

Case #7277 (06/24/2024)
The Procter & Gamble Company
Native Brand of Personal Care Products
Challenger: SC Johnson & Son Inc.
Product Type: Cosmetics / Beauty Products / Toiletries
Issues: Product Description; Safety Claims
Disposition: Substantiated In Part / Modified-Discontinued In Part

BBB NATIONAL PROGRAMS

NATIONAL ADVERTISING DIVISION

SC JOHNSON & SON INC.,
Challenger,

PROCTER & GAMBLE COMPANY
Advertiser.

Case No. 7277
Closed 6/24/2024

FINAL DECISION

- While advertisers are responsible for all messages reasonably conveyed by their advertising, they are not obligated to support unreasonable interpretations of their claims.

I. Basis of Inquiry

The advertising industry established the National Advertising Division (“NAD”) and the National Advertising Review Board (“NARB”) in 1971 as an independent system of self-regulation designed to build consumer trust in advertising. NAD reviews national advertising in all media in response to third-party challenges or through inquiries opened on its own initiative. Its decisions set consistent standards for advertising truth and accuracy, delivering meaningful protection to consumers and leveling the playing field for business. Challenger SC Johnson & Son Inc. (“SCJ” or “Challenger”) challenged express and implied claims made by Advertiser Procter & Gamble Company (“P&G” or “Advertiser”) for its Native Brand Personal Care Products. The following are representative of the claims that served as the basis for this inquiry:

A. Express Claims

- The ingredients in Native’s deodorant, body wash, toothpaste, shampoo and conditioner are “Simple,” “Natural,” “Naturally-Derived” and “Safe.”
- “We want to help you practice safe sweats. Which is why we use ingredients you understand like coconut oil, shea butter, and baking soda”
- “Simple & Effective Ingredients: Put your hands in the air and wave them like you...care a lot about what ingredients are going on and in your body. We care too, that’s why our formula is made up of simple ingredients worth raising the roof over.”
- “Our body wash is made with simple ingredients you understand while still delivering on the delightful experience that you expect out of a body wash.”
- “We believe you should not have to choose between a deodorant that makes you feel safe and a deodorant that works. We never use aluminum, parabens, or sulfates in any of our products.

At Native we use both safe, synthetic, sustainable fragrances (free of phthalates) and natural fragrances.”

- “Natural deodorant”
- “Natural hair care”
- “Natural body wash”
- “Because your bathroom shouldn’t be a chemistry experiment.”
- “We’re bottling clean, simple, and effective ingredients for your beautiful locks. Just lather, sing, rinse, and repeat. Life’s complicated enough, your hair care doesn’t have to be.”
- “Natural Clean Ingredients - Natural body wash contains naturally derived ingredients. We also use both safe, synthetic, sustainable fragrances (free of phthalates) and natural fragrances.”
- “We want to help you practice safe sweats...which is why we use ingredients you understand.”
- “We believe you should not have to choose between a deodorant that makes you feel safe and a deodorant that works.”
- “Your bathroom shouldn’t be a chemistry experiment.”
- “Born in the USA . . .”[A]ll of our products are crafted in the USA.”

B. *Implied Claims*

- Competing products and ingredients are unsafe.
- Native is safe even for unintended uses.
- Native products are 100% natural without synthetic ingredients and with only minimal processing.
- Competing products have ingredients that are undesirable and should be avoided.
- Competing products have chemical sounding ingredients but Native does not.
- Native products are safer but as effective than competing products.
- Other products are not safe for use.
- Native products are all Made in USA.

Evidence Presented

The Challenger provided the following evidence in support of its arguments:

- A chart created by SCJ listing ingredients found in the Native product line along with how Native describes the ingredient and how the ingredient is produced for use in Native products;
- A declaration from Douglas Shoon, President of School Scientific + Regulatory Consulting, an expert on organic chemistry that focuses on the manufacturing and processing of five ingredients found in Native products;
- A dictionary.com definition for the term “nontoxic;”¹
- Excerpts from the Environmental Protection Agency’s (“EPA’s”) comment on the FTC’s Green Guide;²

¹ nontoxic. In Dictionary.com. Retrieved June 14, 2024, from <https://www.dictionary.com/browse/nontoxic>.

