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5.

**iv. Products Pages:**

Each FARBERWARE® EcoFresh Container is described as “biodegradable.” (Id., at 4-8).

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 FARBERWARE® EcoFresh Containers 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 FARBERWARE® EcoFresh Containers in a reasonably short period of time or in respondent’s stated timeframes, e.g., 2-10 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, expressly or by implication, that:

A. FARBERWARE® EcoFresh Containers are

- E. FARBERWARE® EcoFresh Containers have been shown to be biodegradable, biodegradable in a landfill, or biodegradable in a stated qualified timeframe under various scientific tests including, but not limited to, ASTM D5511.
10. In truth and in fact:
- A. FARBERWARE® EcoFresh Containers will not completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal;
  - B. FARBERWARE® EcoFresh Containers will not completely break down and decompose into elements found in nature within a reasonably short period of time after disposal in a landfill;
  - C. FARBERWARE® EcoFresh Containers will not completely break down and decompose into elements found in nature within respondent's stated qualified timeframes after customary disposal;
  - D. FARBERWARE® EcoFresh Containers will not completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal, after disposal in a landfill, or within respondent's stated qualified timeframe as a result of respondent's use of an additive known as EcoPure; and
  - E. FARBERWARE® EcoFresh Containers have not been shown to completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal, after disposal in a landfill, or within respondent's stated qualified timeframe, under various scientific tests, including, but not limited to, ASTM D5511.
11. Therefore, the representations set forth in Paragraph 9 were, and are, false or misleading.

#### UNSUBSTANTIATED REPRESENTATIONS

12. Through the means described in Paragraphs 2, 4, and 5, in numerous instances respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.
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

**SEAL**