

Federal Trade Commission
Office of the Secretary, Room 113 (Annex J)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Environmental Marketing Claims - Project No. P954501

To Whom It May Concern:

I provide the following comments to the Request for public comments for *Guides for the Use of Environmental Marketing Claims* - Project No. P954501. These comments are intended to supplement comments originally submitted by GreenBlue in the last round of input. I was coauthor to GreenBlue's comments, but I have since left the organization. The following comments are my own, and are not necessarily those of GreenBlue or its employees.

I am qualified to respond to this Request on the basis of my experience in the field of sustainability practice. From 2003 to 2009, I led the development of the sustainability institute GreenBlue (www.greenblue.org), whose projects included the Sustainable Packaging Coalition (www.sustainablepackaging.org) and CleanGredients (www.cleangredients.org). I was President and CEO from 2005 to 2009. Our projects consistently engaged questions of environmental product claims. Since leaving GreenBlue in 2009, I have founded TRUTHstudio, a communications design firm that specializes in public interest communications and decision making. A significant part of our work has included support of projects aimed at improving the environmental performance of product supply chains. I also recently launched Economy Map (www.economymap.org), an online interactive map of the US economy and its environmental impacts. Economy Map demonstrates the practical feasibility of achieving the high standard for environmental claims that I suggest below.

I provide general comments, followed by responses to some of the specific questions asked by the Commission.

Please feel free to contact me if I can be of further assistance.

Sincerely,



Jason Pearson
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Founder, Economy Map (www.economymap.org)

GENERAL COMMENTS

Comment #1: General environmental claims should not be allowed.

General environmental claims should not be allowed. Many of the reasons for this were stated in the original submission by GreenBlue, and I continue to support those comments.

Comment #2: Environmental claims should pertain to significant impacts in the real world.

Environmental claims suggest, “If you use this product, you will be helping the environment.” The problem is... Environmental claims typically do not currently tell you **how much** you are helping the environment, and that is dangerously misleading, because consumers presumably are interested in an environmental claim exclusively because they believe that their purchase of a product will make a meaningful difference in environmental impacts. This is the key: does the claim pertain to a **meaningful** distinction?

Therefore, I propose the following standard as appropriate for environmental claims:

Environmental claims are only appropriate for product categories whose manufacture, distribution, use, or disposal have been shown, based on sound research, to contribute significant environmental impacts at the scale of the overall economy. A claim is only appropriate if, in the event that every consumer who purchased a product of this type purchased a product with this environmental performance, the overall reduction in environmental impacts at the scale of the whole economy would be significant.

Any claim of environmental benefit should enable a consumer to understand how the specific product attribute described in the claim is relevant to the way in which the product category has been shown (based on research) to contribute significant environmental damage at the scale of the economy as a whole.

Claims that do not meet this standard are misleading, because they lead consumers to believe that their purchasing actions will make a meaningful difference at the scale of the entire economy. If this is not the case, the claims are misleading.

Therefore, any claim should be based on cited, peer-reviewed research showing that the product category in question is a significant contributor to the specific type of environmental impact that will be addressed by the attributes cited in the claim.

EXAMPLE

The energy efficiency of a refrigerator is an appropriate area for environmental claims, since household appliances have been shown to be significant users of electricity at the scale of the whole economy, and electricity generation has been shown to be a major source of environmental impacts at the scale of the entire economy. The energy efficiency of a chair, however, is not an appropriate area for environmental claims, since chairs have not been shown to be significant users of electricity.

Comment #3: Marketers must demonstrate that their claim is environmentally meaningful.

Marketers should be expected to help consumers to understand the scale of the environmental impacts being affected.

EXAMPLE

The following would be an acceptable claim: *“All of the chemicals in this shampoo product are readily biodegradable (using whatever definition and degradability period the Commission determines is appropriate). Household cleaning products such as shampoo are believed to be responsible for XX% of the total emissions of non-biodegradable toxicants into the environment. If every consumer purchased products that had environmental performance equivalent to this product, the total emissions of non-biodegradable toxicants would be reduced by XX%.”* That is an acceptable environmental claim. It is precise. It enables a consumer to correlate their

action to the overall potential positive impact to which it might contribute if other consumers made similar choices. And it places that impact in the context of the overall scale of impacts in the entire economy. Anything less than this standard is misleading.

Some marketers may object that this standard is too demanding. To which I respond that, if marketers wish to garner financial benefit from claiming that their products are environmentally beneficial, the burden of proof is upon them. It is the responsibility of the Commission to ensure that consumers are not misled into purchasing decisions that they believe to be significant, but which are actually not significant.

