat for Chipotle are, in fact, "naturally-raised" according to Chipotle's own definition of the term.

However, NAD cautioned the advertiser that, although its implied messages are currently substantiated, to the extent that supply constraints result in shortages of "naturally-raised" meats in particular markets, future advertising may need to disclose this fact."

Chipotle agreed to comply with NAD's recommendation.

## Ecologic, LLC

### Eco-One Plastics Additive Case #5388 (October 2011)

NAD determined that while the evidence did not support a claim that the additive Eco-One rendered plastics "biodegradable," the evidence supported a more limited claim that Eco-One "enhances biodegradation" in optimized, high-solids anaerobic digestion conditions. NAD thus recommended that the advertiser modify its claim as such, to make clear that any claim to "enhance biodegradation" is qualified by denoting in the claim itself that the testing utilized optimized, high-solids anaerobic-digestion conditions, which are not typical of the vast majority of landfills in the United States today. Based on a confidential summary of Eco-One's ingredients, along with an attestation that these ingredients are 100% organic and non-starch based, NAD was satisfied that the advertiser had substantiated the claim that "Eco-One is 100% organic and non-starch based." NAD was also satisfied that the advertiser had supported its claim that "Eco-One is accepted by major national brands." Provided that Ecologic complies with the recommendations set forth above, NAD determined that the advertiser could also substantiate its claim that "[p]roducts made with Eco-One are scientifically proven and have been analyzed by independent tests, each one validating Eco-One claims."

The advertiser agreed to comply with NAD's recommendations.

**LALA-USA, Inc.****La Crème Real Dairy Creamer**

Case #5359 (August 2011)

This case involved in part a series of “Cow Tip” vignettes that claimed competing non-dairy creamers contained ingredients also found in paint, glue, shampoo and shaving cream, and that some non-dairy creamers are flammable and contain trans fat. The vignettes were also linked to YouTube videos where non-dairy creamers were shown as a replacement for glue or paint. During the course of NAD’s review, the advertiser said it would permanently discontinue the challenged vignettes and claims, action that NAD found necessary and proper.

NAD determined that the challenged advertisements did not convey an implied all-natural claim and concluded that the advertiser could support the claims “100% Dairy” and “Real Dairy.”

**Avon Products, Inc.****mark. Personal Care Products**

Case #5338 (June 2011)

NAD has, in recent years, observed a dramatic rise in environmental and social impact advertising claims in the marketplace. Because customers cannot easily verify for themselves whether social impact claims, such as “Fair Trade Certified”, are truthful or meaningful, purchasers often rely on advertising, including certification marks, to determine what benefits the product offers. As a result, advertising self-regulation plays an important role in helping to ensure the truth and accuracy of such claims. The term “fair trade” is generally used to denote agricultural ingredients and products that have been purchased from groups of farmers in developing countries, who have been paid a guaranteed minimum price plus a “premium” for community development projects, who treat their farm workers in accordance with recognized standards for achieving safe, healthful working conditions, and who commit to using environmentally sustainable farming methods.

NAD recommended that Avon adhere to NAD’s recommendations outlined in the TransFair USA proceeding and modify challenged authorized statements made on its product packaging and in its print and Internet advertisements so that it is clear to consumers that Avon personal care products are made with some “Fair Trade Certified Ingredients” but the total product formulation may only contain 2-5% fair trade certified ingredients. NAD was satisfied that, in the context in which the “Fair Trade Certified Ingredients” and “Fair Trade Certified Ingredient-Specific” (composite product) seals appeared on the product packaging (i.e. in combination with the “Made with Fair Trade Certified Ingredients ...” statement coupled with the names of the certified ingredients on the front panel of the product packaging and the ingredient list, which marked the fair trade certified ingredients with an asterisk), consumers are not likely to understand the composite product seals to mean that the products are comprised of 100% fair trade certified ingredients. Finally, NAD determined that the print and Internet advertisements send a much stronger “Fair Trade Certified” ingredient content message than the evidence in the record would support. Therefore, NAD recommended that, to avoid the potential for consumer confusion, the advertiser discontinue its use of photographs of fair trade farm workers and statements like “help change the world with four of the best body care products on earth.”

