

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

In the Matter of)	
)	
)	
Clear Choice Housewares, Inc., a)	
Corporation, also d/b/a)	Docket No.
FARBERWARE® EcoFresh)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Clear Choice Housewares, Inc., also d/b/a FARBERWARE® EcoFresh (“respondent”), has violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Clear Choice Housewares, Inc., also d/b/a FARBERWARE® EcoFresh, is a Massachusetts corporation with its registered place of business at 163 Pioneer Drive Suite 201, Leominster, MA 01453.
2. Respondent advertises, offers for sale, sells and distributes food storage containers, including “FARBERWARE® EcoFresh Containers,” to the public throughout the United States. Respondent advertises these goods through the Internet site www.farberwarefoodstorage.com. Respondent also offers for sale, sells, and distributes these goods through various online and brick-and-mortar retail locations throughout the United States. Respondent advertises that FARBERWARE® EcoFresh Containers are biodegradable because of an additive known as EcoPure.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. To induce consumers to purchase FARBERWARE® EcoFresh Containers, respondent disseminates, has disseminated, or has caused to be disseminated advertisements and promotional materials, including, but not limited to, those attached in Exhibit 1.

5. In its advertising and promotional materials, including, but not limited to, those shown in Exhibit 1, respondent has made the following statements and depictions:

Respondent's Website (Exhibit 1):

i. Homepage:



(Ex. 1, at 1).

ii. FAQs Page:

“What makes your products biodegrade? EcoPure, a patented blend of organic ingredients, is the catalyst that promotes microbial activity to devour and biodegrade the plastic.” (Id., at 2).

iii. EcoPure® Page:

1. “FARBERWARE® EcoFresh has the exclusive rights to a revolutionary biodegradable additive, EcoPure, making our containers the first ever biodegradable, recyclable & reusable food storage container system in the world.” (Id., at 3).

2. “EcoPure® is a second generation additive, which once added to a resin type during the manufacturing process, renders plastics biodegradable.” (Id.).

3. “Various ASTM (American Society for Testing and Materials) testing methods have proven that EcoPure is biodegradable, including the ASTM D5511-02, which confirms that products will biodegrade when placed into an aerobic or anaerobic environment, such as a landfill.” (Ex. 1, at 3).

4. “EcoPure only begins biodegrading once it is in a landfill environment, and takes approximately 2-10 years to fully biodegrade, depending on gram weight and microbial enrichment in the landfill. Tests have shown that as little as 1% (by gram weight) of EcoPure is needed to make a product biodegradable.” (Id.).

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 biodegradable, *i.e.*, will completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal;
- B. FARBERWARE® EcoFresh Containers are biodegradable in a landfill;
- C. FARBERWARE® EcoFresh Containers are biodegradable in a stated qualified timeframe;
- D. FARBERWARE® EcoFresh Containers are biodegradable, biodegradable in a landfill, or biodegradable in a stated qualified timeframe as a result of an additive known as EcoPure; and
- 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 _____ day of _____, 2013.

By the Commission.

Donald S. Clark
Secretary

SEAL