

Moonlight Slumber Says “Goodnight” to Misleading and Unsubstantiated “Organic” Advertising Claims After Settlement with FTC

Dana B. Rosenfeld

October 12, 2017

In its first case challenging “organic” claims, the FTC announced a settlement with [Moonlight Slumber, LLC](#) resolving charges that the company misrepresented or could not support a variety of environmental and health-related claims about its baby mattresses.

Misleading and Unsubstantiated Claims. The FTC’s complaint asserts that Moonlight advertised its baby mattresses as “organic,” “natural,” “hypoallergenic,” and “eco-friendly.” Moonlight also indicated that the mattresses were made with “BabySafe Natural Materials” and “eco-friendly plant-based foam.” According to the FTC, the company’s products were made of a majority of non-organic materials. For instance, the cores and fire barriers of the company’s Starlight Simplicity and Little Star mattresses did not contain any organic material, and 70% of the cotton cover of these mattresses was non-organic material. The Little Star mattress core was made of a synthetic latex material, rather than the “natural latex” the company advertised, and for both the Starlight Simplicity and Little Star mattresses, only the mattress ribbon itself contained solely organic materials. According to the FTC, most of the company’s mattresses were made of polyurethane, either wholly or substantially, and the foams in these mattresses were comprised of “little or no plant-based material.”

Moonlight also advertised that testing proved that the mattresses did not contain Volatile Organic Compounds (VOCs) and were “[f]ree of . . . off gassing, or indoor air pollutants.” The FTC found, that Moonlight had no substantiation for its claims that the mattresses do not emit any substances, including VOCs. The settlement prohibits Moonlight from making misleading and unsubstantiated environmental, health, and emissions claims. This includes representations that the product is “in whole or in part” organic, natural, or plant-based, and claims that “the VOC [or any other] emissions from a covered product are zero.” Notably, the prohibition related to emissions applies to any substance, whether or not it is harmful. Furthermore, the company is prohibited from making misrepresentations regarding research.

Lack of Material Connection Disclosures. According to the complaint, Moonlight also deceptively advertised the products as being “Green Safety Shield certified,” while neglecting to disclose that the shield was Moonlight’s own certification, rather than one provided by an independent third party. The settlement requires the company to disclose if it provides its own certifications to its products.

Takeaways. Although this is the FTC’s first case regarding “organic” product claims, the FTC does

not provide an explicit definition of the term. This settlement may indicate, however, that the FTC will be looking more closely at “organic” claims, especially if the product is advertised as including a particular amount of organic material. As with other scientific claims, any statements about a product’s organic content or emission of any substance, including VOCs, requires sufficient substantiation, particularly if the product is intended for use by children. Moreover, if a company develops and relies on its own certification or seal, it must be sure to clearly disclose this association in its advertising.