



October 16, 2010

Federal Trade Commission
RE: Guides for the Use of Environmental Marketing Claims

Chairman Jon Leibowitz,

The Oxo Biodegradable Plastic Alliance is an association of companies, organizations, & individuals focused on protecting our environment through oxo-biodegradation of plastic. The Oxo Alliance provides proven scientific data on oxo-biodegradable plastic and the many advantages it provides over common plastic, paper, re-usable bags, and the food based plastic (PLA). We want to work with the FTC in its efforts to eliminate unfounded claims by disreputable or ill-informed companies

Companies who have substandard “oxo” products and/or make unsubstantiated claims, are not allowed to join the Oxo Alliance. Our membership includes the leading oxo additive manufacturers and oxo product manufacturers who produce the highest quality oxo products. These companies make claims which have been scientifically proven with accredited 3rd party Life Cycle Analysis and 3rd party critical peer review.

Comment on the Proposed Guidelines:
“Oxo-Biodegradable”

Focusing on the core question: How does one stop companies from making false claims? How does the FTC keep an automaker from saying his cars run on oxygen instead of fuel? We believe the answer is simple. Would this not fall under “false advertising” within state laws as well as with the FTC? The burden of proof should be with the company making the claim, and not with the petitioner. Going back to the example, if an automaker can scientifically and legitimately prove their cars run on oxygen, then the claim should be allowed. If he cannot prove this claim, he should not be allowed to advertise this claim, and potentially be fined. The burden should be with the individual company to prove this claim. If they cannot, they should be forced to discontinue their claims or risk being fined by federal and state laws.

It is inherently unfair to forbid all companies from making a legitimate claim, if one company makes the same claim falsely. Example: Let’s say there is a car claiming to run on ethanol, but in fact, is found to be running on gasoline. Then, if we followed this proposed guideline, no company should ever be able to claim their cars run on ethanol. Ever. Even if they legitimately prove their cars run on ethanol. If this was the philosophy over the last 100 years, we would still be driving Model Ts.

We have found in some states, like California, where no company can put “biodegradable” on their plastic bags unless the bags adhere to ASTM D-6400. This is absurd considering ASTM D-6400 is for compostability and not for biodegradation. There is an ASTM guideline for oxo-biodegradation (D-6954), but no ASTM standard, thus causing confusion in the marketplace. This is where we need the FTC

to step in and provide clarity in labeling.

We feel we have some solutions. In line with the FTC's goal of companies providing a quality product for the marketplace, the Oxo Alliance is working with the leading environmental NGOs and the EPA to create an industry standard for oxo products. This standard, once complete, will separate quality oxo products from substandard products. It will allow the marketplace the opportunity to see which products adhere to this standard and which do not. Companies who make legitimate claims will have their products display the industry standard seal. Companies who do not adhere to the industry standard will not receive the seal. The customer will easily be able to recognize the reputable companies' claims from the false claims. The Oxo Alliance will submit this industry standard to the FTC for certification.

Use of the term "Biodegradable" on labeling. Example: If a swim suit is flammable, it has to be labeled flammable. When the swim suit is wet and someone tries to light the suit on fire, it would then not catch fire. Is it still flammable? Would one still need to label the swim suit as flammable? Yes, of course. We are finding new regulations around the country stating it is deceptive to label plastic as "biodegradable" since the consumer "customarily" puts the plastic in a landfill (oxo-biodegradable plastic will indeed biodegrade in a regularly turned landfill and on top of a landfill, but not deep entombed in a landfill where there is no oxygen). So if the consumer "customarily" gets his swim suit wet, is having "flammable" on the label deceptive? A swim suit has to say it is flammable if it is flammable in any circumstance, but a plastic bag cannot say it is biodegradable if it does not biodegrade in every circumstance. The rule should be uniform. If the bag does not biodegrade deep in the landfill, is this not the same as the swim suit not being flammable when wet? The same can be said for a box of matches. The box says the matches will light if you strike them. But if they are wet, will they strike? No. So is the labeling on the box deceptive. No, because the matches will light if one strikes them, but not in every circumstance. Oxobiodegradable plastic will biodegrade, but not in every circumstance. We feel if a plastic bag biodegrades, then it should be allowed to say it biodegrades. We are willing to work with the FTC and add to our labeling "Biodegradable, but not if the bag is entombed in a landfill".

We look forward to further dialogue on the proposed guidelines allowing for "qualified" claims versus the "unqualified" claims. This is where we believe The Oxo Biodegradable Plastic Alliance industry standard can provide the guideline to the consumer on which product has a qualified claim to plastic biodegradation.

We at the Oxo Biodegradable Plastic Alliance look forward to working with the FTC in our mutual goal of eliminating the misleading claims found in the marketplace.

All the best,

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President

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