

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

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



In the Matter of)	
)	
ECM BioFilms, Inc.,)	Docket No. 9358
a corporation, also d/b/a)	
Enviroplastics International)	PUBLIC
)	
)	

**COMPLAINT COUNSEL’S CORRECTION REGARDING
STATEMENTS MADE DURING ORAL ARGUMENT**

Pursuant to Commission Rule 3.54, Complaint Counsel provides the following very brief clarification, necessitated by a complexity in the record that Complaint Counsel did not explain in its May 14, 2015 presentation.

During oral argument, Commissioner Ohlhausen asked about the apparently small delta between the answers to Dr. Frederick’s control questions and his test questions. This small delta results from an understandable but incorrect comparison. Comparing the control to the actual claim, the delta for consumers who believed plastic containers and bags would decompose within five years was truly significant: 35% and 32%, respectively.¹ The delta between the control and

¹ Specifically, 21% of respondents gave a five-year answer for the control about plastic containers (3O), and 56% gave a five-year answer for the claim (3J). 25% of respondents gave a five-year answer for the control about plastic bags (3P), and 57% gave a five-year answer for the claim (3K).

the claim for those who believed plastic containers and bags would decompose within one year was 18% and 25%, respectively.²

Dr. Frederick asked questions (3O) and (3P), which displayed a plastic container and plastic bag, respectively, without any claim. These questions should be compared to questions (3J) and (3K), which displayed ECM's biodegradable logo on the same product and stated that the logo (which was otherwise illegible) read "ECM Biodegradable." The control questions should not be compared to questions (3H) and (3I), because these questions displayed products whose logo was illegible to survey respondents. *See* Tr. 1151, 1153-54.

Dated: May 19, 2015

Respectfully Submitted,

/s/ Katherine Johnson

Katherine Johnson

Elisa Jillson

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² Specifically, 16% of respondents gave a one-year answer for the control about plastic containers (3O), and 34% gave a one-year answer for the claim (3J). 13% of respondents gave a one-year answer for the control about plastic bags (3P), and 38% gave a one-year answer for the claim (3K).

CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2015, I caused a true and correct copy of the foregoing to be served as follows:

One electronic copy, one copy through the FTC's e-filing system, and twelve hard copies to the **Office of the Secretary:**

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Room H-159
Washington, DC 20580
Email: secretary@ftc.gov

One electronic copy to the **Office of the Administrative Law Judge:**

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Room H-110
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One electronic copy to **Counsel for the Respondent:**

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I further certify that I possess a paper copy of the signed original of the foregoing document that is available for review by the parties and the adjudicator.

Date: May 19, 2015

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