



January 25, 2008

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex O)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Attn: Hampton Newsome

**TO BE FILED ELECTRONICALLY AND VIA COURIER**

Re: Carbon Offset Workshop – Comment, Project No. P074207

Dear Mr. Newsome:

I write on behalf of the Carbon Offset Providers Coalition (the “Coalition”) to provide comments to the Commission in connection with its ongoing review of the Guides for the Use of Environmental Marketing Claims (“Green Guides”), and more specifically, those matters that were the subject of the above-referenced Workshop held by the Commission on January 8th, 2008.

The Coalition comprises leading companies in the carbon offset market, including those involved in financing, producing, generating, aggregating and/or marketing greenhouse gas ("GHG") emission reductions for sale as offsets in existing and emerging voluntary and regulatory GHG emission trading markets (see list of current Coalition members at Exhibit 1, attached). The Coalition's purpose is to ensure that evolving GHG regulatory regimes in the United States are developed in a manner that promotes both environmental integrity and economic efficiency. Coalition members have financed, built, are operating and have in development over 500 offset projects accounting for more than 60 million tons of carbon equivalent emissions reduction or sequestrations in the United States alone. A map showing the geographic distribution of offset projects by type developed, owned and/or operated by Coalition members in the United States is attached as Exhibit 2.



Re: Carbon Offset Workshop -- Comment, Project No. P074207

Page 2

---

The vast majority of offset sales undertaken by Coalition members in the carbon emissions trading markets can be characterized as large-volume, “wholesale” transactions involving corporate or institutional counter-parties, not individuals. Nonetheless, the environmental integrity of offset projects and the credibility of offset-related environmental claims are critical to the long-term viability of our industry at all levels (and, ultimately, to the effective use of offsets in combating climate change). In addition, some Coalition members’ customers repackage offsets to make products or services carbon neutral. We therefore have a vested interest in helping to ensure that commercial practices in the emerging retail market for offsets develop in ways that support, rather than unfairly exploit, the laudable impulses of individual consumers to exercise responsible environmental stewardship on a personal level. We share the Commission’s concern that consumers may have difficulty understanding and verifying the environmental claims associated with retail offset transactions, and we endorse in concept the Commission’s efforts within the scope of its statutory authority to bring clarity to this segment of the environmental marketplace.

We do not endeavor to systematically address in this letter each of the questions raised by the Commission in its request for public comment on the noticed topics. Our comments are limited to a brief discussion of certain concepts and principles that we believe should inform any effort by the Commission to regulate or “guide” the retail offset market. Among those concepts and principles are the points addressed below.

### **Offset Standards in General**

As the Commission has noted, *see* 72 Fed. Reg. 66,094 (Nov. 27, 2007), most offset transactions in the U.S. today (and all retail transactions) take place in a voluntary (as opposed to compliance) market where no federal agency has comprehensive regulatory authority. In the absence of such regulation, numerous offset certification and registration programs have arisen under the sponsorship of individual corporations, non-governmental organizations, and *ad hoc* coalitions of same, in the U.S. and abroad. These programs have somewhat differing standards and/or differing methods for interpreting and applying those standards for and to qualifying offset projects and their claimed emissions reductions. The result is that not all offsets offered on the voluntary markets are exact substitutes one for the other – and in a voluntary market it is not absolutely essential that they be. However, Coalition members believe that all offset transactions, whether undertaken voluntarily or for compliance purposes, should be based upon – and traceable to – unique, achieved reductions in greenhouse gas emissions (or increases in sequestration) that are real, verifiable and verified, permanent, and additional. In the Coalition’s view, GHG emissions reductions (or increases in carbon sequestration) from any type of project

or activity that meets those general criteria may serve as the legitimate basis for an offset claim and/or to satisfy a voluntary or mandated offsetting goal or requirement.

