

A. Respondent's Website (Exhibit 1):

Home Page and Product Information Biodegradability Facts Page:

“Carnie Caps are now 100% Biodegradable

Most of us agree that our planets resources are worth saving. We at Carnie Cap have refined our product to ensure that once disposed of in landfill, they will cause the minimum impact to the environment by fully biodegrading over time to help ensure that we pass on a cleaner planet to future generations.” (Ex. 1, at 1).

B. Respondent's Print Materials:

i. Carnie Cap Biodegradability Flyer (Exhibit 2):



(Ex. 2, at 1).

ii. Eco-One Product Brochure (Exhibit 3):



(Ex. 3, at 1).

“Eco-One® is an organic additive that renders products manufactured from plastic resins biodegradable in landfills and composting environments. Biodegradation facilitated by Eco-One® has been confirmed using ASTM D5511 which validates methane off-gassing, a critical output of biodegradation in landfills.” (Id.).

iii. Eco-One Frequently Asked Questions (Exhibit 4):

How long does it take these products to biodegrade in landfills?

This will depend on the amount of Eco-One® in the product, the conditions of the landfill, and the thickness and composition of the product. The average landfill is a very good environment for biodegradation because it is warm, moist, and full of soil micro-organisms and food waste that cause the micro-organisms to eat the plastic. We believe complete biodegradation will take place on average between 9 months to 5 years. (Ex. 4, at 2).

iv. Eco-One Technical Overview Page (Exhibit 5):

(Ex. 5, at 1).

6. Approximately 92 percent of total municipal solid waste in the United States is disposed of either in landfills, incinerators, or recycling facilities. These disposal methods do not present conditions that would allow respondent's Carnie Caps to completely break down and decompose into elements found in nature within a reasonably short period of time.

7. Consumers likely interpret unqualified degradable claims to mean that the entire product or package will completely decompose into elements found in nature within a reasonably short period of time after customary disposal.

8. American Society for Testing and Materials ("ASTM") International D5511, *Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials under High Solids Anaerobic Digestion Conditions* ("ASTM D5511"), and other scientific tests relied on by respondent do not assure complete decomposition of Carnie Caps in a reasonably short period of time or in respondent's stated timeframes, e.g., nine months to five years, and do not replicate, i.e., simulate, the physical conditions of either landfills, where most trash is disposed, or other disposal facilities stated in the representations.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

FALSE OR MISLEADING REPRESENTATIONS

9. Through the means described in Paragraphs 2, 4, and 5, respondent has represented, by means of the text on the Eco-One Technical Overview Page, that Carnie Caps are biodegradable, i.e., they will completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal.

13. In truth and in fact, at the time respondent made the representations referred to in Paragraph 9, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in Paragraph 12 is false or misleading.

14. Respondent's practices, as alleged in this complaint, therefore constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

IN WITNESS WHEREOF, the Federal Trade Commission has issued this complaint against respondent and has caused it to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C. this eleventh day of December, 2013.

By the Commission.

Donald S. Clark
Secretary