



CORNUCOPIA
I N S T I T U T E

April 22, 2010

Miles McEvoy
Deputy Administrator
USDA-AMS-TMP-NOP
Room 4008-South Building
1400 Independence Avenue, SW
Washington, DC 20250-0020

RE: Legal complaint and request for action regarding companies using the word “Organic” in company names on non-certified food packages

Dear Mr. McEvoy,

When the organic standards were developed, some in the organic community raised the concern that some companies would use the term “Organic” or “Organics” in their company name, to appear on non-certified organic food packages, therefore misrepresenting the product as organic or, at a minimum, misleading consumers.

At the time, the National Organic Program (NOP) wrote that “we do not know the extent of the problem” and dismissed these concerns, deciding not to prohibit the use of the term “Organic” in company names.ⁱ

Instead, the NOP specified that “USDA will monitor use of the term, “organic,” in company names and will work with the FTC to take action against such misuse of the term. These determinations must be made on a case-by- case basis.”

Today, we do know the “extent of the problem,” with several companies clearly profiting from the good name and reputation of organics by using the term “Organic” or “Organics” as part of their company name, and thereby misrepresenting some of their non-organic or “made with organic” products.

The Cornucopia Institute respectfully requests the NOP to take appropriate action at this time to address the misuse of the term “organic” in company names. The Organic Foods Production Act gives the NOP the authority to take such action:

Section 6519(b) of the Act provides the Secretary with the authority to review use of the term, “organic,” in agricultural product names and the names of companies that produce agricultural products.

Section 6519(b) of the Act provides the Secretary with the authority to take action against misuse of the term, “organic.”

Furthermore, The Cornucopia Institute believes that the NOP already has the authority, under the federal organic standards, to take enforcement action against the misuse of the term “Organic” in company names:

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” 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. Tyranena 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

Phone: 1-866-328-8638
Fax: 949-648-5943

Newman’s Own Organics sells some organic and some “made with organic” products, yet uses the same company name—with the term “Organics”—on all of their food packages. Moreover, the company’s website represents all of its products as certified organic, despite a substantial number of their product offerings containing conventional ingredients: “All Newman’s Own Organics products are certified organic by Oregon Tilth” (screenshot attached).

Newman’s Own Organics also uses the USDA Organic seal on its website, with the accompanying line “The USDA Organic Seal assures that at least 95% of the ingredients are organically certified,” on webpages of products that are not 95% Organic, such as their Chocolate Peanut Butter Cups and Newman’s O’s cookies (screenshots attached).

Worse yet, the Butter Cups’ product description, on their website, reads: “When organic peanut butter meets organic chocolate the results are Newman’s Own Organics Peanut Butter Cups.” This would suggest to consumers that their Butter Cups are organic, made with organic peanut butter and organic chocolate. Yet a close look at the ingredients list shows that non-organic peanut butter, and non-organic peanut flour, are used. This is a gross misrepresentation of their product—a deliberate attempt to trick consumers into thinking their products are in fact certified organic when they are not.

Newman’s Own Organics Newman’s O’s cookies contain conventional sugar, conventional canola oil and conventional cocoa, yet the website states: “Like our other products, Newman-O’s are certified organic by Oregon Tilth.”

Newman’s Own Organics Champion Chip Cookies contain both organic and conventional chocolate chips, conventional eggs, and conventional oats. Fat-free Fig Newmans contain conventional eggs, conventional corn syrup, and conventional dry milk. Newman’s Own Organics Hermits contains conventional raisin paste, despite a statement on their website

that they are made with “organic raisins.” All these products carry the Newman’s Own Organic company name on their package, which we believe to be a misrepresentation of their products as organic.

Contact information:

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

Please note that this is only a sample representation of the labeling abuse by these two companies. We have not had the opportunity to carefully scrutinize 100% of their product lines but we certainly hope the USDA investigators will.

Conclusion

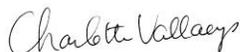
It appears that these companies are deliberately misrepresenting their products as 95% organic, using the term “organic” or “organics” in their company name as a way of misleading consumers.

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, although we regret the shift away from organic production, 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.

This practice hurts the entire organic food industry by watering down the meaning of the word “Organic” for consumers. Consumers should be able to trust that any food package with the word “Organic” displayed prominently contain at least 95% or 100% organic ingredients, depending on the product formulation.

We respectfully ask the National Organic Program 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

ⁱ See Preamble, page 140-141