

Kelley Drye Successfully Challenges BornFree Baby Bottles

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On behalf of the American Chemistry Council, Kelley Drye successfully challenged BornFree, a manufacturer of baby bottles, in regards to internet advertising and packaging, before the National Advertising Division ("NAD"). Kelley Drye argued that BornFree falsely communicated the danger of polycarbonate baby bottles made with Bisphenol-A ("BPA"), in its claims that BPA disrupts the hormones of babies. The NAD agreed that the claims were unsubstantiated and recommended that BornFree discontinue any express or implied claims regarding BPA and its harm to children. Dismissing BornFree's arguments that it was merely advertising a "potential" harm, the NAD recommended that BornFree either discontinue the claim that BPA is a "hormone disrupting chemical" or modify it by disclosing that the polycarbonate in competing baby bottles has not been shown to disrupt the hormones of infants or otherwise harm them.

Kelley Drye also argued that BornFree falsely claimed that its bottles are the "safest" bottles or "safer" than other bottles on the market. The NAD agreed and recommended that BornFree discontinue unsupported claims that its bottles are "safer" or "healthier" for babies than other bottles on the market. In addition, the NAD determined that BornFree had not supported the authenticity of its "suspiciously similar" testimonials and therefore recommended that they be discontinued.