



December 8, 2010

Federal Trade Commission
Office of the Secretary, Room H-135 (Annex J)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Guides for the Use of Environmental Marketing Claims
Department Reference Number: 16 CFR Part 260
Federal Trade Commission

To Whom It May Concern:

Thank you for the opportunity to comment on the proposed guidelines regarding the use of environmental marketing claims. We appreciate the Commission's consideration of these comments. I hereby submit these comments on behalf of Agion Technologies.

General Environmental Benefit

Agion believes that the proposed rule provides more transparency with regards to environmental claims, forcing manufacturers to qualify the claims. This lessens the amount of unqualified claims that are currently present in the marketplace, which is an asset to the consumer. Those that do make such claims should be forced to qualify the claims in order to avoid consumer confusion.

Certifications and Seals of Approval

Agion is in general agreement with the Commission on the proposed guidelines regarding certifications and seals of approval. The use of unqualified certifications is a deceptive practice that will undoubtedly lead to confusion amongst consumers.

The Commission should work to ensure that only substantiated third party seals of approval are used in the market place. Agion proposes that FTC shall maintain a list of "approved" third party certifications that manufacturers can turn to for certification. We believe this will ensure the integrity of proper certifications and also weed out the use of "self-made" seals of approval. Examples of well respected and substantiated certifications that should appear on the "FTC Approved" list in our opinion would be Cradle to Cradle certification, bluesign® certification and Oeko-Tex® certification.

We argue that companies should not be allowed to create their own seals of approval because of the potential for consumer confusion. If however FTC allows this practice, companies would need to clearly state that their seals are from their own certification programs. Agion proposes that FTC spell out specific guidelines on how a company would be allowed to convey this making sure it is done in a way that is completely transparent and would not deceive consumers. As your example notes, unqualified claims would be deceptive because consumers would assume that an independent, third-party certifier evaluated the product. The marketer could avoid deception by using clear and prominent qualifying language to alert consumers that it created the certifying program.

Agion is in agreement with Example 5 of the current general environmental benefit section which states “a marketer using an unqualified seal of approval should be able to substantiate the broad claim that the product is environmentally superior to others. If the marketer cannot, it should accompany the seal with “clear and prominent qualifying language limiting the environmental superiority representation to the particular product attribute or attributes for which they could be substantiated” This step will help ensure that truthful information about the product will be delivered to the consumer.

Free-of/Non-Toxic

Agion believes that the proposed rule provides more transparency with regards to environmental claims, forcing manufacturers to qualify the claims and cutting down on the number of substances that are mislabeled as non-toxic. Agion agrees with the commission’s assertion that if not misleading, products that do not contain a certain substance should be allowed to state that as a fact.

Sincerely,

Paul C. Ford
CEO, Agion Technologies