² FTC, Green Guide, Statement on Basis and Purpose at 145-146 available at: <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguidesstatement.pdf>.

- Children’s Hospital of Philadelphia’s (“CHOP’s”) guidance to parents regarding the dangers to children if they ingest personal care products³
- An FTC closing letter regarding a “crafted in the USA” claim; an FTC closing letter regarding “hand crafted in America” and “born in America claims; and the FTC’s Enforcement Policy Statement on U.S. Origin Claims.⁴

The Advertiser presented the following evidence in support of its claims:

- A declaration from David Sturgis, Principal Scientist at P&G;
- A declaration from Espe Troyano, Vice-President, Global Beauty Skin & Personal Care at P&G;
- International Organization for Standardization (“ISO”) standards and definitions for “natural” and “naturally derived” products;⁵
- Dictionary definitions of the term “simple;”⁶
- Several articles explaining the term “minimalism” in the context of beauty products and routines;⁷
- Screenshots from a webpage outlining P&G’s safety review process.

II. Decision

SCJ, maker of the Method® brand of products challenged claims found on product packaging, advertising and Amazon listings for P&G’s Native brand of personal care products.

³ Children’s Hospital of Philadelphia Poison Control Center Common Exposures – Personal Care Products available at: <https://www.chop.edu/centers-programs/poison-control-center/personal-care-products>.

⁴ Closing letter from Julia Solomon Ensor to Williams-Sonoma available at: https://www.ftc.gov/system/files/documents/closing_letters/nid/musa_williams-sonoma_closing_letter.pdf (June 13, 2018); Closing Letter from Matthew J. Wiltshire to Lucky Brand Dungarees, available at: https://www.ftc.gov/sites/default/files/documents/closing_letters/lucky-brand-dungarees-inc./120120luckybrandletter.pdf; FTC, *Enforcement Policy Statement on U.S. Origin Claims* available at: <https://www.ftc.gov/legal-library/browse/enforcement-policy-statement-us-origin-claims> (Dec. 1, 1997).

⁵ ISO 16-12-1 (*Guidelines on technical definitions and criteria for natural and organic cosmetics ingredients and products—Part 1: Definitions for Ingredients*) (Feb. 2016); ISO 16128-2 (*Cosmetics—Guidelines on technical definitions and criteria for natural and organic cosmetic ingredients—Part two: Criteria for ingredients and products*).

⁶ Collins Dictionary, available at: <https://www.collinsdictionary.com/us/dictionary/english/simple>; Britannica Dictionary, available at: <https://www.britannica.com/dictionary/simple>.

⁷ Ellen Christian, *Best Minimalism Cosmetics Brands*, *The Socialite’s Closet*, <https://the-socialites-closet.com/minimalism-cosmetics/> (May 6, 2023); *Embracing Minimalism ingredients: The shift towards a “less is more” philosophy*, *Safic-Alcan*, <https://www.safic-alcan.com/en/us/embracing-minimalism-ingredients-shift-towards-less-more-philosophy>; *Less is more: Skincare products with few ingredients*, *Waxy Beauty*, <https://waxybeauty.com/less-is-more-skincare-products-with-few-ingredients/> (Sept. 12, 2020); *Minimalist Skincare: Could Fewer Ingredients Be the Key to Healthier Skin*, *British Vogue*, <https://www.vogue.co.uk/article/minimalist-skincare-with-fewer-ingredients> (July 27, 2019); *Jessica Brown, Are Your Beauty Products Toxic? Here’s Everything You Need to Know*, *Prevention*, <https://www.prevention.com/beauty/a20511204/toxic-beauty-products/> (Dec. 19, 2017); *Choosing personal care products with fewer ingredients may reduce risks from harmful chemicals*, *Harvard T.H. Chan School of Public Health*, <https://www.hsph.harvard.edu/news/hsph-in-the-news/personal-care-products-health-risks/>.