Avon agreed to comply with NAD’s recommendations.

**Transfair USA****Fair Trade Certification**

Case #5337 (June 2011) // NARB Case #174 (August 2012)

With respect to the “Fair Trade Ingredient” and “Fair Trade Ingredient-Specific” seals, NAD concluded that although the composite product seals are very similar to the “Fair Trade Certified” seal, the composite

product seals do not appear alone, but rather, alongside a prominent “Made with Fair Trade Certified ingredients ...” statement on the front of the product label (e.g., “Made with Fair Trade Certified ingredients: Shea Butter, Cocoa Butter, White Tea Extract”) as well as an ingredient list which highlights all fair trade certified ingredients with an asterisk. For these reasons, NAD determined that when the composite product seals (for personal care products) appear in this context, consumers are unlikely to take away the implied message that such products are comprised entirely of fair trade certified ingredients. NAD determined that use of the TransFair “Fair Trade Certified” ingredient seal on the front panel of product packaging, in a context that included a statement of fair trade sourced ingredients on the front panel and identification of fair trade sourced ingredients in the ingredients panel, accurately conveyed the degree to which fair trade sourced ingredients are included in the product.

In contrast, NAD determined that the TransFair authorized statements, which often appear alongside composite product seals, do not convey an accurate message regarding the actual amount of fair trade certified ingredients present in personal care products. Rather, NAD concluded that the TransFair authorized statements for personal care products should not only explain the plain meaning of fair trade, but inform consumers that the personal care industry is subject to a separate set of policies which only require 2-5% fair trade ingredients in order to display one of the two composite product seals. NAD recommended that TransFair modify these authorized statements so that it is clear to consumers that personal care products may only contain 2-5% fair trade certified ingredients. The advertiser agreed to comply with NAD’s recommendations.

The challenger requested leave to appeal concerning NAD’s determination that the use of the TransFair “Fair Trade Certified” ingredient seal on the front panel of product packaging, in a context that included a statement of fair trade sourced ingredients on the front panel and identification of fair trade sourced ingredients in the ingredients panel, accurately conveyed the degree to which fair trade sourced ingredients are included in the product. The NARB granted the challenger’s request.

NARB — (#174 — 08.14.2012) — The panel recommended that TransFair modify the requirements for display of its “Fair Trade Certified” ingredient seal for composite products to require sufficient information to enable consumers to determine the relative percentage of fair trade sourced ingredients by weight. The advertiser agreed to comply with NARB’s recommendation.

## FP International

### **Biodegradable SUPER 8 Loosefill Environmentally Friendly Packaging** Case #5256 (December 2010)

NAD recommended that FP International, the maker of “Biodegradable Super 8 Loosefill” packing material, omit the word “biodegradable” from the product’s name and modify or discontinue certain comparative advertising claims. NAD determined that the advertiser could support a carefully qualified “green family” claim.

NAD also examined comparative claims and claims related to general environmental benefits. NAD concluded that there was insufficient evidence to support an unqualified biodegradable claim or the advertiser’s more limited claim that Super 8 Loosefill would biodegrade completely in a landfill within 9 to 60 months.

NAD recommended that the advertiser discontinue the use of the term “Biodegradable” in conjunction with the name of the product and discontinue the claim that the product biodegrades in a landfill within 9 to 60 months.

NAD recommended that the advertiser discontinue certain comparative claims including the claim that starch loosefill “uses crops which may increase food prices and decrease food supply” and that its own loosefill product “emits 83% less greenhouse gas emissions than starch in its production.”

