

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

January 25, 2018

Ms. Diane Dietz
President & Chief Executive Officer
Rodan + Fields
60 Spear Street, Suite 600
San Francisco, CA 94105

Dear Ms. Dietz:

I write to you today to express my concern about what appears to be false and misleading marketing statements by your company which erroneously suggest that the Food and Drug Administration (FDA) has found particular ingredients in your cosmetic products to be safe and effective. These statements risk deceiving consumers in a way that prevents them from making an informed choice about the products they use every day.

More specifically, it has come to my attention that language and links on the Rodan + Fields website have been mischaracterizing FDA's position on the ingredient benzophenone. As you may know, benzophenone is a chemical which absorbs ultraviolet rays. It is often used in personal care products as a sunscreen and may also be used to enhance fragrance.^{1,2} California's Environmental Protection Agency and the World Health Organization International Agency for Research on Cancer have identified this chemical as a possible carcinogen, and there is also evidence that benzophenone is an endocrine disrupter and may cause cancer.^{3,4}

¹ Centers for Disease Control and Prevention (CDC), *National Biomonitoring Program, Benzophenone-3 (BP-3) Factsheet* (April 2017) (https://www.cdc.gov/biomonitoring/Benzophenone-3_FactSheet.html).

² National Institutes of Health, U.S. National Library of Medicine, National Center for Biotechnology Information, *Compound Summary for CID 3102* (<https://pubchem.ncbi.nlm.nih.gov/compound/benzophenone#section=Top>).

³ California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, *Benzophenone*, (June 2012) (<https://oehha.ca.gov/proposition-65/chemicals/benzophenone>).

⁴ International Agency for Research on Cancer, *IARC Monographs 101, Benzophenone* (2013) (<https://monographs.iarc.fr/ENG/Monographs/vol101/mono101-007.pdf>).

Your company sells a number of products containing benzophenone, and is required under California's Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, to provide a warning regarding its use. Your company's website offers the following warning:

For California customers:

*WARNING: This product can expose you to chemicals including Benzophenone, which is known to the State of California to cause cancer. For more information, visit the Proposition 65 website. Click here for more information about the FDA's position on Benzophenone.*⁵

The phrases "visit the Proposition 65 website" and "Click here" act as hyperlinks to external websites.

For some period of time prior to January 17, 2018, the "Click here" hyperlink directed consumers *not* to FDA's website or position on benzophenone, but rather to the website: <http://www.cosmeticsinfo.org>.⁶ That website, which is maintained and paid for by the Personal Care Products Council (PCPC)⁷, summarizes findings by PCPC's Cosmetic Ingredient Review (CIR) Expert Panel concluding that benzophenone is safe for use in cosmetics and personal care products. It does not appear that FDA has made any public determination on the safety of benzophenone in personal care products, but the Centers for Disease Control and Prevention (CDC) has stated that "[t]he human health effects from skin exposure to low levels of BP-3 are unknown. ... More research is needed to assess the human health effects of exposure to BP-3."⁸

Rodan + Fields' action at a minimum could mislead consumers and possibly place their health at risk. More precisely, your website erroneously indicated that it would provide consumers with information from FDA, the agency charged with regulating cosmetics. Instead, the website directed consumers to a source that is fully funded by the cosmetics industry itself and which presents the industry's self-assessment on the safety and use of benzophenone. Consumers may thus have been easily duped into believing that the website Rodan + Fields redirected to was an accurate or unbiased representation of FDA's position on this ingredient, and may have had no idea that the website is actually funded by the cosmetics industry. This

⁵ Rodan + Fields, *Reverse Brightening Regimen + Active Hydration Serum Special* (<https://www.rodanandfields.com/Shop/Product/RVRBH01#ingredients>)(accessed Jan. 9, 2018).

⁶ Cosmetics Info, *Benzophenone-1, -3, -4, -5, -9 and -11* (<http://www.cosmeticsinfo.org/ingredient/benzophenone-1-3-4-5-9-and-11>).

⁷ The Personal Care Products Council is a national trade association representing the global cosmetic and personal care product industry.

⁸ Centers for Disease Control and Prevention (CDC), *National Biomonitoring Program, Benzophenone-3 (BP-3) Factsheet* (April 2017) (https://www.cdc.gov/biomonitoring/Benzophenone-3_FactSheet.html).

deceptive action on the part of Rodan + Fields is not consistent with the public health goal of helping consumers make informed decisions regarding product purchase or protecting consumers from potential health hazards.⁹

Given this, I respectfully request you answer the following questions by February 16, 2018:

1. When did Rodan + Fields first begin displaying the Prop. 65 warning detailed above?
2. When did Rodan + Fields first begin displaying the “Click here” hyperlink directing consumers to /www.cosmeticsinfo.org and why did Rodan + Fields choose to link to this particular website?
 - a. At the time Rodan + Fields included this link, was it aware that cosmeticsinfo.org presents the position of the cosmetics industry, and is not an FDA-supported website?
3. It appears that sometime in mid-January, 2018, the “Click here” hyperlink was updated. It now directs consumers to a FDA website outlining regulations for over-the-counter sunscreen. These regulations were stayed indefinitely in 2001.
 - a. On what date did Rodan + Fields update the hyperlink?
 - b. Why did Rodan + Fields update this hyperlink?
 - c. Why did Rodan + Fields elect to change the hyperlink to this particular FDA website?
 - i. Was Rodan + Fields aware that these FDA regulations have been stayed?
 - ii. Has Rodan + Fields considered revising its disclaimer to reflect that the stayed regulations do not represent a current agency position?

I have long advocated for greater transparency in the cosmetic and personal care product industry, because consumers deserve to have access to full, accurate, and unbiased information regarding the products they are purchasing. I continue to work in Congress to pass legislation that would give FDA greater authority over cosmetics and personal care products because it is becoming increasingly clear that some manufacturers may be marketing contaminated or harmful products and misleading consumers about the safety of their products. This incident serves as

⁹ While the hyperlinks on Rodan + Fields’ website have since been updated to redirect to FDA’s website, the link still does not guide consumers to any information outlining the agency’s position on benzophenone.

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one more example of why FDA and Congress must come together to enact changes to our cosmetic regulatory framework to ensure that consumers are not harmed by the products they use every day.

If you have questions regarding this request, please have your staff contact Kimberlee Trzeciak or Christina Calce of the Democratic Committee staff at (202) 225-3641.

Sincerely,

A handwritten signature in blue ink that reads "Frank Pallone, Jr." with a stylized flourish at the end.

Frank Pallone, Jr.
Ranking Member