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January 17, 2018

Susan T. Mayne, Ph.D., F.A.C.E.
Director, Center for Food Safety and Applied Nutrition
Food and Drug Administration
5001 Campus Drive
College Park, MD 20740

Re: Rodan + Fields False and Misleading Representation on the FDA's Stance on Benzophenone

Dear Director Mayne:

I am writing on behalf of the Environmental Working Group. Given the public health interest in assuring the safety of cosmetic products on the market, EWG is deeply concerned about the false and misleading representations made by the multi-level marketing cosmetics company Rodan + Fields concerning the FDA's stance on benzophenone, an ingredient found in cosmetics that is known to cause cancer.

Rodan + Fields has several products that contain the ingredient benzophenone. As benzophenone is a known carcinogen, pursuant to California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Rodan + Fields is required to provide a warning to consumers. Rodan + Fields' website provides the following warning¹:

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 go to www.p65warnings.ca.gov. [Click here](#) for information about the FDA's position on Benzophenone.

Of grave concern is that the "Click here" link is not to the FDA's position on benzophenone, but rather, a link to a cosmetics industry funded website. The linked website is run by the Personal Care Products Council ("PCPC"), which is the national trade association representing the global cosmetics and personal care products industry.

The purpose of Proposition 65 is to help Californians make informed decisions to protect themselves from chemicals known to cause cancer, birth defects, or other reproductive harm. As part of the law, businesses selling products to people in California, such as Rodan + Fields, must provide "clear and reasonable warnings" before knowingly exposing people to any chemical on the state's list of chemicals known to cause cancer, which includes benzophenone. Rodan + Fields' warning is neither clear nor reasonable, as it falsely represents that the FDA's position on benzophenone is the same as PCPC's position. This

¹ <https://www.rodanandfields.com/Shop/Product/RVRBH01>.



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biased information deprives consumers the full knowledge of the risks of using Rodan + Fields' products and induces consumers to purchase their products based upon false and misleading information.

Rodan + Fields' deceptive misrepresentation creates an impression of official FDA approval of both the linked content and the company's use of benzophenone in its cosmetic products. It also raises serious concerns as to whether Rodan + Fields violates the Federal Trade Commission's truth-in-advertising laws and regulations ([15 U.S.C. §§ 52-54](#)) and whether the Proposition 65 disclosure is being made "clearly and conspicuously," as required by the FTC. Likewise, the misrepresentation may amount to a violation of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 352) and the Fair Packaging and Labeling Act ([15 U.S.C. § 1451](#)), which prohibit misbranding and false and misleading labeling.

This misrepresentation also amounts to a violation of California's False Advertising Law, California Business & Professions Code §§ 17500, *et seq.*, which makes it unlawful for any corporation intending to sell products to make any statement in connection therewith which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading. Rodan + Fields' deceptive practice of providing consumers with cosmetics industry supported information under the guise that the information is the FDA's position on the carcinogenic ingredient is both untrue and misleading. Rodan + Fields' representation that the government's position on benzophenone is the same as the biased, industry supported information is immoral, unethical, misleading, and injurious to consumers.

In the interest of consumer protection and the safety of cosmetic products, EWG calls upon the FDA to demand Rodan + Fields remove its false and misleading representations from its website.

I look forward to hearing from you with an update. Thank you very much.

Sincerely,

Caroline Leary
Attorney, EWG