



Sappi Fine Paper
North America

Boston Headquarters
225 Franklin Street
Boston, MA 02110

May 19, 2008

Federal Trade Commission/Office of the Secretary
Room H-135 (Annex B)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Green Packaging Workshop – Comment, Project No. P084200; Carbon Offset
Workshop – Comment, Project No. P074207; Green Guides Regulatory Review, 16 CFR
Part 260 – Comment, Project No. P954501

Dear Sir or Madam:

On behalf of Sappi Limited, we are pleased to provide comments on the initiative by the Federal Trade Commission ("FTC") to update its Guides for the Use of Environmental Marketing Claims, 16 CFR Part 260 (the "Guides").

About Sappi

A global leader in the pulp and paper industry, Sappi Limited (NYSE, JSE, LSE), headquartered in Johannesburg, South Africa, has operations in Europe, North America and Southern Africa, as well as a joint venture operation in China. Its global business is focused on coated graphic and specialty paper, pulp and chemical cellulose. In Southern Africa it additionally focuses on plantation forestry and the manufacture of packaging, printing and writing paper and tissue. Sappi is a global leader in chemical cellulose and coated fine paper with an international reputation for quality and innovation. Sappi Trading, based in Hong Kong, operates a trading network for the international sales and distribution of the company's products outside the three main operating regions. Sappi has manufacturing operations in nine countries on four continents, sales offices in some 50 countries and customers in over 100 countries around the world.

I. General Comments

We support the need for publication of the Guides as they provide a common reference for industry so that product claims regarding environmental attributes are consistently reliable and meaningful to consumers.

A. Need for Industry-specific Guides

We would recommend that the FTC consider publishing different guides for the different major industries – or at least break the guide into separate sections by industry. As these guidelines expand it will become increasingly difficult to find information related to a specific industry.

Clarity of the documentation is crucial for leveling the playing field among businesses. We do hear of inconsistencies in reporting, which in turn could be construed as advantageous for those that stretch interpretations of the Guides. In the following sections of these comments, we provide specific examples that we think are inconsistent with the purposes of the Guides. We would also like to see the Guides address sustainable forest certification, and we strongly recommend adding sections on renewable energy claims as well as carbon neutral or carbon footprint claims.

B. Need for Additional Examples

The Guides should be updated with additional examples. It has been our experience that the examples are helpful but not as clear as they could be. For example, the paper manufacture examples seem to focus on manufacturers who make the same or similar product all the time which makes the % recycled content calculation very simple. A manufacturer who only uses recycled fiber in certain products has a much more complicated task.

C. Need to Obtain Comment on Industry-specific Examples

We would suggest that the FTC ask for an industry review of each of the new examples. Having an industry review of examples should help reduce inconsistencies by aligning the Guide with general practices and terms that are broadly used in the industry. For example, while it is implied, it is not explicitly stated in all examples that % recycled fiber content should be calculated by weight of total fiber content in the final product.

Example of Calculating Recycled Fiber Content:

A coated paper product contains 70% fiber and 30% inorganic materials by weight. For a manufacturing run of 1000 tons, this paper includes 700 tons of fiber. For the product to be labeled as 10% post consumer waste it must include 70 tons of recycled fiber.

D. Need for Substantiation of Claims

We support the AFPA comments, offered in the context of climate change and renewable energy issues, that the FTC needs to clarify how substantiation can be made:

[AFPA] recommend that the FTC concentrate on clarifying how claimants should substantiate their claims. For example, the FTC could require that claimants spell out the standard, program, or criteria on which the claimant is basing its claim, either in the claim itself or on a website referenced in the claim. The FTC should require that this explanation contain the parameters, definitions, and other relevant information applicable to the claim. The FTC should not require third party verification of claims, as long as this substantiation is provided.

II. Comments on Paper-related Claims

A. Defining Post-consumer waste

We believe the FTC should expand the definition of post-consumer waste (PCW). The narrow definition of post-consumer waste creates a high demand, and high prices, for a portion of the waste stream while other suitable waste paper is not usable under the definition of PCW.

In order to make this as clear as possible for consumers this is another area where examples could be used. As a paper manufacturer, we would classify broke and obsolete inventory as

non-recycled fiber. Broke gets re-used internally and obsolete inventory should not be recycled but rather sold in an appropriate market.