A. *Discontinued Claims*

During the pendency of this proceeding, P&G informed the NAD that it has permanently discontinued the following claims:

- “Natural”
- “Natural deodorant”
- “Natural hair care”
- “Natural body wash”
- “Natural clean ingredients”
- “Because your bathroom shouldn’t be a chemistry experiment.”
- “Your bathroom shouldn’t be a chemistry experiment.”
- “We want to help you practice safe sweats.”
- “We believe you should not have to choose between a deodorant that makes you feel safe and a deodorant that works.”
- “Crafted in the USA”

In reliance on the Advertiser’s representation that the challenged claims have been discontinued, NAD did not review the claims on their merits. The voluntarily discontinued claims will be treated, for compliance purposes, as though NAD recommended their discontinuance and the Advertiser agreed to comply.

B. *Administratively Closed Claims*

During the pendency of the proceeding, the parties informed NAD that a complaint was filed against P&G in the Northern District of California regarding “naturally derived” advertising claims for P&G personal care products. Section 2.1(C)(1)(b) of the *BBB National Programs’ Procedures for NARB/NAD*, states that if during a course of a proceedings NAD determines that “the claims complained of are... the subject of pending litigation,” it shall administratively close the matter. Thus, at the request of both parties NAD determined the “naturally derived” claims are the subject of pending litigation and NAD will administratively close its inquiry with respect to P&G’s “naturally derived” claims.

C. *Standard of Review*

Three claims remain at issue in this challenge: (1) P&G’s use of “simple” to describe Native products; (2) P&G’s monadic use of “safe” to describe its products; and (3) that Native brand was “Born in the USA”.

Advertisers must possess a “reasonable basis” for claims disseminated in advertising.⁸ What constitutes a “reasonable basis” depends on several factors, including the type of product, the type of claim, the consumer benefit from a truthful claim, the ease of developing substantiation for the claim,

⁸ *Guardian Technologies, LLC (GermGuardian and PureGuardian Air Purifiers and Replacement Filters)*, Report #6319, NAD/CARU Case Reports (November 2019).

the consequences of a false claim, and the amount of substantiation experts in the field believe is reasonable.⁹

It is well-established that advertisers are responsible for all messages reasonably conveyed by the advertising, not merely the message it intended to convey.¹⁰ In the absence of consumer perception evidence, NAD relies on its own expertise and steps into the shoes of the reasonable consumer to determine the messages reasonably conveyed by the challenged advertising.¹¹ In determining the message conveyed NAD typically reviews the totality or overall net impression created by the advertisement not words or phrases standing alone.¹²

D. “Simple” Claims

SCJ challenged two different uses of the word “simple” to describe P&G’s Native products. First, SCJ challenged the use of “simple” in Native’s tagline “Clean. Simple. Effective” found on product packaging and on the Native website homepage. On product packaging the claim “Clean. Simple. Effective”¹³ always appears above a chart identifying both the product ingredients and “What It Actually Means” for each ingredient. The “What it Actually Means” section of the chart includes a description of the ingredient in plain language. The “Clean. Simple. Effective.” tagline on Native’s website is followed by four different icons each accompanied by a statement about the Native product line. The four icons include a leaf for “naturally derived ingredients;” a bunny and a leaf for “Cruelty Free & Vegan;” a speech bubble with 5 stars for “Over 50,000 5-Star Reviews;” and an outline of the map of the USA for “Born in the USA.”

SCJ also challenged Native’s use of “simple” in reference to claims that P&G Native uses “simple ingredients,” “simple & effective ingredients,” or “simple ingredients you can understand at a glance.”

