

**Before the
FEDERAL TRADE COMMISSION
Washington, D.C. 20580**

Petition to Enjoin False Advertising and Labeling of Splenda®	Docket No. _____
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**PETITION TO ENJOIN FALSE ADVERTISING AND LABELING
BY
THE ALLIANCE FOR NATURAL HEALTH USA**

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INTRODUCTION

The Alliance for Natural Health-USA pursuant to 16 C.F.R. §§ 1.9, 1.21, and 1.25 and Section 18 of the Federal Trade Commission Act (“FTCA”), 15 U.S.C. § 57(a)(1)(B), hereby petitions the Federal Trade Commission to recognize and enforce 15 USC § 45a, prohibiting unfair or deceptive acts or practices and 15 USC § 52, prohibiting false advertisement as defined by 15 USC § 55 (a), against Tate and Lyle, the manufacturer of the nonnutritive sweetener product Splenda®.

THE PETITIONER

The Alliance for Natural Health USA (ANH-USA) is a Washington, D.C. based nonprofit located at 1350 Connecticut Avenue, NW, Fifth floor, Washington, D.C., 20036. ANH-USA¹ is part of an international organization dedicated to promoting sustainable health and freedom of choice in healthcare through good science and good law. We protect the right of natural-health practitioners to practice and the right of consumers to choose the healthcare options they prefer. Since 1992, we have worked to shift the medical paradigm from an exclusive focus on surgery, drugs and other conventional techniques to an “integrative” approach incorporating functional foods, dietary supplements and lifestyle changes. This is the way to improve health and extend lives while reducing the costs of healthcare back to a sustainable level.

¹ ANH-USA was established as the American Preventive Medical Association (APMA) in 1992 and later changed its name to the American Association for Health Freedom (AAHF). In 2009, AAHF merged with the Alliance for Natural Health, becoming an international organization with offices in the UK (ANH International) and the U.S. (ANH-USA).

THE RESPONDANTS

Tate and Lyle is a multinational agribusiness. Their product Splenda® is the commercial name and registered trademark of a sucralose-based artificial sweetener derived from sugar. Tate & Lyle develops sucralose-based Splenda products in partnership with Johnson & Johnson subsidiary McNeil Nutritionals LLC.

LEGAL GROUNDS

The FTC Act prohibits unfair methods of competition and the dissemination of false advertising. False advertising is defined as “misleading in a material respect” (15 USC § 52). Furthermore, the FTC Act empowers the FTC to prevent businesses from engaging in unfair methods of competition and deceptive acts or practices.

15 USC § 45 - Unfair methods of competition unlawful; prevention by Commission

(a) Declaration of unlawfulness; power to prohibit unfair practices; inapplicability to foreign trade

- (1) Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful.
- (2) The Commission is hereby empowered and directed to prevent persons... from using unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce.

15 USC § 52 - Dissemination of false advertisements

(a) Unlawfulness

It shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement—

- (1) By United States mails, or in or having an effect upon commerce, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly the purchase of food, drugs, devices, services, or cosmetics; or
- (2) By any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in or having an effect upon commerce, of food, drugs, devices, services, or cosmetics.

A new line of Splenda® products was recently introduced called Splenda® Essentials™.

Splenda® Essentials™ is the same formulation as the regular Splenda® product, however it contains a small addition of either fiber, B vitamins, or vitamins C and E.

The advertising for the new product Splenda® Essentials™ is false, misleading and deceptive. The advertising for Splenda® Essentials™ includes statements such as, “helps support a healthy metabolism,” “contains one gram of healthy fiber,” and “contains vitamin C and E, like those found in fruits and vegetables,” which likens the product to consuming fruits and vegetables². However, the inclusion of the above stated nutrients does not support the advertising claims that Splenda® is part of healthy metabolism or a healthy diet more generally. Additionally, Splenda produces a web series called “Essential Choices for Healthy Living” which features a Registered Dietitian promoting “healthy” food choices, including prominent endorsements of Splenda Essentials as a health food product³.

Splenda does not support a healthy metabolism even with added vitamins and minerals. A Duke University study found that sucralose (Splenda) alters the microflora in the intestine and “exerts numerous adverse effects,” including an increase in body weight⁴, the opposite of what Splenda® purports to do. An article entitled “The Lethal Science of Splenda, a Poisonous Chlorocarbon,” by Johns Hopkins-trained physician and biochemist James Bowen, MD, warns that “any chlorocarbons not directly excreted from the body intact can cause immense damage to the processes of human metabolism and, eventually, our internal organs. The liver is a detoxification organ that deals with ingested poisons. Chlorocarbons damage the hepatocytes, the liver’s metabolic cells, and destroy

² Advertising appears at Respondent’s website, <http://www.splenda.com/essentials>, as well as in television commercials such as the one found online at <http://www.youtube.com/watch?v=EFRKZhJOOV4>

³ <http://www.youtube.com/watch?v=v2KWTR2dbmE>

⁴ Abou-Donia, M.B., El-Masry, E.M., Abdel-Rahman, A.A., McLendon, R.E., & Schiffman, S.S. (2008). Splenda alters gut microflora and increases intestinal p-glycoprotein and cytochrome p-450 in male rats. *Journal of Toxicology and Environmental Health*, 71(21), 1415-1429. Retrieved from <http://www.tandfonline.com/doi/abs/10.1080/15287390802328630>

them.”⁵ Dr. Bowen notes that the high solvency of chlorocarbons like Splenda attacks the human nervous system and can produce cancer, birth defects, and immune system destruction. In test animals, Splenda produced swollen livers (as do all chlorocarbon poisons), calcified their kidneys, shrunk their thymus glands (the biological seat of immunity) and produced liver inflammation.

