The Federal Trade Commission’s Green Guides: What Retailers Need to Know

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• All questions will be answered at the end of the presentation.
OVERVIEW

• FTC and Advertising Law
• The Green Guides
  • The Basics
  • Claims
  • Enforcement
• The Review
SEC. 5, FTC ACT (15 U.S.C. §§ 41-58)

• Tell the truth.
• Have substantiation for:
  • Express and implied claims.
• Competent and reliable scientific evidence
RETAILER LIABILITY

- Catalog marketers/infomercials
- Higher risk of law enforcement:
  - Repeats or embellishes manufacturer’s claim for questionable product
  - Health or safety claims
- Private label brands
GREEN GUIDES BASICS

How do consumers understand claims? Apply to all forms of marketing claims.
   Business → consumer.
   Business → business.
NOT performance standards or eco-labels.
GENERAL GREEN GUIDES PRINCIPLES

1. **Consumer perception controls.**
2. Be specific.
3. Don’t overstate attributes.
4. Use clear and prominent qualifications.
QUALIFICATIONS SHOULD BE:

CLEAR.

Prominent.

Understandable.

- Plain language.
- Sufficiently large type.
- In close proximity to qualified claim.
TYPES OF MARKETING CLAIMS

- General environmental benefits
- Degradable, biodegradable & photodegradable
- Compostable
- Recycled content
- Recyclable
- Source reduction
- Free-of
- Ozone safe/ozone friendly
- Non-toxic
GREEN GUIDES REVIEW

Federal Register Notices

Workshops
- Carbon Offsets/RECs
- Green Packaging
- Green Buildings and Textiles

Consumer Perception Research
FTC CONSUMER PERCEPTION STUDY

Internet study - Harris Interactive

- General ("green," "eco-friendly")
- Sustainable
- Renewable ("made with renewable energy/materials")
- Carbon neutral/Carbon offset
GENERAL CLAIMS - CURRENT GUIDES

- Suggest wide-reaching environmental benefits.
- Difficult to substantiate.
- Avoid or qualify.

Credit: muttropolis.com
STUDY: “GREEN” OR “ECO-FRIENDLY”

52% - Product had specific green attributes.

- Made with recycled materials – 61%
- Recyclable – 59%
- Made with renewable materials – 54%
- Biodegradable – 53%

27% - **NO** NEGATIVE ENVIRONMENTAL IMPACT
BEWARE OF GENERAL BENEFIT CLAIMS.

“Highly unlikely marketers can substantiate all reasonable interpretations of these claims.”

- Marketers should not make unqualified general environmental benefit claims.
QUALIFICATIONS – USE CAUTION

They **may** work if:

- They are clear and prominent.
- They limit the claim to a specific benefit(s).
- Context → no other deceptive implications.
GENERAL ENVIRONMENTAL CLAIMS

Pure Quality, Pure Ingenuity, Pure Clothing

We are dedicated to providing high performance wear that brings together comfort, simplicity and our own unique Pure Style to create an eco-friendly bamboo clothing line committed to fitting your one of a kind environmentally conscious life style.
“BAMBOO FIBER” TEXTILES

Actually rayon.

 Doesn’t retain the natural attributes of the bamboo plant (such as anti-microbial properties).
DEGRADABILITY – TIME AND PLACE

Qualify claims unless

“Entire product/package will completely breakdown and return to nature within a reasonably short period of time after customary disposal.”
DEGRADABILITY

Unqualified degradable claims are deceptive for products destined for landfills, incinerators, or recycling facilities – where products won’t decompose in a reasonably short period of time.
CERTIFICATIONS/LOGOS/SEALS
“Earth Smart” seal may imply that product is superior.

Explain basis for award.

Limit superiority claim to attributes that can be substantiated.
CERTIFICATIONS/LOGOS/SEALS

- Endorsements.
- Need substantiation.
- General environmental benefit claim.
- Clear and prominent qualification:
  - Refers only to specific, limited environmental benefit.
CERTIFICATIONS MAY BE ENDORSEMENTS

Marketers must disclose a “material connection”:

A “connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement.”
Certified by the Renewable Energy Association.

Acme is a dues-paying member of this organization.
“TESTED GREEN”

- Sold environmental certifications
- Claimed Tested Green was the “nation’s leading certification program”
- FTC alleged Tested Green never tested any of companies it provided with certifications, and would “certify” anyone willing pay a fee.
NEW SECTION – FREE-OF CLAIMS

Truthful claims may be deceptive if:

- Contains substances that pose same/similar risks as substance not present.
- Never associated with product.

Small amount may be okay, depending on context.
NON-TOXIC

“... likely conveys that the [item] is non-toxic both for humans and for the environment generally.”
RENEWABLE MATERIALS

Confusion with other environmental claims.

Specify material used; how sourced; why it is renewable.

Qualify unless entire product (minus incidental components) is made with renewable materials.
RENEWABLE ENERGY

Confusion with other environmental claims:

Specify source of renewable energy.
NO PROPOSED GUIDANCE

Sustainable
Organic
Natural
MORE INFORMATION?

ftc.gov/green

business.ftc.gov/advertising-and-marketing/environmental-marketing
The audio recording and slides shown during this presentation will be available to GC3 Members on the GC3 Website:
http://www.greenchemistryandcommerce.org

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SAVE THE DATE!