The Challenger argued that consumers will understand “simple” or “simple ingredients” to mean that the ingredients in Native products are not complex and are minimally processed. The Advertiser asserted that “simple” used in the tagline is intended to convey the message that Native products use fewer ingredients. In addition, the Advertiser argued that “simple” when used in conjunction with the word “ingredients” conveys the basic or “simple” function of the ingredient.

⁹ *Pfizer Inc.*, 81 F.T.C. 23 (1972). See also FTC, *Policy Statement Regarding Advertising Substantiation* (Nov. 23, 1984), <https://www.ftc.gov/public-statements/1984/11/ftc-policy-statement-regarding-advertising-substantiation>.

¹⁰ *Louisiana-Pacific Corporation (SmartSide Home Siding Products)*, Report #7227, NAD/CARU Case Reports (October 2023); *Dyper, Inc. (Dyper Baby Wipes & Diapers)*, Report #7144, NAD/CARU Case Reports (January 2023).

¹¹ *T-Mobile US, Inc. (T-Mobile Home Internet)*, Report #7204, NAD/CARU Case Reports (April 2023).

¹² *Cox Communications, Inc. (Gigablast Internet Service)*, Report #7122, NAD/CARU Case Reports (October 2022); *Philips Oral Healthcare LLC. (Sonicare Electric Toothbrushes)*, Report #6073, NAD/CARU Case Reports (April 2017).

¹³ The claim originally challenged was “Safe. Simple. Effective.” But P&G acknowledged that this claim was permanently discontinued and replaced with “Clean. Simple. Effective.” NAD reviewed the modified claim.

Absent consumer perception evidence, NAD stepped into the shoes of a reasonable consumer and looked at the overall net impression of the advertising and the context in which the claim “simple” is used to determine the messages conveyed.

Both parties relied on NAD precedent regarding “simple” claims to support their arguments. The cases, however, evaluate “simple” or “simple ingredients” in the context of a natural claim.

In *Tom’s of Maine* the challenger objected to a claim found on Tom’s of Maine natural mouthwash stating “pure, simple ingredients from nature” when the product contained poloxamer 335, a highly processed ingredient that the challenger argued is not from nature.¹⁴ NAD found although poloxamer 335 is literally sourced in nature (as is every chemical substance) it goes through extensive processing before turning into the emulsifying agent in the final product and therefore the natural ingredient claim was not supported. NAD further stated that the complexity involved in the synthesis of the molecule from its natural state precludes it from being described as a “simple ingredient from nature.” NAD did not evaluate the “simple ingredient” claim apart from the natural claim making in contrast to the case at hand.

Similarly, in the *Beech-Nut* case NAD evaluated Beech-Nut’s claim that its baby food is “all natural.” Because the products were made with synthetic additives such as vitamin C, NAD recommended that the advertiser modify its natural claim to avoid conveying the message that the product contains 100% natural ingredients.¹⁵ The “pure and simple baby food” claim was not specifically evaluated in the decision. In addition, In the *Simply Gum* case NAD concluded that “simpler, better” was puffery, so did not evaluate what the term “simpler” conveys to consumers.¹⁶

Here the Advertiser uses “simple” in two main ways, as a tagline and to describe individual ingredients. On product packaging the “Clean. Simple. Effective” tagline is followed by a chart explaining individual ingredients; however, the tagline is visually separate from the ingredient list. A reasonable consumer would understand that “simple” in this context refers to the product as a whole and not to the product’s individual ingredients. Such a message is consistent with Native’s use of the same “Clean. Simple. Effective” tagline on its home page. Immediately below the tagline are four statements that refer to the brand’s ingredients, its cruelty free practices, its reviews and where the company was born making it clear that “simple” in this context refers to Native products as a whole and not individual ingredients.