### **The “Additionality” Standard in Particular**

As the Commission has noted, there is some controversy over the “additionality” criterion as it relates to offset claims and qualifying projects for offset programs. This issue reflects the understandable desire on the part of both individual consumers and other voluntary market participants that their purchases will actually make a difference in the fight against global warming, as embodied in the question “would this emissions reduction or sequestration activity be taking place whether or not I engage in this transaction”?

The Coalition’s view is that any programmatic or regulatory standard for evaluating additionality should be one that is practical, environmentally sound and *objectively measurable*. Subjective analyses of the intent of the project developer or of the sufficiency of a project’s investment return simply ignore market realities as they relate to capital formation and the tenure of commercial arrangements which make private activity projects feasible. By their very nature, subjective criteria are difficult (if not impossible) to apply consistently: their use encourages “gaming” and typically leads to increased costs for program administration. There are a number of alternative regulatory approaches to confirm the additionality of projects that could strike the appropriate balance between environmental integrity and the certainty that investors and project developers require in order to foster a functioning market. We do not believe that it is necessary or appropriate for the Commission to attempt to set a regulatory standard or guidelines about the appropriate definition of additionality through revision of the Green Guides.

### **Property Rights and Consumer Motivation**

Some Workshop participants and other consumer advocates and environmentalists have argued that consumers engaging in retail offset transactions expect to acquire property rights as a direct result of their action. We are unaware of any data supporting this specific contention. Our experience tells us that purchase decisions in the voluntary marketplace can be motivated by a desire to satisfy a wide range personal, organizational and civic needs and objectives. In any event, the topic of property rights brings into relief the question of whether consumers engaged in offset transactions are (or believe they are) purchasing a product or a service, making a contribution, or even somehow participating in an investment. The topic also ties back to one of the questions implicit in the “additionality” issue discussed above; namely: what is the actual effect of a retail offset transaction?



While the properly documented transfer of property rights may be critical in a compliance market, and important to many large-volume corporate or institutional purchasers in the voluntary markets, we believe that in the retail sector the actual transfer of property rights would likely create more consumer protection problems than it would solve.<sup>1</sup> The concept of transferring property rights clearly reflects a bias toward viewing offset transactions as involving the purchase of a tradable “product.” We suggest that at the consumer level, the transactions may be more properly viewed as a service that involves taking the subject offsets out of circulation, effectively “retiring” any property rights associated therewith. Ideally, each such retirement should be evidenced by a transaction-specific accounting entry against an audited third-party registry system. Regardless of how the transactions are characterized, however, the key point is that representations to the consumer must be substantiated.

### **Clarity and Transparency**

Without question, the complexity of the scientific, geo-political, technical, economic, commercial and related public policy issues surrounding the climate change problem will continue to challenge the decision-making ability of ordinary consumers searching for a way to become part of the solution. The Coalition believes that the Commission can best serve U.S. consumers (and best fulfill its own mandate to combat unfair and deceptive market practices) by helping to promote the clarity and transparency of retail “offset” offerings and related transactions. Where consumers are purchasing offsets directly, their need to know and understand the “content” (so to speak) of what they are buying is best served by requiring that the relevant information be readily accessible at the “point of purchase” in clear and consistent format. Where offsets are being used to underpin a carbon neutrality claim for the marketing of a particular product, however, it may not be practicable to provide such information at the point of sale. In these instances, the information still should be made available in a readily accessible manner to the consumer, such as on a publicly accessible register. In that context, the Commission should consider establishing within the retail sector guidelines that identify the kind of information<sup>2</sup> that could be expected by a consumer in order to substantiate a particular offset-related claim: for example, the type, location, and timing of the project or activity generating the subject emissions reductions (or sequestrations); the program (or registry) standard(s) to which

---

<sup>1</sup> For example, would a consumer with title to an offset be able to transfer that title to a third party? If so, what could be said about the environmental integrity or efficacy of that transaction, and how would it be tracked?

<sup>2</sup> As opposed to technical standards for offsets themselves.



Re: Carbon Offset Workshop -- Comment, Project No. P074207

Page 5

---

the project or activity conform(s); and the ultimate fate of any property rights associated with offsets that are the subject of the transaction.

