

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright

_____)
In the Matter of)
)
American Plastic Manufacturing, Inc.,) **Docket No.**
a corporation)
_____)

COMPLAINT

The Federal Trade Commission, having reason to believe that American Plastic Manufacturing, Inc. (“respondent”), has violated provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent American Plastic Manufacturing, Inc., is a Washington corporation with its principal office or place of business at 526 South Monroe Street, Seattle, WA 98108.
2. Respondent advertises, offers for sale, sells, and distributes plastic bags, including “APM Biodegradable Bags,” to the public throughout the United States. Respondent advertises these goods on its website, www.apmbags.com. Respondent also offers for sale, sells, and distributes these goods through various distributors throughout the United States. Respondent advertises that APM Biodegradable Bags are biodegradable because of an additive from ECM Biofilms, Inc.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. To induce consumers to purchase its APM Biodegradable Bags, respondent disseminates, has disseminated, or has caused to be disseminated advertisements and promotional materials, including, but not limited to, the attached Exhibits 1-2.
5. In its advertising and promotional materials, including, but not limited to, those shown in Exhibits 1-2, respondent has made the following statements and depictions:

A. Respondent's Website (Exhibit 1):

i. Homepage:

Biodegradable bags

We are now offering biodegradable bags in both high and low density plastic!



(Ex. 1, at 1).

ii. Biodegradable Bags Page:



“Environmental issues are important to everyone. We are doing our part by offering 100% Biodegradable bags!” (Id., at 3).

“Our biodegradable bags break down completely when in contact with other decomposing materials; in compost bins, landfills, or just buried in the ground. These bags can also be recycled along with regular plastic bags.” (Id.).

“Our biodegradable bags are made using traditional resins combined with an additive from ECM Biofilms that allows the plastic to completely biodegrade within a few years.” (Id.).

“When we make biodegradable bags, we also offer our stock ‘This Bag is Biodegradable’ logo. This logo helps inform consumers about how to dispose of the bag. Two versions of this logo are available for use. Choose the one that works best for you.



Option A – Tells consumers that the bag will biodegrade but does not relay information about recycling.



Option B - Tells consumers that the bag is biodegradable and is also recyclable.”

(Ex. 1, at 3).

“**Biodegradable** bags will break down completely when in contact with decomposing organic waste – even in a landfill where practically nothing degrades.” (Id., at 4).

iii. Reusable and Biodegradable Page:

“**Reusable, Recyclable, and Biodegradable bags**” (Id., at 5).



“Constucted [sic] of heavy-duty low density film, with soft-loop handles, our new reusable bag is also 100% recyclable and completely biodegradable.” (Id.).

“American Plastics new reusable and biodegradable bag is made thick, so it will stand up to many trips to the store, formulated to be recyclable with other plastic bags, and if it does end up in a landfill or even as litter, it is 100% biodegradable.” (Id.).

“**Biodegradable Bags**

American Plastic is now producing bags that are 100% biodegradable and recyclable!” (Ex. 1, at 1, 3, 5-6).

iv. **Going Green Page:**

“**Biodegradable** is a popular word these days. Everyone is concerned about the environment. But it’s also a word that is easily misunderstood. . . .

Simply defined, biodegradable means that an item will break down into natural organic matter.” (Id., at 6).

“**American Plastic Mfg.’s biodegradable bags** are made with an additive from ECM-Biofilms that allows plastic to break down when in contact with other decomposing organic matter. . . . These bags have all the properties of normal plastic bags, can be reused and recycled with other plastic bags, and if littered or landfilled, will biodegrade safely.” (Id.).

B. Respondent’s LineCard (Exhibit 2):

“American Plastic is Going Green – Biodegradable bags now available!

Environmental issues are important to everyone. We are doing our part by offering 100% Biodegradable bags; printed with our custom ‘This Bag is Biodegradable’ logo.

Using an additive from ECM Biofilms (ecmbiofilms.com), our biodegradable bags break down completely when in contact with other decomposing materials; in compost bins, landfills, or just buried in the ground.” (Ex. 2, at 1).

BIODEGRADABLE LOGO OPTIONS

American Plastic has created a custom biodegradable logo for use on our biodegradable bags. Choose the one that works best for your clients.

The “100% Biodegradable and Recyclable” logo provides information about how end users can dispose of the bags.



“**Biodegradable bags** will break down completely when in contact with decomposing organic waste – even in a landfill where practically nothing degrades.” (Id.).

6. Approximately 92 percent of total municipal solid waste in the United States is

disposed of either in landfills, incinerators, or recycling facilities. These disposal methods do not present conditions that would allow APM Biodegradable Bags to completely break down and decompose into elements found in nature within a reasonably short period of time.

7. Consumers likely interpret unqualified degradable claims to mean that the entire product or package will completely decompose into elements found in nature within a reasonably short period of time after customary disposal.

8. The Ecological Assessment of ECM Plastic, American Society for Testing and Materials (“ASTM”) International D5511, *Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials under High Solids Anaerobic Digestion Conditions* (“ASTM D5511”), and other scientific tests relied on by respondent do not assure complete decomposition of APM Biodegradable Bags in a reasonably short period of time or in respondent’s stated timeframes, *e.g.*, nine months to five years, and do not replicate, *i.e.*, simulate, the physical conditions of either landfills, where most trash is disposed, or other disposal facilities stated in the representations.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

FALSE OR MISLEADING REPRESENTATIONS

9. Through the means described in Paragraphs 2, 4, and 5, respondent has represented, expressly or by implication, that:

- A. APM Biodegradable Bags are biodegradable, *i.e.*, will completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal;
- B. APM Biodegradable Bags are biodegradable in a landfill;
- C. APM Biodegradable Bags are biodegradable in a stated qualified timeframe; and
- D. APM Biodegradable Bags are biodegradable, biodegradable in a landfill, or biodegradable in a stated qualified timeframe as a result of an additive from ECM Biofilms, Inc.

10. In truth and in fact:

- A. APM Biodegradable Bags will not completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal;
- B. APM Biodegradable Bags will not completely break down and decompose into elements found in nature within a reasonably short period of time after

disposal in a landfill;

- C. APM Biodegradable Bags will not completely break down and decompose into elements found in nature within respondent's stated qualified timeframes after customary disposal; and
- D. APM Biodegradable Bags will not completely break down and decompose into elements found in nature within a reasonably short period of time after customary disposal, after disposal in a landfill, or within respondent's stated qualified timeframes as a result of respondent's use of an additive from ECM Biofilms, Inc.

11. Therefore, the representations set forth in Paragraph 9 were, and are, false or misleading.

UNSUBSTANTIATED REPRESENTATIONS

12. Through the means described in Paragraphs 2, 4, and 5, in numerous instances respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.

13. In truth and in fact, at the time respondent made the representations referred to in Paragraph 9, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in Paragraph 12 is false or misleading.

14. Respondent's practices, as alleged in this complaint, therefore, constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

IN WITNESS WHEREOF, the Federal Trade Commission has issued this complaint against respondent and has caused it to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C. this _____ day of _____, 2013.

By the Commission.

Donald S. Clark
Secretary

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