NAD determined that one message reasonably conveyed by the use of “simple” in the tagline when referring to Native products is that Native products contain few or minimal ingredients. Dictionaries define “simple” as “not complicated, and therefore easy to understand,”¹⁷ or “hav[ing] few parts” and

¹⁴ *Tom’s of Maine (Tom’s of Maine Natural Mouthwash)*, Report #3470, NAD/CARU Case Reports (June 1998).

¹⁵ *Beech-Nut Nutrition Corporation (Baby Food Products)*, Report #4744, NAD/CARU Case Reports (October 2007).

¹⁶ See *Simply Gum Inc. (Simply Gum Chewing Gum)*, Report #7079RO, NAD/CARU Case Reports (February 2022).

¹⁷ simple. In Collinsdictionary.com. Retrieved June 14, 2024, from <https://www.collinsdictionary.com/us/dictionary/english/simple>.

not “complex or fancy.”¹⁸ Additionally, the record includes evidence that simple formulas with fewer ingredients meet consumer’s expectations and are relevant for today’s consumer with many of them searching for minimalist beauty products.¹⁹

To support its claim that Native’s product formulations are simple, P&G provided evidence that minimalist formulations use 10 or less ingredients, as opposed to some formulations which can have more than 30.²⁰ According to Native’s website products within the Native brand have anywhere from 9-11 ingredients.²¹ NAD found that P&G substantiated its claim that Native product formulations are “simple” and contain few ingredients.

“Simple” when used to describe ingredients such as “simple ingredients” or “simple and effective ingredients” conveys a message about the individual ingredients in Native products instead of the product formulation as a whole. On Amazon product pages the claim “simple ingredients” appears in large font followed immediately by “you can understand at a glance” in slightly smaller font and then lists three individual ingredients in plain language. Other advertisements use “simple and effective ingredients” alongside pictures of coconuts, salts and lemons or explain that “[We] care a lot about what ingredients are going on and in your body. We care too, that’s why our formula is made up of simple ingredients worth raising the roof over,” While in some contexts the claim explains that “simple ingredients” refers to ingredients you can understand, reasonable consumers will also expect that these ingredients are not complex in their structure or composition. In this context, one message reasonably conveyed is that “simple” when used to describe ingredients conveys to consumers that the ingredients are not complex.

P&G argued that “simple” when used to describe its ingredients has nothing to do with processing. Rather, P&G argued that “simple” when used in this context is meant to convey the basic (e.g., “simple”) function performed by that ingredient which is reinforced by a plain-language, non-complex description of the same. Because P&G did not agree that reasonable consumers would read the challenged “simple” claims as conveying a “minimally processed” message P&G did not address SCJ’s claims that the ingredients contain highly processed ingredients.

¹⁸ simple. In vocabulary.com. Retrieved June 14, 2024, from <https://www.vocabulary.com/dictionary/simple>; simple. In Britannica.com. Retrieved June 14, 2024, from <https://britannica.com/dictionary/simple>.

¹⁹ See The Socialite’s Closet, *Best Minimalism Cosmetics Brands*, <https://the-socialites-closet.com/minimalism-cosmetics/> (May 6, 2023); Safic-Alcan, *Embracing Minimalism ingredients: The shift towards a “less is more” philosophy* <https://www.safic-alcan.com/en/us/embracing-minimalism-ingredients-shift-towards-less-more-philosophy> ; Waxy Beauty, *Less is more: Skincare products with few ingredients* (Sept. 12, 2020), <https://waxybeauty.com/less-is-more-skincare-products-with-few-ingredients/>; Hannah Coates, *Minimalist Skincare: Could Fewer Ingredients Be the Key to Healthier Skin*, British Vogue (July 27, 2019), <https://www.vogue.co.uk/article/minimalist-skincare-with-fewer-ingredients>.

