



CORNUCOPIA
I N S T I T U T E

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

April 22, 2010

Dear Chair Leibowitz,

The Cornucopia Institute requests that the Federal Trade Commission investigate possible violations of the law (15 USC 45) and to take immediate and effective action against the offending parties.

Several companies that sell foods which do not qualify for the “USDA Organic” seal, or the use of the term “Organic” on their food labels, are unfairly competing with truly organic companies in the marketplace by using the term “Organic” or “Organics” in their company name, and displaying this company name prominently on food packages that do not qualify as “organic.”

This leads to unfair competition in the marketplace. Organic foods command a price premium, since companies must adhere to a strict set of federal standards in order to legally use the “USDA Organic” seal or use the term “organic” on their food labeling. They are third-party certified by a USDA-accredited organic certification agent. In order to use the term “organic” on their label, USDA regulations require that companies source 95-100% organic ingredients.

Companies that sell non-organic foods, or food with less than 95% organic ingredients, yet use the term “organic” or “organics” in their company name, are therefore profiting from the good name and reputation of organics without giving consumers the organic ingredients they expect.

The Cornucopia Institute respectfully requests that the FTC take appropriate action at this time to address the misuse of the term “organic” in company names.

As currently written, the USDA’s organic standards prohibit companies from using the term “organic” on food packages unless the product contains 95-100% organic agricultural ingredients:

205.300(a): *The term, “organic,” may only be used on labels and in labeling of raw or processed agricultural products, including ingredients, that have been produced and handled in accordance with the regulations in this part. The term, “organic,” may not be used in a product name to modify a nonorganic ingredient in the product.*

205.301(b) Products sold, labeled, or represented as “organic.” *A raw or processed agricultural product sold, labeled, or **represented** as “organic” must contain (by weight or fluid volume, excluding water and salt) not less than 95 percent organically produced raw or processed agricultural products. Any remaining product ingredients must be organically produced, unless not commercially available in organic form, or must be nonagricultural substances or nonorganically produced agricultural products produced consistent with the National List in subpart G of this part. If labeled as organically produced, such product must be labeled pursuant to §205.303.*

We note the use of the term “represented” as used in the organic standards. If processed agricultural products must be produced in accordance with the organic standards in order to legally be **represented** as organic, we believe that using the term “organic” in a company name, when displayed prominently on a non-organic food package, constitutes a violation of the law and regulations.

Among others, three companies that are currently misrepresenting their products as organic by using the term “Organic” or “Organics” in their company name, and displaying this company name prominently on products that are not produced in accordance with the organic standards, are Oskri Organics, Organic Bistro and Newman’s Own Organics.

Oskri Organics sells a variety of foods, including dried fruits, fruit preserves, syrups, spreads, nutrition bars, oils, chocolate and tahini. While the company seems to use the company name “Oskri Organics” on all food packaging, some products list only conventional ingredients. The word “organic” is not used anywhere else on the packages (please see photo of tahini attached) or the website. There is no certifier logo/identification on certain food packages with the company name “Oskri Organics.” It appears that Oskri Organics sells conventional foods, but is attempting to mislead consumers with its corporate name.

Contact information:

Oskri Organics
528 E. Tyrannena Park Road,
Lake Mills, WI 53551

Phone: 920 648 8300
Fax: 920 648 7800

Organic Bistro sells frozen entrees, and uses non-organic chicken and turkey as primary ingredients. Except for their vegetarian dishes, which are certified organic, their products containing meat are not certified organic or do not even qualify for “made with organic” labeling. We believe that the use of the term “Organic” in their company name, displayed

prominently on their non-organic food packages, is not only highly misleading to consumers, but also in violation of the organic standards.

Contact information:

Food Collective, Inc.
Home of Helen's Kitchen and Organic Bistro
1882 Mcgaw Ave., Suite A
Irvine, CA 92614

Toll Free: 1-866-328-8638
Fax: 949-648-5943

Newman's Own Organics sells some organic and some "made with organic" products, which do not qualify for the term "Organic" on their packaging or the use of the "USDA Organic" seal. Yet the company uses the same company name—with the term "Organics"—on all of their food packages.

Contact information:

Newman's Own Organics
7010 Soquel Dr., Suite 200
Aptos, CA 95003

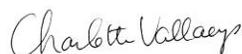
Conclusion

It appears that these companies are deliberately misrepresenting their products as 95% organic, using the term "organic" or "organics" in their company name as a way of misleading consumers.

Other companies that offer both conventional and organic products have acted with integrity by eliminating the term "Organic" from their company name or company logo on their non-organic packaging (as an example, Dean Foods/WhiteWave's Horizon Organic no longer uses the term "Organic" on its company logo for its new "Natural" product line). We strongly believe that all companies should accurately represent their products, and the use of the term "Organic" in company names is no excuse for misleading consumers and gaining a competitive advantage in the natural foods marketplace.

We respectfully ask the Federal Trade Commission to take aggressive action and bring this misleading marketplace practice, perpetrated by just a few companies, to an end.

Sincerely,



Charlotte Vallaey
Farm and Food Policy Analyst
The Cornucopia Institute
978-369-6409