NAD determined that the advertiser provided a reasonable basis for certain qualified environmental benefit claims regarding its product, including the product’s recyclability, reusability, comparatively light weight and other factors contributing to more favorable environmental impact or sustainability. As a result,

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NAD determined that the “Green Family” claim was adequately substantiated, if used in a context that clearly and conspicuously disclosed that the product attributes form the basis for the claim.

The advertiser agreed to comply with NAD’s recommendations.

### The Sherwin-Williams Company

#### Harmony® Paint

Case #5257 (November 2010)

NAD determined that a paint manufacturer’s claim of “zero-VOC” (zero volatile organic compounds) was a line claim for its Harmony paints, which was not adequately supported by the evidence in the record. NAD therefore recommended that the claim be discontinued or modified to clearly and conspicuously indicate that Harmony Deep Base with conventional colorants added might have higher levels of VOCs.

The advertiser agreed to comply with NAD’s recommendations.

### Frito-Lay North America, Inc.

#### SunChips® Snacks

Case #5237 (October 2010)

NAD administratively closed an inquiry with regard to a snack manufacturer’s claim “My chips are made with solar power” because the advertiser had permanently discontinued this claim prior to the commencement of the action. Further, the advertiser agreed to permanently discontinue the claim “In California, SunChips® snacks are made with the help of the sun.\* \* Solar collectors at one of our plants in Modesto, California capture solar energy to help make SunChips® snack.” NAD found discontinuance of the claim to be necessary and proper because a consumer could reasonably take away the message that all SunChips® were made in factories that were one hundred percent solar-powered, a claim that was not accurate. NAD noted that the advertiser’s effort to manufacture some portion of its nationally distributed SunChips® snacks in an energy-conscious manner is a laudable action. NAD determined, however, that when viewing the claim “In California, SunChips® snacks are made with the help of the sun” in the context of the entire advertisement, i.e., the shining sunny wheat field, blue skies and the sun-kissed woman, that the disclosure “Solar collectors at one of our plants in Modesto, California capture solar energy to help make SunChips® snacks,” contradicts rather than cures the inaccurate message.

Frito-Lay agreed to comply with NAD’s recommendation.

### S.C. Johnson & Son, Inc.

#### Ziploc Evolve

Case #5225 (September 2010)

NAD determined that a household products manufacturer substantiated claims that its Ziploc Evolve plastic bag was “made with 25% less plastic” and, in the context advertised, was “better for the environment.” To avoid confusion and to provide clearer information to consumers, NAD recommended that the claim “made with wind energy” be modified to expressly communicate that that product was made partially from wind energy, or that it was manufactured using wind energy, provided that the claim clearly communicates that there was a combination of wind and traditional energy sources.

The advertiser agreed to comply with NAD’s recommendations.



**Seventh Generation, Inc.****Seventh Generation Household Cleaning & Laundry Products**

Case #5206 (August 2010)

NAD recommended that a manufacturer of household cleaning and laundry products discontinue any express or implied claims that its products did not contain any hazardous chemicals. NAD further recommended that the advertiser discontinue unsupported comparative safety claims (such as claims portraying competing products as “not safe” and “leading to a rapid increase in childhood illnesses”) and significantly limit references to consumers having to hold their breath when using household cleaning products by making the basis of comparison clear. However, NAD noted that nothing in this decision prevented the advertiser from touting its efforts in minimizing the inclusion of hazardous chemicals and its disclosure of all ingredients in its household cleaning products.

The advertiser agreed to comply with NAD’s recommendations.

**Elanco Animal Health Division****Comfortis Chewable Tablets**

Case #5134 (January 2010)

NAD noted that, while the advertiser had a right to tout the fact that the active ingredient in its product won the 1999 EPA Presidential Green Chemistry Challenge Award, the mere existence of this award was insufficient to support the advertiser’s general description of its product as “environmentally friendly.” NAD recommended that the advertiser discontinue its use of the “environmentally friendly” claim.

The advertiser agreed to comply with NAD’s recommendation.