²⁰ Hannah Coates, *Minimalist Skincare: Could Fewer Ingredients Be the Key to Healthier Skin*, British Vogue (July 27, 2019), <https://www.vogue.co.uk/article/minimalist-skincare-with-fewer-ingredients>. See also Waxy Beauty, *Less is more: Skincare products with few ingredients* (Sept. 12, 2020), <https://waxybeauty.com/less-is-more-skincare-products-with-few-ingredients/> (stating most products contain 25-50 ingredients).

²¹ Native deodorant has 10 ingredients, Native Bar Soap has 11 ingredients, Native Body Wash has 9 ingredients, Native Shampoo has 11 ingredients, Native Conditioner has 9 ingredients, and Native Native’s Hair Mask has 9 ingredients.

The Challenger provided a declaration from an expert in cosmetic research, development, formulation and manufacturing that described the complex manufacturing processes of five ingredients found in Native products. The expert opined that these five ingredients go through complex manufacturing and processing to refine them so that they no longer resemble the original simple ingredient at the start of the manufacturing process, or the simple ingredient stated on the label. The description of the processing of the ingredients was not disputed by the advertiser. For these reasons, NAD determined that the description of Native ingredients as “simple” is not supported with respect to its deodorants, body washes, body lotion, shampoos and conditioners.

Accordingly, NAD concluded that the Advertiser’s use of “simple” in its tagline “Clean. Simple. Effective” is substantiated in the context in which it appears on Native’s product packaging and on Native’s website. NAD recommended that P&G discontinue or modify its use of “simple ingredients” consistent with this decision when describing Native product ingredients for its deodorants, body washes, body lotion, conditioners and shampoos.

E. Safe Claims

P&G permanently discontinued the challenged comparative safe claims but continues to use safe in a monadic context. For example, Native’s shelf talkers state “cruelty free, safe & simple products made without harsh ingredients” and Native’s website claims that Native products use “safe, synthetic, sustainable fragrances (free of phthalates) and natural fragrances.”²² SCJ argued that an unqualified “safe” claim like a “non-toxic” claim implies that the product is safe even when used contrary to its intended use.

SCJ argued that the *Windex case*²³ applies here because “safe” is similar to the non-toxic claim evaluated in that case. In the *Windex case* NAD and NARB determined that because of the existing consumer attitudes toward cleaning products an unqualified non-toxic claim will lead reasonable consumers to conclude not only that misusing a cleaning product does not pose a risk of death or serious consequences but also that product misuse poses no health risks even those that are not severe or more transient in nature. NAD and NARB recommended the advertiser discontinue an unqualified “non-toxic” claim on its Windex Vinegar product.²⁴ NAD found the *Windex case* distinguishable here because “safe” and “non-toxic” are different claims. In evaluating the message conveyed by the “non-toxic” claim NAD and NARB relied on FTC’s Green Guides that provide specific guidance on “non-toxic” claims. There is no FTC guidance on “safe” claims and there is no evidence in the record that consumers understand “safe” and “non-toxic” to mean the same thing.²⁵

²² As previously stated, “P&G has permanently discontinued the tagline “Safe. Simple. Effective,” so that claim is not evaluated on its merits. For compliance purposes that claim will be treated as if NAD required its discontinuance and the Advertiser complied.

²³ *S.C. Johnson & Son, Inc. (Windex Vinegar Glass Cleaner)*, Report #6353, NAD/CARU Case Reports (March 2020).

²⁴ *Id.*

²⁵ SCJ refers to the Environmental Protection Agency’s (“EPA’s”) comments on the FTC Green Guides with respect to “non-toxic” claims for the premise that “non-toxic” and “safe” convey the same message to consumers. The Green Guides Statement of Basis and Purpose advise, “[The] EPA stated it ‘considers ‘non-toxic’ claims on

