

August 11, 2016



Via UPS

Jennifer M. Daniels, Esq.
Chief Legal Officer and Secretary
Colgate Palmolive Company
300 Park Avenue, 8th Floor
New York, NY 10022

Re: False and Misleading Page on Colgate Website re “How to Identify Organic Toothpaste”

Dear Ms. Daniels:

I am writing on behalf of our client, the Organic Consumers Association (“OCA”), to call your attention to a false and misleading page on Colgate’s website, entitled “How To Identify Organic Toothpaste,” in the “Oral Care Center/Selecting Dental Products” section of the website; and located at <http://www.colgate.com/en/us/oc/oral-health/basics/selecting-dental-products/article/how-to-identify-organic-toothpaste-1014>. OCA is the nation’s leading nonprofit organization advocating for the interests of consumers of organic products, representing supporters including some 2 million individual consumers and thousands of businesses in the organic marketplace. OCA advocates for the interests of consumers in the areas of food safety, industrial agriculture, genetic engineering, corporate accountability, fair trade and environmental sustainability

The web page at issue, which appears in the “Selecting Dental Products” section of the website and purports to provide guidance to consumers on “How to Identify Organic Toothpaste,” contains a number of statements which are false and misleading to consumers, and defamatory of OCA. First, the webpage refers to the certification of organic products and products “made with organic ingredients” by the U.S. Department of Agriculture. The webpage then states that “[o]ne problem that consumers face. . . is that these USDA Organic standards do not apply to personal care products like oral care products or cosmetics.” This statement is absolutely false. The standards for certification of products as “organic” or “made with organic ingredients” are set forth in 7 C.F.R. Part 205. USDA’s National Organic Program (“NOP”) has made clear that:

If a cosmetic, body care product or personal care product contains or is made up of agricultural ingredients, and can meet the USDA/NOP organic production, handling, processing and labeling standards, it may be eligible to be certified under the NOP regulations

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USDA, Agricultural Marketing Service, National Organic Program, Fact Sheet, “Cosmetics, Body Care Products and Personal Care Products” (April 2008), <https://www.ams.usda.gov/sites/default/files/media/OrganicCosmeticsFactSheet.pdf>. In fact, numerous personal care products are labeled “Organic” or “Made with organic ingredients” in accordance with NOP certification, including certain toothpaste products. Personal care products containing at least 95 percent organically produced ingredients may display the “USDA Organic” seal. By suggesting that toothpastes cannot be certified “Organic” or “made with organic Ingredients” by USDA/NOP, the webpage misleads consumers into believing, inaccurately, that they should not look for or rely upon USDA/NOP certification in selecting a genuinely “organic” toothpaste. That will hurt the sales of organic brands that are so certified.

Second, the webpage, immediately after stating that “consumers need to read labels carefully to make sure products labeled as organic actually are organic,” suggests that consumers consider pairing an unflavored toothpaste “with a mouthwash like the new Colgate® Total® Lasting White. . . which coats your teeth with an invisible shield against the stains that often tempt people to use complex bleaching agents.” The implication of this statement is that this Colgate product is “actually organic,” which of course it is not. This Colgate mouthwash product contains not a single certified organic ingredient, and contains chemical compounds which would not be permitted to be present in any product labeled organic or made with organic ingredients. Again, by implying that consumers who want to select an organic product can turn to this Colgate product, the webpage misleads consumers into selecting that product on the false pretense that it is in some way “organic,” to the detriment of those companies marketing genuinely organic product and products “made with organic ingredients.”

Third, the webpage then suggests that “[a]nother way consumers can gain confidence in organic products is by seeking the approval of dental associations,” by looking for the American Dental Association Seal of Acceptance. That statement is blatantly false and misleading, as the American Dental Association does not, and does not purport to, certify any product as “organic.” The ADA Seal appears on numerous dentifrice products which are *not* organic, do not claim to be, and could never lawfully be marketed as such, including, of course, all of Colgate’s toothpaste and mouthwash products carrying the ADA Seal. To suggest that consumers can identify organic products by looking for the ADA Seal is extremely detrimental to the marketers of genuinely organic and certified organic dental and mouth hygiene products that do not carry that seal but that can legitimately be marketed as “organic” or “made with organic ingredients” because they meet USDA/NOP standards as determined by an accredited certifying agent, or because, in the case of “made with” products, they meet a recognized private standard such as ANSI/NSF 305 (“Contains organic ingredients”).

Fourth, the webpage then immediately indicates that “Tom’s of Maine, for example, is the only organic toothpaste brand to receive the ADA Seal of Acceptance, which is known worldwide as a standard of quality, safety and product efficacy . . .” In fact, Tom’s of Maine does not make or sell *any* organic toothpaste or any toothpaste labeled “made with organic ingredients.” Tom’s of Maine does *not* label any of its products as “organic” or as “made with organic ingredients” and does not market them as such. By falsely promoting Tom’s as an “organic” product, the webpage can mislead consumers into buying Tom’s believing,

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inaccurately, that it is an “organic toothpaste,” harming the business of those companies that do in fact manufacture and market organic or made with organic ingredients dentifrice and mouth care products.

Fifth, immediately following the misstatements about Tom’s of Maine and the ADA Seal, the webpage states that, “In addition, the Organic Consumers Association... is working hard to protect consumers through a public awareness drive called the Coming Clean Campaign. This campaign strives to separate true organic from false advertisers.” While that statement is certainly true on its face, its placement on this webpage and immediately following a claim about a “true organic” product (“Tom’s) that is not organic at all suggests that OCA endorses or is associated with the numerous misleading and false statements cited above, including the statements about Tom’s products. That is highly disparaging to OCA and puts the organization in a false and negative light, implying that the group somehow is associated with the notion that the ADA Seal has something to do with organic certification or that Tom’s is an “organic toothpaste brand.”

For these reasons, OCA requests that this webpage be taken down immediately and either omitted from Colgate’s website or completely rewritten to eliminate the false, misleading and defamatory statements identified above. Please let me know by close of business Monday August 15, 2016, what action will be taken by Colgate to remove the false, misleading and injurious statements discussed above. Our client has instructed us to identify and pursue available legal remedies in the event that Colgate does not take prompt action itself to remedy this situation. Thank you for your time and prompt attention to this matter.

Sincerely yours,



Joseph E. Sandler