



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Division of Advertising Practices

October 25, 2017

Wallace S. Snyder, Esq.
Chair
National Advertising Review Board
112 Madison Avenue, 3rd Floor
New York, NY 10016

Re: Advertising Claims for Rust-Oleum Corporation's Painter's Touch 2X Ultra Cover Spray Paint

Dear Mr. Snyder:

I am writing to follow up on the NARB's referral to the FTC of its compliance proceeding involving Rust-Oleum Corporation's claims that its Painter's Touch 2X Ultra Cover spray paints provide "twice the coverage" or "2X" coverage. Your referral letter indicated that The Sherwin-Williams Company brought this challenge to the NAD's attention. Your letter stated that Rust-Oleum Corporation (Rust-Oleum) participated in NAD's self-regulatory process, and agreed to comply with most of NAD's recommendations, but appealed the NAD's finding that it should discontinue using "2X" in the product name. The NARB then affirmed this finding on appeal. Your referral indicated that despite the NAD and NARB decisions, Rust-Oleum continued to use the 2X product name, "one can = two cans" imagery, and "double cover technology" claim in product packaging. Your letter acknowledged that "Rust-Oleum modified its product packaging to include a vertical disclosure near the seam of the product packaging which states 'Compared to other Rust-Oleum general purpose paints' and to explain that the 2X claim applies to other Rust-Oleum general purpose paints on the back panel of the product packaging." However, you wrote that the "modification fails to comport with NAD's or NARB's findings," and the "vertical disclaimer in the seam of the product packaging is wholly ineffective." Accordingly, you referred this matter to the FTC for our review.

We have met in-person and had multiple other communications with Rust-Oleum's representatives to discuss the challenged advertising claims. We understand that before the NARB referred this matter to the FTC, Rust-Oleum discontinued disseminating promotional materials with claims that its products delivered "twice the coverage as other competitive brands." We appreciate the NARB's concern that Rust-Oleum's packaging modifications were insufficient to clearly and conspicuously convey to consumers that the 2X claim refers to its own products and not competing products.

We understand that Rust-Oleum now has modified its packaging further in an effort to clearly and conspicuously convey to consumers that the 2X product name, "one can = two cans" graphic, and "double cover technology" compare Rust-Oleum's 2X Ultra Cover spray paints to its own general purpose spray paints. First, Rust-Oleum has agreed to move the vertical language "*Compared to other Rust-Oleum general purpose paints" from the seam to a horizontal position on the front label. (The "one

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can = two cans*” graphic, to which the asterisk in this language refers, also appears on the front label.) In addition, Rust-Oleum has agreed to make this language more prominent by using bigger and bolder font than it had presented to the NAD and NARB. Furthermore, Rust-Oleum has represented that, on its cans for white paint, this language will be in blue, in contrast to a white background. On other paint colors, this language will be in white in contrast to a color background and offset from other language on the label with a bolded white border. Finally, we understand that prior to meeting with the FTC, Rust-Oleum had added language on the back label that its 2X Ultra Cover spray paints provide “twice the coverage... when compared to other matching colors of Rust-Oleum general purpose paints” and a list of these other paints by brand name.

Upon review of the matter, we have determined not to take additional action at this time. Our decision is not to be construed as a determination that a violation has not occurred. The FTC reserves the right to take such further action as the public interest may require. The FTC fully supports the NARB’s and NAD’s self-regulatory processes, and we appreciate your referral and the opportunity to continue to assist in supporting the NARB.

Very truly yours,



Devin Willis Domond
Chief of Staff for Advertising Practices

cc: Laura Brett, Director, NAD
Ronald R. Urbach, Davis & Gilbert LLP (counsel for Rust-Oleum Corporation)