In addition, dictionaries do not equate the two terms. Dictionary.com defines “nontoxic” as “not of, relating to, or caused by a toxin or poison.” While the example given is “safe, nontoxic paint” it does not mean the two words are the same.²⁶ Merriam-Webster defines nontoxic as “not toxic” and Cambridge Dictionary defines non-toxic as “not poisonous or not containing poisonous substances.”²⁷ By contrast, “safe” is defined as “secure from liability to harm, injury, danger, or risk” or “free from harm or risk.”²⁸

Absent consumer perception evidence, NAD stepped into the shoes of a reasonable consumer and determined that one message reasonably conveyed by a monadic unqualified “safe” claim is that the product is safe when used as directed. While advertisers are responsible for all messages reasonably conveyed by their advertising, they are not obligated to support unreasonable interpretations of their claims. NAD was not persuaded that consumers would broadly interpret a “safe” claim on a personal care product to mean that the product is safe for all possible uses, even unintended ones or that the product is safe for consumers to mis-use contrary to product directions.

In addition, the claim that Native products are “cruelty free, safe & simple products made without harsh ingredients” further qualifies the meaning of safe to mean “without harmful ingredients.” The other use of “safe” is not broad and specifically relates to “safe, synthetic, sustainable fragrances (free of phthalates).”

To support its monadic “safe” claims P&G submitted a declaration from a P&G expert as well as P&G’s 4-step safety protocol that: (1) excludes potential ingredients for which there are any doubts regarding their safety or benefit to consumers; (2) defines each ingredient’s safe range using the same science-based standards as major regulatory agencies around the world; (3) evaluates all ingredients in the product to ensure they are safe for consumers and the environment; and (4) keeps up with new information even after the product launch to ensure the product’s ingredients and safety methods continue to meet P&G’s and regulatory agencies’ safety standards. The declaration also stated that P&G excludes over 170 ingredients from its fragrances which is more than the list of ingredients banned by the international Fragrance Association (“IFRA”) and that P&G conducts a separate safety assessment of Native’s fragrances and their ingredients above and beyond the P&G general safety assessment.

pesticide products to be ‘claims as to the safety of a product’ that are false or misleading.” The use of “safe” by the EPA in relation to a “non-toxic” claim for a pesticide does not mean the terms are understood in exactly the same way by consumers.

²⁶ nontoxic. In Dictionary.com. Retrieved June 14, 2024, from <https://www.dictionary.com/browse/nontoxic>.

²⁷ nontoxic. In Merriam-webster.com. Retrieved June 14, 2024, from <https://www.merriam-webster.com/dictionary/nontoxic#:~:text=%3A%20not%20toxic,nontoxic%20household%20cleaners>; nontoxic. In Dictionary.Cambridge.com. Retrieved June 14, 2024, from <https://dictionary.cambridge.org/us/dictionary/english/non-toxic>.

²⁸ safe. In Dictionary.com. Retrieved June 14, 2024, from <https://www.dictionary.com/browse/safe>; safe. In Merriam-webster.com. Retrieved June 14, 2024, from <https://www.merriam-webster.com/dictionary/safe>. See also safe. In Dictionary.Cambridge.com. Retrieved June 14, 2024, from <https://dictionary.cambridge.org/us/dictionary/english/safe> (defining safe as “not in danger or likely to be harmed”).

NAD determined that the monadic “safe” claims such as “safe & simple products made without harsh ingredients” and “safe, synthetic, sustainable fragrances (free of phthalates)” used on Native products to be supported by the evidence in the record.

F. Born in the U.S.A. claims

SCJ challenged Native’s use of “Crafted in the USA” which P&G permanently discontinued and modified to “Born in the USA.”²⁹ SCJ argued that the modified “Born in the USA” claim is equivalent to a “Made in USA” claim that the Advertiser cannot support. The Advertiser argued that its “Born in the USA” claim simply describes where the Native company was founded as evidenced by the qualifying language found immediately below the claim stating, “Native was founded in San Francisco.”