This is particularly important in light of the research highlighted by a research described in a recent article in *Newsweek*: <http://www.newsweek.com/2010/03/08/environmental-hypocrisy.html>. In the article, Sharon Begley explained that new research suggests that consumers have a limited “bandwidth” for “doing good for the environment.” Consumers who believe that they have “done good” by purchasing a “green product” are more likely to feel like they have “done their part” and don’t need to do more. If this is the case, it means that the actual *amount* of good done by purchasing a green product is relevant. It’s not enough to just be marginally better than other products in a category. For an environmental marketing claim to be appropriate, the following must be true:

If every consumer who purchased a product of this type purchased a product with this environmental performance, the overall reduction in environmental impacts at the scale of the whole economy would be significant.

If it is not possible to make that statement, then an environmental claim is simply not appropriate. I realize that this goes against the current trend to allow most claims. But if the research cited by Begley is accurate, the ability to make environmental claims may actually be hurting the environment.

Comment #4: The FTC should take a stand on the use of the term “sustainable” in relation to products. Specifically, the FTC should discourage its use.

The Request for comments on the FTC website includes the following statement:

Finally, either because the FTC lacks a sufficient basis to provide meaningful guidance or because the FTC wants to avoid proposing guidance that duplicates rules or guidance of other agencies, the proposed Guides do not address use of the terms “sustainable,” “natural,” and “organic.”

I believe that the FTC *should* make a statement on the use of the term “sustainable.” Specifically, the FTC should advise marketers *against* referring to any product as sustainable. The term is far too ambiguous and broad to have any meaning in relation to products. A strong FTC position on this issue is necessary and appropriate, because the broad use of “sustainable” in relation to products is misleading to consumers. It is also a threat to future of our planet, since it leads to ambiguity about which products might actually support the long-term sustainability of our planet. We cannot afford such ambiguity at this time. We need more precise terms, and the FTC can play a role in encouraging that precision by discouraging use of the term “sustainable” in relation to products.

The term “sustainable” has been popularized in the context of “sustainable development.” Sustainable development is a meaningful term, because it refers to development that can be sustained without compromising the feasibility of future development. This is desirable, and countries participating in the United Nations efforts to promote sustainable development are committing to this form of development.

The adoption and of the term “sustainable” by marketers is meaningless and misleading. Presumably, it is intended to suggest that a “sustainable product” is supportive of “sustainable development.” But this is an impossible and misleading claim, since the aspects of “sustainable development” are too various to adequately quantify and measure in a product claim. No product, in and of itself, can be supportive of sustainable development. It can only be supportive of more narrow objectives. Therefore, more precise claims are more appropriate.

RESPONSES TO SPECIFIC QUESTIONS

Question 1. [second part] Should the Commission advise marketers that a qualified-general environmental claim is deceptive if a particular attribute represents an environmental improvement in one area, but causes a negative impact elsewhere that makes the product less environmentally beneficial than the product otherwise would be? Why or why not?

For reasons stated elsewhere in this response, any claim that a product is generally “good for the environment” is inherently deceptive. I will assume that such claims are not the subject of this question. For the purposes of my response, I will assume that this question seeks to determine whether claims about a specific attribute (whether or not they are tied to a claim of general environmental benefit) are misleading if they fail to acknowledge tradeoffs. The answer to this question is yes.

The Commission should discourage any claim that is clearly intended to communicate, *as an environmental benefit*, an attribute of the product that simultaneously results in environmental damage which is not acknowledged as part of the claim. For example, a claim that indicates local sourcing of materials *as an environmental benefit* would be misleading if those materials were sourced from a facility whose environmental performance (e.g., on toxic emissions) was below the industry average.

I have emphasized, in my response, that only claims that intend to communicate an attribute *as an environmental benefit* should be subject to this standard. If a claim communicates an attribute of a product, but there is no evidence that consumers are likely to understand this attribute as an environmental benefit, then this should not be construed as an environmental claim. In the example above, if local sourcing is not likely to be understood by consumers as an environmental benefit (but as, say, a benefit to the local economy), then the claim need not be qualified with an indication of the environmental costs associated with local sourcing.