Furthermore, Splenda is an organochloride compound, making the product far more akin to insecticides, herbicides, and pesticides (like the organochloride DDT) than to fruit and vegetables. According to Dr. Bowen, chlorine is “nature's Doberman attack dog—a highly excitable, ferocious atomic element employed as a biocide in bleach, disinfectants, insecticide, WWI poison gas and hydrochloric acid.”⁶ Common chlorocarbons include chlordane and DDT, a product so harmful that it is now banned for agricultural use the world over. A more accurate advertising statement would draw this link instead.

Other adverse effects found in animals as a result of sucralose ingestion include:

DNA damage in gastrointestinal organs⁷, incidence of cataracts⁸, deaths in pregnant rabbits and aborted rabbit foetuses⁹, and shrunken thymus glands (the thymus plays an

⁵ "The Lethal Science of Splenda, a Poisonous Chlorocarbon." *The Lethal Science of Splenda*. Web. 21 Feb. 2012. <<http://www.holisticmed.com/splenda/bowen.html>>.

⁶ Ibid.

⁷ Sasaki Y.F., Kawaguchi S., Kamaya A., Ohshita M., Kabasawa K., Iwama K., Taniguchi K., Tsuda S. (2002). The comet assay with 8 mouse organs: results with 39 currently used food additives. *Mutation Research*, 519(1-2), 103-19. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/12160896>

⁸ Mann S.W., Yuschak M.M., Amyes S.J., Aughton P., Finn J.P. (2000). A combined chronic toxicity/carcinogenicity study of sucralose in Sprague-Dawley rats. *Food and Chemical Toxicology*, 38, S71-89. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/10882819>

⁹ Kille JW, Tesh JM, McAnulty PA, Ross FW, Willoughby CR, Bailey GP, Wilby OK, Tesh SA. (2000). Sucralose: assessment of teratogenic potential in the rat and the rabbit. *Food and Chemical Toxicology*, 38, S43-52. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/10882817>

important role in immune function)¹⁰. To advertise such a product as “healthy” simply because of a few added vitamins is misleading and deceptive.

Furthermore, the additional fiber or vitamins contained in Splenda® Essentials™ is negligible. The regular Splenda® product already contains fiber—the powdery dextrose and/or maltodextrin that forms the carrier for the sweetener—but only between 0.5 and 1.0 grams of it. The Splenda® Essentials™ formulation with added fiber merely keeps the fiber levels at an even 1.0 grams. For the formulation with vitamins, Splenda® Essentials™ has added 20% of the recommended daily allowance (RDA); for the fiber, they’ve added 0.03% of the RDA. The table below compares the levels of added nutrients in Splenda® Essentials™ with both the RDA for these nutrients, and with recommended amount from the late scientist, researcher, and physician Dr. Emanuel Cheraskin of the International Academy of Science:

	B1	B5	B6	C	E	Fiber
RDA ¹¹	1.2 mg	5 mg	15 mg	85 mg	15 mg (22.35 IU)	32 mg
Amount in Splenda® Essentials™ per packet	0.24 mg	1 mg	3 mg	17 mg	4.5 IU	1 mg
Cheraskin ¹²	25 mg	100–200 mg	25 mg	1,000 mg	450 IU	

With the small amounts of nutrients per packet, one would need to be consuming a large number of packets to make any positive impact in one’s health, without accounting for

¹⁰ Coghlan, A. (1991). Shrunken glands spark sweetener controversy. *New Scientist*, 1796, 13.

¹¹ "Food and Nutrition Information Center: File Not Found." *Food and Nutrition Information Center*. Web. 21 Feb. 2012. http://fnic.nal.usda.gov/nal_display/index.php?info_center=4.

¹² Cheraskin, E. "Diet and Supplementation: Keys to Optimal Health." *International Academy of Science*. Web. 21 Feb. 2012. <<http://www.science.edu/CheraskinPaper/>>.

the negative side effects of consuming the high amounts of sucralose in the Splenda® Essentials™.

Imparting false expectations of the Splenda® Essentials™ and marketing the product as a health food will influence consumers purchasing decisions and lead to overconsumption of Splenda® Essentials. This would exacerbate many of the health concerns related to consuming Splenda® documented in this petition. The marketing and advertising appear to be targeting health-conscious people who are interested in vitamins and nutrition—despite the fact that Splenda® is potentially toxic and has no place in a healthy diet.

RELIEF REQUESTED

The actions described above constitute unfair and deceptive practices under the Federal Trade Commission Act. Pursuant to **15 USC § 45** the FTC is empowered to enforce the Act and prohibit any such person from violating the Act.

Accordingly, The Alliance for Natural Health USA respectfully requests that the Commission take prompt action against Tate and Lyle to stop the deceptive and misleading statements in the advertising for Splenda® Essentials™.

Respectfully submitted,

ALLIANCE FOR NATURAL HEALTH USA

DATED: February 21, 2012