SCJ argued that the Federal Trade Commission determined that “Born in America” equates to “Made in USA” and cited to an FTC closing letter to Lucky Brand after Lucky Brand’s removed claims that its clothing is “handcrafted in America,” made in the United States, and “Born in America.”³⁰

NAD stepped into the shoes of a reasonable consumer and determined that one message reasonably conveyed by “Born in the USA” is that Native products are made in the USA. The FTC has clearly stated that “crafted in the USA” is equal to a made in USA claim.³¹ NAD found that the FTC’s guidance through its Made in USA closing letters is persuasive evidence that the FTC likely considers a “Born in America” claim to convey a similar message to a made in USA claim. NAD found that P&G’s attempt to qualify the claim with clarifying language that “Native was founded in San Francisco” was not effective. Additionally, the language “Native was founded in San Francisco” could be reasonably interpreted, not as limiting the “Born in America” claim to the founding of the company, but additional information about where the company was founded. The FTC standard for Made in USA claims require that “all or virtually all” of the cost of the good sold be attributable to domestic sources.³² P&G did not provide any evidence that its products are made in the USA. As a result, NAD recommended that P&G discontinue the “Born in the USA” claim.

III. Conclusion

P&G permanently discontinued the following claims:

- “Natural”
- “Natural deodorant”
- “Natural hair care”

²⁹ As previously stated for compliance purposes “Crafted in the USA” will be treated as if NAD recommended its discontinuance and the Advertiser complied.

³⁰ Closing letter to Lucky Brand Dungarees (https://www.ftc.gov/sites/default/files/documents/closing_letters/lucky-brand-dungarees-inc./120120luckybrandletter.pdf).

³¹ Closing letter from Julia Solomon Ensor to Williams-Sonoma (June 13, 2018).

³² FTC’s Enforcement Policy Statement on U.S. Origin Claims, <https://www.ftc.gov/legal-library/browse/enforcementpolicy-statement-us-origin-claims>

- “Natural body wash”
- “Natural clean ingredients”
- “Because your bathroom shouldn’t be a chemistry experiment.”
- “Your bathroom shouldn’t be a chemistry experiment.”
- “We want to help you practice safe sweats.”
- “We believe you should not have to choose between a deodorant that makes you feel safe and a deodorant that works.”
- “Crafted in the USA”

The voluntarily discontinued claims will be treated, for compliance purposes, as though NAD recommended their discontinuance and the Advertiser agreed to comply.

NAD administratively closed the case with respect to “naturally derived” claims.

NAD concluded that the Advertiser’s use of “simple” in its tagline “Clean. Simple. Effective” is substantiated in the context in which it appears on Native’s product packaging and on Native’s website. NAD recommended that P&G discontinue or modify its use of “simple ingredients” consistent with this decision when describing Native product ingredients for its deodorants, body washes, body lotion, conditioners and shampoos.

NAD determined the monadic “safe” claims such as “safe & simple products made without harsh ingredients” and “safe, synthetic, sustainable fragrances (free of phthalates)” used on Native products to be supported by the evidence in the record.

NAD recommended that P&G discontinue the “Born in the USA” claim.

IV. Advertiser’s Statement

The Procter & Gamble Company (P&G) agrees to comply with NAD’s recommendations. P&G appreciates NAD’s recognition that simple formulas with fewer ingredients are relevant for today’s consumers, with many searching for minimalist beauty products, and that P&G substantiated its claims that Native product formulations are “simple” and contain few ingredients—including its tagline, “Clean. Simple. Effective.” P&G also is gratified that NAD found P&G’s monadic “safe” claims for Native products are all supported by the evidence in the record, including P&G’s 4-step safety protocol. While P&G respectfully disagrees with NAD’s determinations regarding certain of P&G’s uses of the phrase “simple ingredients” and the claim “Born in the USA,” qualified by “Native was founded in San Francisco,” as a strong supporter of the industry self-regulatory process P&G will take NAD’s recommendations into account in future advertising. (#7277 JS/WF, closed 06/24/2024)