Question 2. Would it be helpful to include an example in the Guides illustrating a qualified general environmental claim that is nevertheless deceptive? For example, a marketer advertises its product as “Eco-friendly sheets - made from bamboo.” Consumers would likely interpret this claim to mean that the sheets are made from a natural fiber, using a process that is similar to that used for other natural fibers. The sheets, however, are actually a man-made fiber, rayon. Although bamboo can be used to make rayon, rayon is manufactured through a process that uses toxic chemicals and releases hazardous air pollutants. In this instance, the advertisement is deceptive.

Again, only specific claims should be allowed. General claims of environmental benefit should be actively discouraged. So in the example cited in Question 2, I see two deceptions. First, the claim that products made from bamboo are generally good for the environment. This is misleading because it suggests that a specific attribute can make a product good for the environment. Marketers should be discouraged from using the phrase “Eco-friendly sheets” and should be limited to stating the actual attributes of the product.

I understand, however, that the focus of the question is the second deception: that “made from bamboo” fails to clarify that bamboo is an upstream input of the product, but is not the actual material from which the product is made. This is a deception embedded within a specific claim.

It would be helpful to include a number of examples of ways in which specific claims can be deceptive. More than one example should be provided, because there are numerous ways that marketers can mislead consumers with specific claims, and multiple examples could be used to demonstrate the different possible types of deception. At the least, the “seven sins of greenwashing” identified by Terrachoice (see <http://sinsofgreenwashing.org/findings/the-seven-sins/>) should each be provided an example. The example provided above in question 2 might be characterized as an eighth sin: The Sin of Exaggeration.

Question 3. The Commission’s consumer perception study found that 27 percent of respondents interpreted the claims “green” and “eco-friendly” as suggesting that a product has no (rather than “some”) negative impact. Viewing this finding alone, would it be deceptive for a product to be

advertised with an unqualified general environmental benefit claim if the product had a negligible environmental impact? Please provide any relevant consumer perception evidence.

Yes, it would be misleading, not to mention dangerous. And not only for the reasons cited in the question.

All claims of general environmental benefit should be discouraged. This opinion was stated previously in the original input provided by GreenBlue. I would add the following comments to that original input.

Virtually no product in a modern industrial economy has negligible environmental impact if the full life cycle of the product is taken into account. Our economy is currently too dependent upon an infrastructure of unsustainable material extraction, processing, manufacturing, assembly, distribution, and disposal for any product to avoid having an environmental impact that is more than negligible.

For this reason, general environmental claims should be avoided. Certain products may, today, be “less bad,” but truly “good” products with negligible environmental impacts across their life cycle are extremely rare.

To answer “no” to the question would be to say, effectively, “We accept that our industrial economy has been designed in such a way that any activity damages the environment to a certain extent. Therefore, we will reset our definition of damage and say that negligible damage is the same as no damage at all.” This is wrong.

Our current industrial economy is designed to damage the environment. We will only change that fact if we acknowledge it. It will never change if we ignore it. Answering “no” to the question would amount to ignoring the damaging reality of our current industrial economy.

Question 13. What guidance, if any, should the Commission provide concerning free-of claims based on substances which have never been associated with a product category? How do consumers understand such claims? Please provide any relevant consumer perception evidence.

Marketers should be discouraged from any claim which is likely to mislead consumers into thinking that their purchase of a product is likely to make a significant difference in an area of genuine environmental impact.

In this case, free-of claims are misleading unless they pertain to the elimination of a specific material from a specific product category for which research has shown that the material in question, as a result of its use in the product category in question, contributes significant environmental damage at the scale of the economy as a whole. Free-of claims that do not meet this standard should be discouraged.

Question 17. How do consumers understand “carbon offset” and “carbon neutral” claims? Is there any evidence of consumer confusion concerning the use of these claims? Please provide any relevant consumer perception evidence.

Consumers are likely to understand the words “offset” and “neutral” in their conventional definitions, the most relevant of which are provided as follows from the Webster’s American Dictionary:

offset: something that serves to counterbalance or to compensate for something else

neutral: not engaged on either side

“Carbon offset” and “carbon neutral” claims therefore tend to suggest by the meaning of the words that offset activities can mitigate the environmental damage caused by the production of a product. This is simply not the case. Nothing can mitigate the environmental damage caused by the production of a product. Once the damage has been done, it cannot be undone. Any claims that fail to make this clear to consumers are misleading.

Therefore, any claim of “offset” or “neutral” must make clear that the product itself is environmentally damaging, and must indicate the amount of environmental damage caused by the product. The marketer may *also* communicate the actions which it has taken to compensate for this damage, but any claim that takes the attention of the consumer away from the fact that the product itself causes environmental damage (and therefore requires offsets) is misleading.