



June 29, 2018

VIA EMAIL

California Food Drug and Medical Device Task Force

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







Douglas Allen
Assistant District Attorney
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Re: Goop Inc.'s Deceptive Marketing

Dear Attorneys:

Since alerting you in August 2017 to advertising claims by Goop Inc. (Goop) that various products could treat, cure, prevent, alleviate the symptoms of, or reduce the risk of developing a number of ailments, including but not limited to depression, insomnia, and infertility, there have been some changes to Goop's marketing that we wanted to bring to your attention.

Of the 50-plus health claims that were initially highlighted in TINA.org's database, 19 of those claims have been removed from Goop's website. However, 24 unsubstantiated disease-treatment claims remain on its website. In an apparent effort to remediate this issue, Goop has added the following disclaimer tags to select stories and products (only by clicking on the tags does the narrative appear):

| | |
|---|---|
|  FOR YOUR ENJOYMENT ▾ |  FOR YOUR ENJOYMENT ▲ <i>There probably aren't going to be peer-reviewed studies about this concept, but it's fun, and there's real merit in that.</i> |
|  ANCIENT MODALITY ▾ |  ANCIENT MODALITY ▲ <i>This practice is nearly as old as time — many find value in it, even if modern-day research hasn't caught up yet (or the practice will never catch its attention).</i> |
|  SPECULATIVE BUT PROMISING ▾ |  SPECULATIVE BUT PROMISING ▲ <i>There's momentum behind this concept, though it needs more research to elucidate exactly what's at work.</i> |
|  SUPPORTED BY SCIENCE ▾ |  SUPPORTED BY SCIENCE ▲ <i>There's sound science for the value of this concept and the promise of more evidence to come soon that may prove its impact.</i> |
|  RIGOROUSLY TESTED ▾ |  RIGOROUSLY TESTED ▲ <i>The validity of this concept is pretty much undisputed within the world of M.D.'s, D.O.'s, N.D.'s, and Ph.D.'s.</i> |

Goop’s addition of the first four disclosures – “For Your Enjoyment,” “Ancient Modality,” “Speculative But Promising” and “Supported by Science” – make clear that the company is aware that it does not have the appropriate scientific evidence to support many of the health claims that it is making in its marketing materials. Further, as a matter of law, these four disclosures cannot be used as cover for unsubstantiated disease-treatment claims. That is to say, Goop is not permitted to make a deceptive health claim and then post a disclaimer saying, “sorry, there isn’t reliable and competent scientific evidence to actually support that claim but buy our product to treat your [fill in the ailment] anyway.”

As the FTC has explained, a “disclosure can only qualify or limit a claim to avoid a misleading impression. It cannot cure a false claim. If a disclosure provides information that contradicts a material claim, the disclosure will not be sufficient to prevent the ad from being deceptive. In that situation, the claim itself must be modified.” *See* .com Disclosures: How to Make Effective Disclosures in Digital Advertising, <https://www.ftc.gov/system/files/documents/plain-language/bus41-dot-com-disclosures-information-about-online-advertising.pdf>. As the FTC has repeatedly noted, “what the headline giveth, the fine print cannot taketh away.” *See* What the headline giveth, by Lesley Fair, <https://www.ftc.gov/news-events/blogs/business-blog/2011/06/what-headline-giveth>. Moreover, not only are Goop’s disclaimers legally ineffective, but their placement – below a large photo and before a headline, which is much larger and in bolder font – is such that the vast majority of consumers will never notice them.

In short, Goop continues to deceive consumers, and is trying to cover its tracks with disclaimers that are legally and practically ineffective. As such, we strongly urge that action be taken in order to protect consumers from Goop’s ongoing deceptive marketing.

Sincerely,



Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.



Bonnie Patten, Esq.
Executive Director
Truth in Advertising, Inc.

Cc: Jennifer L. Barry, Latham & Watkins LLP