

6. During the period from March 2011 to March 2013, the recycled plastic in Trimax, on average, contained less than 12% post-consumer recycled content.

7. By representing that a product is recyclable, respondent implies to reasonable consumers that facilities that will recycle the item are available to a substantial majority of consumers or communities where the item is sold.

8. Local recycling centers do not recycle Evolve and Trimax due to their non-plastic content and size and weight greater than that of household items typically recycled in such centers. The cost to consumers of shipping Evolve and Trimax to Respondent's factory for re-use in the manufacturing process generally exceeds the amount Respondent will pay consumers for returning the item. Facilities that will recycle Evolve and Trimax are thus not available to a substantial majority of consumers or communities where these products are sold.

**Count I
False or Misleading Claims**

9. Through the means described in Paragraph 4, Respondent has represented, directly or indirectly, expressly or by implication, that:

- A. Evolve generally contains over 90% recycled plastic;
- B. Evolve is at least 90% recycled plastic;
- C. Evolve is 90% recycled plastic;
- D. The recycled plastic in Trimax is all or virtually all post-consumer recycled content such as milk jugs or detergent bottles; and
- E. Evolve and Trimax are recyclable at recycling facilities available to a substantial majority of consumers or communities where N.E.W. sells them.

10. In truth and in fact:

- A. From September 15, 2012 to March 17, 2013, Evolve did not generally contain over 90% recycled plastic;
- B. From September 15, 2012 to March 17, 2013, Evolve was not at least 90% recycled plastic;
- C. From September 15, 2012 to March 17, 2013, Evolve was not 90% recycled plastic;
- D. The recycled plastic in Trimax is not all or virtually all post-consumer recycled content such as milk jugs or detergent bottles; and

E. Evolve and Trimax are not recyclable at recycling facilities available to a substantial majority of consumers or communities where N.E.W. sells them.

11. Therefore, the representations set forth in Paragraph 9 are false or misleading.

Count II
Unsubstantiated Claims

12. Through the means described in Paragraph 4, 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, Respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 9 at the time the representations were made. Therefore, the representation set forth in Paragraph 12 was, and is, false or misleading.

Count III
Means and Instrumentalities

14. In connection with the advertising, promotion, offering for sale, or sale of Evolve and Trimax, Respondent has distributed promotional materials making the representations set forth in Paragraph 4 to retailers and independent distributors. In so doing, Respondent has provided them with the means and instrumentalities for the commission of deceptive acts or practices.

Violations of Section 5

15. Respondent's false or misleading representations constitute deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

THEREFORE, the Federal Trade Commission this _____ day of _____, 2014, has issued this Complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: