

NARB Finds "More Than 99% Natural" Claim Problematic

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The National Advertising Review Board ("NARB") recently added fuel to a growing fire in the food and beverage industry regarding the meaning of "natural" claims. The NARB decided an appeal filed by Heartland Sweeteners, LLC ("Heartland") regarding its Ideal sweetener product, which Heartland claimed was "more than 99% natural." The National Advertising Division ("NAD") previously recommended that Heartland modify or discontinue the "more than 99% natural" claim because although Ideal is 99% natural by ingredient weight, the majority of its sweetness is derived from sucralose, a high-intensity artificial sweetener that makes up about 1% of Ideal's weight but supplies 80% of its sweetness.

The NARB shared NAD's concern about implied claims conveyed by "more than 99% natural" insofar as consumers could understand it to mean that all or virtually all of Ideal's sweetness comes from natural ingredients. The NARB's decision, like NAD's, relates the "natural" claim to the main product attribute, sweetness, rather than the natural or artificial classification of the ingredients that make up the finished product.

The FDA outlined its policy on use of "natural" in 1993 but has not officially defined the term. As use of "natural" claims have proliferated, scrutiny has increased as well. The makers of Snapple and AriZona Iced Tea have been the target of consumer class actions relating to claims that their products are "natural" despite containing high fructose corn syrup.

Advertisers need to be fully aware of the messages and risks created by use of the term "natural." The Heartland decision demonstrates that the intended message is not always the only message. Further, advertisers can expect that a "natural" claim will draw not only the eyes of potential consumers but those of critics as well.