



FTC Publishes Final Version of Revised Green Guides

The Federal Trade Commission, completing a multi-year review of its Guides for the Use of Environmental Marketing Claims (the “Green Guides” or “Guides”), issued the final version of the revised Guides on October 1. The Green Guides are designed to help marketers ensure that the claims they make about the environmental attributes of their products are truthful and nondeceptive.

The Green Guides are guidance, not agency rules or regulations. They consist of general principles, specific guidance on the use of particular environmental claims, and numerous examples. Although the Green Guides do not have the force of law, making environmental claims that are inconsistent with the Guides may result in an FTC investigation.

The final version of the Guides incorporates many of the changes that were already set forth in the proposed Guides that we summarized in an earlier Alert. The final version contains 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. However, the Guides do not address use of the terms “sustainable,” “natural,” and “organic.”

Below are highlights from the new Guides:

General Environmental Benefit Claims

- Marketers should not make broad, unqualified general environmental benefit claims like “green” or “eco-friendly.” Broad claims are difficult, if not impossible, to substantiate.
- Marketers should qualify general claims with specific environmental benefits. Qualifications for any claim should be clear, prominent, and specific.

Carbon Offsets

- Marketers should have competent and reliable scientific evidence to support carbon offset claims. Marketers should use appropriate accounting methods to ensure they measure emission reductions properly and don’t sell them more than once.
- Marketers should disclose whether the offset purchase pays for emission reductions that won’t occur for at least two years.
- Marketers should not advertise a carbon offset if the law already requires the activity that is the basis of the offset.

Certifications and Seals of Approval

- Marketers should not use environmental certifications or seals that do not clearly convey the basis for the certification, because the seals or certifications are likely to convey general environmental benefits.
- Marketers should disclose any material connections the marker has with the certifying organization. A material connection is one that could affect the credibility of the endorsement.

Compostable / Degradable / Recyclable

- Marketers who claim a product is compostable need competent and reliable scientific evidence that all materials in the product or package will break down into – or become part of – usable compost safely and in about the same amount of time as the materials with which it is composted.

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- Marketers may make an unqualified degradable claim only if they can prove that the “entire product or package will completely break down and return to nature within a reasonably short period of time after customary disposal.” The “reasonably short period of time” for complete decomposition of solid waste products is one year.
- 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.

Non-Toxic

- Marketers who claim that their product is non-toxic need competent and reliable scientific evidence that the product is safe for both people and the environment.

Free-of Claims

- Marketers can make a free-of claim for a product that contains some amount of a substance if (1) the product doesn't have more than trace amounts or background levels of the substance, (2) the amount of substance present doesn't cause harm that consumers typically associate with the substance, (3) the substance wasn't added to the product intentionally, and (4) the substance has not been replaced with another one that poses a similar level of environmental risk.
- It may be deceptive to claim a product is free of a particular substance if that substance has never been associated with that product category.

The FTC provides a [summary](#) of the Green Guides and other resources for businesses on making environmental claims at <http://business.ftc.gov/advertising-and-marketing/environmental-marketing>.

The FTC is also currently reviewing its Dot Com Disclosures, which address the best ways to make disclosures online and on mobile devices, and is likely to publish this guidance before the end of the year. The FTC is also reviewing its COPPA Rule, which governs the online and mobile collection of personal information from children. We will provide summaries of both of these developments when they are announced.

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