



## FTC Updated Green Guides Released

On October 01, 2012, the Federal Trade Commission issued its long-awaited “Guides for the Use of Environmental Marketing Claims” (“Green Guides”). The updated Green Guides provide advertisers and sellers with the FTC’s views on marketing a product’s environmental qualities and provide more specific guidance and examples, tightening what advertisers can say in marketing environmental claims. Companies should examine their advertising to make sure any claims that could be construed as environmental claims are substantiated in light of the newly adopted Green Guides. The FTC’s summary of the Green Guides can be found at <http://www.ftc.gov>

Like other FTC guidance, in the Green Guides the FTC makes clear that marketers should be as specific as possible about their claims. Marketers should not make broad, unqualified general environmental benefit claims in product labeling or advertising such as “green” or “eco-friendly.” Such broad claims are difficult or impossible to substantiate and may be considered green washing by the FTC. In order to comply with the guides, marketers should qualify general claims with specific environmental benefits and such qualifications should be clear and prominently displayed. A qualified claim explains the environmental benefit in a limited and exact way. Even if a qualified claim is made, the specific benefit should be significant and marketers need to analyze the overall net environmental impact to see if the claim being highlighted actually benefits the environment. For nearly all claims, competent and scientific evidence is required to support the claim.

### *Recyclable, Recycled Content, Renewable Materials, Degradable and Compostable claims*

Marketers should qualify recyclable claims when recycling facilities are not available to at least 60 percent of the consumers or communities where a product is sold.

Recycled content claims should be made only for materials that have been recovered or diverted from the waste stream and need to be qualified (30% recycled content). Qualifying language is strongly recommended for recycled content claims. Claims regarding made with renewable materials should generally be qualified as an unqualified claim may imply that a product is recyclable, made with recycled content, or biodegradable.

Unqualified degradable claims for a solid waste product cannot be made unless the entire product or package will completely break down and return to nature within one year after customary disposal. Generally, items destined for landfills, incinerators, or recycling facilities will not degrade within



a year. Compostable claims need to be qualified if the product cannot be composted at home safely or in a timely way. Additionally, a claim that a product can be composted in a municipal or institutional facility must be qualified if the facilities aren't available to a substantial majority of consumers.

### *Certification Seals, Free-Of, and Renewable Claims*

The Guides contain new sections on certifications and seals of approval, carbon offsets, free-of claims, non-toxic claims, made with renewable energy claims, and made with renewable materials claims.

The new section on certifications and seals of approval cautions against making general environmental claims by not clearly disclosing the basis for the certification. A certification or seal may be considered endorsements that are covered by the FTC's Endorsement Guides which would require disclosure of material connection that might affect the weight or credibility of an endorsement.

Carbon offset claims need to be supported by competent and reliable scientific evidence, claims cannot be made if the law requires the offset already, and disclosure is required if the offset will not occur within two years.

It is deceptive to claim that a product is "free-of" a substance if it is free of one substance but includes another that poses a similar environmental risk. A company may not make a "free-of" claim if a substance is not associated with that product category. Non-toxic claims need competent and reliable scientific evidence that the product is safe for both people and the environment. Generally, ozone-friendly or atmosphere friendly claims are barred completely.

Unqualified "made with renewable energy" claims should not be made unless all, or virtually all, the significant manufacturing processes involved in making the product or package are powered with renewable energy or non-renewable energy, matched by Renewable Energy Certificates. Companies should specify the source of renewable energy clearly and prominently (wind, solar).

The Guides do not address use of the terms "sustainable," "natural," or "organic." Organic claims made for textiles and other products derived from agricultural products are covered by the U.S. Department of Agriculture's National Organic Program.

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