



December 10, 2010

Re: Proposed, Revised Green Guides, 16 CFR Part 260, Project No. P954501

To the Commission:

Cone LLC appreciates the opportunity to file comment regarding the Federal Trade Commission's proposed changes to the Guides for the Use of Environmental Marketing Claims. Cone is a strategy and communications firm that helps companies navigate social and environmental issues in connection with their operations and products. We counsel clients about the need for credible, transparent and informative environmental communications in order to build trusted relationships with customers, employees, the public and other key audiences.

We applaud the Commission for revisiting the Green Guides and for its attention to the role consumer confusion plays in environmental messaging. Certainly, this is an issue that continues to plague the environmental marketing space. According to Cone's recent research, the [2010 Shared Responsibility Study](#), 67 percent of American consumers say they are confused by the messages companies use to talk about their social and environmental commitments.

We believe marketing and advertising messages, which by their nature are typically aspirational, are often at odds with the environmental realities of products and services. Our role, and the role of the FTC as we understand it, is to provide guidance that helps companies avoid this disconnect and communicate in a way that leads to clarity and realistic interpretation by consumers.

To this end, we had hoped to see the Commission take a more definitive stance on general environmental benefit claims, perhaps even prohibiting the use of words such as "sustainable" or "earth friendly." We understand that for the reasons outlined in your October report, the Commission has instead chosen to require such general claims to be qualified.

We believe the strength and opportunity in the Commission's approach comes through your point that a marketer/advertiser will be held accountable not just for a literal claim, but also for the expectations a reasonable consumer would have when observing the claim in context (Page 49 of the report notes, "Determining whether a general environmental claim is adequately qualified depends heavily on the claim's context.").

We believe the Commission should make this warning more prominent and consistent throughout the revised Green Guides. If you do so, we believe it will encourage – perhaps even compel – more marketers to proactively test consumer perceptions of proposed environmental marketing communications. That in turn may lead them to self-police, revising those communications prior to widespread distribution when the evidence suggests they result in consumer conclusions that are not supportable.

Based on this, here are two specific areas where we make recommendations to the Commission:

Imagery: We believe the Commission needs to more directly speak to the critical impact of visual imagery in creating consumer perceptions that amount to an unqualified general environmental claim. For a recent example, see the [Nissan Leaf commercial](#) in which a polar bear leaves behind melting icecaps and a rising ocean to thank a consumer for driving this brand of electric car. The visuals may result in a consumer inference that driving this car will prevent the earth's oceans from rising or will notably impact global climate change. Yet, there is no verbal or written claim and no qualification of this implied general claim.

Polar bears and virgin forests are the visual equivalents of "green" and "eco-friendly" claims, but the Commission has not provided guidance about the use of imagery in environmental communications except in an indirect way. (Page 46 of the report states, "Through examples, the Guides also advise marketers that qualifications should be sufficiently 'clear and prominent' to convey the idea that the claim refers only to limited environmental benefits and that '*no other deceptive implications are created by the context.*'") We do not believe this will be sufficient to end misleading communications by companies whose hyperbolic imagery is incongruous with the stated or implied environmental claims of their products. Marketers will benefit from examples, real or hypothetical, showing such a juxtaposition of misleading imagery with qualified or unqualified claims and reinforcing the warning that the marketer will be held accountable for the consumer perceptions that result.

Accuracy: We believe the Commission's guidance and examples should in all cases reinforce that marketing claims must be literally truthful. Based on this, we offer an opinion on questions 10 and 11 for which the Commission requested feedback:

- a. Question 10: *"Should the Commission continue to advise marketers that recycled content claims may be based on the annual weighted average of recycled content in an item?"*

No – As the Commission points out, this approach would allow for a situation where a product claims to be made of "50% recycled content" when some samples of the product could in fact have no recycled content at all (as long as other samples contain 100% recycled content to compensate). In this example, the Commission would be condoning marketing that misinforms and misleads. Any sample of a product that claims to use "X percent recycled materials" should be required to actually contain that percentage.

- b. Question 11: *"If a product is 'made with recycled materials,' either in whole or in part, should the Commission advise marketers to qualify that claim to indicate that the product is not recyclable if it is not?"*

Yes – Since research by the Commission has documented that when confronted with the phrase "made with recycled materials," 52 percent of consumers also perceive the product can be recycled, the Commission should require the product to specify if that is not true. This would be consistent with the overall Commission premise that marketers are accountable for consumer perceptions of messages.

Although Cone did not test this situation specifically, we did observe consumer confusion and distrust toward the phrase "contains recycled content," as part of Cone's [2008 Green Gap Survey](#). We asked consumers to

indicate what they might think about this message while shopping for a paper product bearing the claim. Fewer than half found it "credible." Fifteen percent called it "misleading," 31 percent said they "need additional information" and 8 percent said they did not know what the message means. With this much uncertainty around a sample recycled claim, it is important to give consumers a direct answer, perhaps stated as simply as, "This product is made with X percent recycled content, but is not recyclable after use."

We would like to thank the Commission for the opportunity to contribute as it finalizes updates to the "Green Guides." We believe yours is an important effort that can provide a framework for marketers to communicate responsibly and for firms such as ours to help them do so. If Cone fields additional research in 2011 that we believe may aid the Commission's quest for additional consumer perception evidence, we will forward it to you. If you have any questions about Cone's stance or our research, please do not hesitate to contact me.

Respectfully,

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