



April 30, 2020

VIA EMAIL

Mark Whaley
Managing Partner
Everest Microbial Defense™
1925 West Harvard Ave., Suite B
Englewood, CO

Re: Everest Microbial Defense's Unsubstantiated COVID-19 Claims

Dear Mr. Whaley:

I am writing to you on behalf of Truth in Advertising, Inc. (TINA.org), a nonprofit consumer advocacy organization dedicated to protecting consumers from deceptive advertising. An investigation of Everest Microbial Defense's marketing of its products has revealed that the company is deceptively marketing an alcohol-free hand sanitizing product – specifically, the 24Hour Defense™ Foaming Hand Purifier – as able to “kill the Covid-19 virus,” as well as “99.99% of germs & keep[] them away for up to 24 hrs.”¹ Such claims amount to unapproved drug claims in violation of FDA law. *See* [FDA's Apr. 23, 2020 Warning Letter to Prefense, LLC](#) (for making unapproved drug claims about its benzalkonium chloride hand sanitizer); *see also* [FDA's Jan. 17, 2020 Warning Letter to GOJO Industries, Inc.](#) (for making unapproved drug claims about the PURELL® Healthcare Advanced Hand Sanitizer product line).

As the FDA has stated, “[t]ime-specific extended efficacy claims, especially when related to serious disease-related pathogens, may lead to a false sense of security for the general public and result in infrequent hand washing or the substitution of these products for protective gloves and clothing, which are the principal methods for protecting against the spread of diseases caused by pathogenic microorganisms.”² In other words, Everest's marketing of the 24Hour Defense™ Foaming Hand Purifier gives consumers the false impression that using the product negates the need to wash hands often, as recommended by the Centers for Disease Control and Prevention, thereby putting users at an increased risk for contracting COVID-19 and for spreading the deadly disease, which has already claimed more than 60,000 lives in the United States.

Further, Everest’s sale and marketing of two surface disinfectant products – EV360™ Multi-surface Antimicrobial Protectant Spray and BIOPROTECT™ RTU Antimicrobial Surface Protectant (neither of which is listed on the U.S. Environmental Protection Agency’s [List N: Disinfectants for Use Against SARS-CoV-2](#)) – as able to “kill the Covid-19 virus” and prevent future contamination for 90 days may also violate federal laws as Everest does not offer any competent and reliable scientific support for these disease-killing and prevention claims.

Based on this information, we intend to notify government regulators of Everest’s advertising activities unless, by 12pm EST on Monday, May 4, 2020, the company removes all unsubstantiated and deceptive claims from all of its marketing materials, including on product packaging, and makes every effort to alert Everest customers of these issues. Making deceptive and unsubstantiated COVID-19 prevention claims about products can not only cause financial harm for consumers but, as explained above, can also have serious medical consequences as well. As such, time is of the essence.

If you have any questions, please do not hesitate to contact us.

Sincerely,



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

¹ We note that Everest also sells BIOPROTECT™ Hydrating Hand Sanitizer, which makes similar deceptive COVID-19 killing claims but the protection allegedly only lasts 6 hours as opposed to 24 hours.

² <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/prefense-llc-605488-04232020>.