However, paper that has experienced further processing steps, such as trimming, coating and printing essentially takes the form of a consumer product – wherein the printer or converter would be considered the consumer. Similarly over-runs on magazines or catalogs that have never reached a consumer (i.e. they are never purchased or delivered) but are the same printed document should be viewed as post-consumer material. Currently, these types of materials are not classified as PCW. However it is clear that these categories of paper should be diverted from the solid waste stream and are not materially different from other post-consumer waste when disposed.

The FTC could address these inconsistencies effectively by accepting the approach and definitions set forth in ISO 14021 "Environmental Labels and Declarations: Self-declared Environmental Claims (Type II Environmental Labeling)"(ISO 14021:1999). That standard recognizes that the "recycled content" of goods and packaging can be made up of "pre-consumer" and "post-consumer" material. The standard offers the following definition of "post-consumer material":

Post-consumer material – material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the goods or service which can no longer be used for its intended purpose. This includes returns of material from the distribution chain.

We believe that adoption of this definition from ISO 14021 in the Guide has the added advantage of bringing FTC into compliance with Section 12(d) the National Technology Transfer and Advancement Act, Public Law 104-113, 15 U.S.C. 272 note, which requires federal agencies to "use technical standards that are developed or adopted by voluntary consensus standard bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies or departments." This obligation, which has been implemented through OMB Circular No. A-119, establishes the presumption that an agency should adopt voluntary standards such as ISO 14021 unless the agency can determine that such standard is "inconsistent with law or otherwise impractical." In this context, the ISO 14021 provides a well-established, highly credible definition of the term "post-consumer material" that is consistent with the purposes of the Guide and thus should be adopted by the FTC.

B. Credit System for Recycled Content

We strongly recommend that a fiber credit system be considered. In today's large modern manufacturing plants it is impractical, and in most cases impossible, to require specific recycled content in each specific unit of production. The consumption of recycled fiber should be documented and support the volumes specified in the claim of the final product made with recycled content.

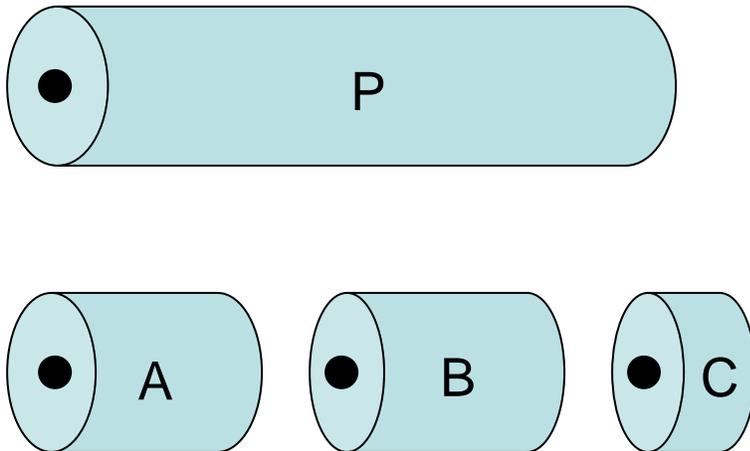
We are experiencing increased operating costs in the way that we have interpreted the definitions and subsequently handled our recycled fiber claims. In the manufacturing process, we make every effort to insure that the recycled fiber content is in the product that we label. As a result we have recycled fiber in products made before and after manufacturing the recycled grade. Furthermore, when we make a recycled product as a special order for a customer, the order will not always fill the width of the machine. Therefore we have product made at the same time that contains recycled fiber which was not requested by a customer. Consequently the additional cost of using recycled fiber can not be recovered from the customer who did not

specifically order paper with recycled content. These types of recycled fiber over-runs add significant cost to our mills. By adopting a recycle fiber credit system, we could use our recycled fiber more cost effectively.

Example of Fiber Credit System Labeling

The example below is offered to illustrate how a fiber credit system could be utilized.

The manufacturer routinely produces coated printing paper with recycled fiber. Each batch or production run often includes several orders for different customers. In the illustration below, the large production run or parent roll, P, is cut to make three orders, A, B, C.



In this case, the manufacturer has orders for recycled content for rolls A and B, but not for roll C. However roll C must be manufactured to fill the machine. Rolls A and B are labeled with a claim of recycled content. However, because there is not an order for roll C which includes recycled content, the paper is sold without making a claim credit for the recycled content. Therefore the manufacturer suffers from the added expense of recycled fiber without being able to recover it in sales. (Paper with recycled content is sold at a higher price.)