As a corollary to the above, the Commission should also consider establishing guidelines for the use of certain terminology in retail offerings that is consistent with the prevailing use of those terms in broader regulated and voluntary markets. For example, we cite the Workshop discussion about the relationship between offsets and “renewable energy certificates” (RECs). While it is indisputable that the generation of electric power from renewable energy resources is environmentally desirable and should be encouraged, we believe that offsets and the RECs that may be issued in connection with such renewable power generation, are separate and distinct commercial and regulatory constructs, and should not be conflated in common commercial use. Accordingly, we believe it is confusing to consumers, and potentially misleading, for a REC to be described as an offset or for an offset claim to be based solely on the purchase and sale of renewable energy products and/or the generation of a REC. *To be clear, we acknowledge that the generation of electric power using renewable energy resources can lead to reductions in GHG emissions, and that using appropriate protocols and program standards, such reductions can be properly quantified, verified and traced.*

Consistent with the discussion of general offset standards, above, we would urge that the term “offset” be used only in connection with uniform units of actual, additional, verified, GHG emissions reductions (or increases in sequestration). Further to the objective of reducing the potential for confusion in the retail marketplace, it would also be helpful for consumers to understand that offsets are also distinct from “allowances,” a term that is used in regulatory regimes (such as existing cap and trade programs) and the associated compliance markets to refer to the allocated units of emissions that the regulated entities are allowed to emit. Although it may not be appropriate for the Commission to seek to establish clear definitions for these terms in the Green Guides themselves, the Commission might provide a useful service to consumers if it encouraged sellers to ensure clarity in the usage of terms, particularly in cases where terms may have multiple, confusing or even contradictory usages, and where the meaning of the term is integral to the claim.

### **Conclusion**

We welcome the Commission’s interest in this sector, and we look forward to working with the Commission as it updates the Green Guides. We believe that the Commission should encourage participants in the offset markets to self-regulate against the requirements judged appropriate to market needs and international best practices, and to take full account of any guidelines forthcoming from the Commission.



Re: Carbon Offset Workshop -- Comment, Project No. P074207  
Page 6

---

We hope the Commission finds these comments by the Coalition helpful. We would be happy to provide additional information to the Commission or to its staff. To that end, please feel free to contact the Coalition's Washington, D.C. representatives at Beveridge & Diamond, PC: K. Russell LaMotte, at [rlamotte@bdlaw.com](mailto:rlamotte@bdlaw.com), 202-789-6080, or David Williamson, [dwilliamson@bdlaw.com](mailto:dwilliamson@bdlaw.com), 202-789-6084.

Sincerely,

---

Roger Williams, Chairman  
CARBON OFFSET PROVIDERS COALITION

Attachments:

- Exhibit 1: List of Current Members of the Carbon Offset Providers Coalition
- Exhibit 2: Location of COPC Member Offset Projects in the U.S. by Type



## **Exhibit 1**

### **Current Members of the Carbon Offset Provider Coalition**

[Blue Source, LLC](#)

[Camco International Group, Inc.](#)

[The CarbonNeutral Company](#)

[CommonWealth Resource Management Corp.](#)

[Environmental Credit Corp.](#)











[GE AES Greenhouse Gas Services](#)

[Kolibri Group](#)

[MGM International](#)

**Exhibit 2  
Location of COPC Member Offset Projects  
in the United States  
by Type**

**Map Key**

| Color   | Type                                 | Color   | Type                         |
|---|--------------------------------------|---|------------------------------|
|    | Agricultural Methane (AM)            |    | Methane Capture (Coal)       |
|    | Landfill Methane (LFG)               |    | Fuel Switching               |
|   | Carbon Capture, Sequestration (CCGS) |   | Methane Capture Waste Water  |
|  | Renewable Energy (RE)                |  | Transportation               |
|  | Forest Conservation, Afforestation   |  | Energy-Use Energy Efficiency |