If the manufacturer were allowed to use a credit system, they could compensate for this loss. In the example below, the credit system would be used as follows:

The paper manufacturer produces coated printing paper both with and without recycled fiber. On an annual basis the manufacturer produces 100,000 tons of paper of which 1,000 tons of paper is labeled as containing 10% recycled fiber. The manufacturer produces paper with 70% fiber content; thus these 1,000 tons of paper contain 700 tons of fiber. To support its 10% recycled fiber claim, the manufacturer uses 70 tons of recycled fiber during the year, but the actual amount of recycled fiber in the different printing papers varies. Some paper containing recycled fiber would not be labeled as such. The manufacturer uses a credit system to track purchases and overall consumption of the recycled fiber. The claims are based on the annual amount of recycled fiber used, as a percent of the total fiber in the product that is labeled.

A link to a website could be included to explain the credit system¹ and insure transparency to the consumer.

III. Comments on Energy and Carbon Claims

We strongly recommend that a new section be added to the Guides that speaks directly to renewable energy and carbon neutral products. In that section, we urge the FTC to address the following issues:

A. *Clarifying renewable energy and renewable power*

There should be some basic explanations that distinguish "renewable power" from the broader concept of "renewable energy" as this does not seem to be common knowledge for consumers or manufacturers.

In the marketplace we have seen environmental labeling claims along the following lines:

- Printed on FSC certified [product name] **produced entirely with [renewable] energy**, and contains 100% post-consumer recycled fiber
- [product name] is made with 100% post-consumer waste fiber using **100% renewable energy**

For the first example, the manufacturer would also state on its website that the company is purchasing renewable energy credits (REC's) equivalent to 100% of its **power** needs.

Based on our own manufacturing data, however, we estimate **power** as only 20% of the energy use (the remaining 80% is thermal energy). Thus these claims are misleading because they are using the term "energy" instead of "power" (i.e., equating 100% power with 100% energy). It is very unlikely that consumers will understand the difference between "energy" and "power".

B. *Clarifying use of power and energy generation vs. purchasing of credits or offsets*

Furthermore, the second example stated above underscores another potentially misleading aspect of this type of claim. It states that the product is actually *produced* with renewable

¹ Both the Sustainable Forestry Initiative (SFI) and the Forest Stewardship Council certifications are examples of programs that use credit systems. While these certification schemes are not designed specifically for recycled content, they demonstrate labeling standards that have been adopted utilizing credit systems. As a reference, the SFI standards are a good source of documentation for specific product calculations as well as volume credit systems. Their guidelines include examples demonstrating a well thought out approach to credit systems, including definitions of:

- Definition of the product batch
- Calculation of the certification [fiber] percentage
- Simple percentage
- Rolling average percentage
- Volume Credit System
- Volume Credit Accumulation

Source: The Sustainable Forestry Initiative Program: Requirements for Fiber Sourcing, Chain of Custody and Product Labels, Appendix 4, January 2006.

energy when clearly the manufacturer is purchasing REC's which support renewable energy cost premiums, but do not actually reflect how the product is being manufactured.

C. Clarifying "certified" renewable energy

There is also a need to clarify when renewable energy represents "certified" renewable energy. Organizations such as the U.S. Environmental Protection Agency and the Center for Resource Solutions (the Green-e certification body) are developing programs that provide for certification of renewable energy. Certified renewable energy standards have criteria that are based on the date of installation of certain pieces of equipment.

Companies certainly should be allowed to make claims related to renewable energy that are not necessarily certified. There is no reason to preclude use of older equipment which generates renewable energy. For example, we operate several biomass boilers that do not qualify under the certification standards, but nobody would refute that the plants are generating renewable energy. Accordingly, FTC should address how claims about renewable energy might be substantiated, with or without "certification" by third party groups.

D. Use of "carbon neutral" label

We are seeing the emergence of paper products labeled as "Carbon Neutral." However, it is not readily apparent to consumers what this term means. While some sophisticated consumers will understand that carbon offsets are being used, it may still not be clear where the boundaries of the analysis have been drawn – this is especially important for a non-integrated facility that is purchasing either virgin or recycled fiber and may not be offsetting emissions from fiber production. Also if a printed piece is labeled simply as carbon neutral, it may not be clear if the emissions generated from printing and/or transportation have been included in the offset accounting or if the claim is simply made regarding the paper manufacturing.

Sincerely,

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