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August 15, 2008

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

RE: Green Building and Textiles Workshop – Comment, Project No.P084203

Dear Mr. Kovacic,

Thank you for the opportunity to comment on the Federal Trade Commission's "Green Guides" and the current process for potential revisions to the guides.

Greenpeace is a membership-based, non-profit environmental organization with a long history of addressing "greenwash". We helped coin this term back in the early 1990s, and published our first report on it entitled "Greenpeace Book of Greenwash" in 1992. Recently, we launched a new website that exposes companies engaged in greenwash advertising at www.StopGreenwash.org. Greenwash is the term used to describe the act of misleading consumers regarding the environmental practices of a company or the environmental benefits of a product or service, exactly what the Green Guides were apparently designed to prevent.

Over the past several months, we have noticed a large increase in the amount of concern our supporters have expressed regarding greenwash in the media. This is indicative of a larger problem: average citizens are finding it more and more difficult to tell the difference between companies genuinely dedicated to making a difference, and those that are using a green curtain to conceal environmentally destructive or polluting activities and products.

While we try to provide our supporters and the general public with useful tools and information to help them identify and take action against misleading green claims, we feel that the onus should not be placed on consumers to decipher whether an advertising claim is true. Rather advertisers should be required to be truthful and transparent in all their marketing materials, and should be held accountable when they are not.

The FTC's Green Guides is an extremely useful tool that can help companies avoid greenwash and protect consumers from misleading information. Unfortunately, the FTC and the Guides do not appear to be adequately controlling greenwash in the marketplace, especially with the recent rapid growth of 'green' advertising claims and no apparent actions against corporations not following the FTC guidelines. According to its website, the Commission has not taken action against false environmental claims since 2000. In addition, FTC has also not provided any information on the number of complaints that have been received, the number that have been investigated, or the number of ads that have been pulled on account of an FTC inquiry or investigation. Without such actions and disclosures, companies are not pressured to abide by the Guides.

First and foremost, Greenpeace recommends that the Federal Trade Commission fully investigate all greenwash complaints, take strong action against those that prove to be out of compliance, false or misleading, and disclose the investigations and actions to the public. By doing this the FTC would draw attention to companies engaged in greenwash and send a strong message to the marketplace that greenwash will not be tolerated in the U.S. media.

In addition, Greenpeace also recommends that modifications be made to the Guides in order to improve their effectiveness and help reduce the incidence of greenwash in advertising in addition to product labeling. Greenpeace's recommended revisions are described below.

I. GENERAL PRINCIPLES

Greenpeace believes that false environmental claims go much deeper than labels on products. Companies often also use advertising to establish a perception about the company's policies and practices, which in turn leads to product sales. Given this, advertising guidelines should not just apply to specific products and services, but also to broad advertising claims about a corporation, person, industry group, or other organization.

With this in mind, Greenpeace has developed the following criteria to help identify greenwash ads:

Dirty Business – Touting an environmental program or product, while the corporation's product or core business is inherently polluting or unsustainable is considered greenwash. For example, if a company brags about its boutique green R&D projects but the majority of spending and investment reinforces old, unsustainable, polluting practices.

- *Ad Bluster* – Using targeted advertising and public relations campaigns to exaggerate an environmental achievement in order to divert attention away from environmental problems is considered greenwash. Similarly, spending more money advertising an environmental achievement than actually doing it can be considered greenwash. For example, if a company were to do a million dollar ad campaign about a clean up that cost less.
- *Political Spin* – Advertising or speaking about corporate "green" commitments while lobbying against pending or current environmental laws and regulations. For example, if advertising or public statements are used to emphasize corporate environmental responsibility in the midst of legislative pressure or legal action.
- *It's the Law* – Advertising or branding a product with environmental achievements that are already required or mandated by existing laws. For example, if an industry or company has been forced to change a product, clean up its pollution or protect an endangered species, then uses PR campaigns to make such action look proactive or voluntary.

Currently, the Guides do not address any of these criteria. **Greenpeace recommends that the above criteria be incorporated into the General Principles listed within the Guides.**

II. USE OF VAGUE TERMS

The use of vague or undefined environmental terms, such as “sustainable”, “green” and “eco-friendly”, is a substantial and growing problem. Participants at the Green Packaging Workshop held in April shared this concern. Dave Mallen from the National Advertising Division, CBBB noted that vague terms were the biggest complaint received by his organization. Likewise, Michelle Harvey from the Environmental Defense Fund noted that vague terms are the “most challenging issue.”

These types of vague terms are inherently difficult to define, and often have multiple or conflicting meanings. It should not be the job of the FTC to define these terms. And it should also not be the job of the FTC to determine whether a company has data to back up a term that is not well defined.

Greenpeace recommends that FTC revise the guides to emphasize that vague, undefined environmental terms should not be used in advertising claims. In the event that such terms are incorporated into certifications, they could be used in that context, such as “*Green Seal*” or “*Forest Stewardship Council*”, as long as the method and terms of the certification are publicly available and easily accessible.

Likewise, “efficient”, “safe”, “clean”, “non-toxic” and similarly vague terms should also be avoided. Such terms are commonly used to describe activities or products that are harmful to the environment or human health, such as an “efficient car.” Companies, industry groups and other organizations should refrain from using these terms unless they have scientifically substantiated evidence that their operations and products have no negative impact on human health or the environment. It is not enough that the product is cleaner, safer or less toxic than another product. Greenpeace also believes that the entire life cycle of a product should be considered when making environmental claims, thus a product with one environmental attribute that is otherwise detrimental to the environment should not be marketed using any of these terms.

Advertising authorities in other countries have recently been very successful at pulling ads that use vague environmental terms. For example, this week the Advertising Standards Authority in the UK required Shell International to pull ads that refer to the company’s oil extraction operations in Canada as “sustainable.”¹ The UK authority also recently asked the Malaysian Palm Oil Council to pull misleading television ads that claimed palm oil was environmentally friendly and used green images and statements, such as “Sustainably produced since 1917.”² In another example, the group that oversees Norwegian advertising passed new guidelines last year that prohibit auto companies from claiming that their vehicles are “green,” “clean” or “environmentally friendly.” According to the group, “Cars cannot do anything good for the environment except less damage than other cars.”³

III. USE OF IMAGES

In addition to literal terms, images in advertising also often convey false green claims. Images of flowers, trees, rivers and other environmental features are frequently used to advertise products that are harmful to the environment. For example, pictures of large SUVs and pickup trucks are often juxtaposed with pristine ecosystems, despite that emissions from large passenger vehicles are very detrimental to the environment and that these vehicles are more often driven in urban

¹ http://www.asa.org.uk/asa/adjudications/Public/TF_ADJ_44828.htm

² http://www.asa.org.uk/asa/adjudications/Public/TF_ADJ_43763.htm

³ <http://uk.reuters.com/article/environmentNews/idUKL0671323420070906>

traffic jams than in wilderness. These natural images can give consumers a false impression that the product portrayed has a negligible or even beneficial impact on the environment.

Greenpeace recommends that FTC revise the Guides to emphasize that environmental images should not be used in advertising claims unless the product or company is directly related to the environmental setting being portrayed and not contributing to its destruction.

Other countries have so far been better at removing environmental images from greenwash ads. For example, the French consumer protection agency recently determined that cars should no longer be portrayed in nature. Instead, they must only be shown on roads and other routes open to traffic, where they are typically used⁴.

The above listed recommendations would significantly improve the Guides and help steer companies away from greenwash. Greenpeace welcomes discussion on these topics. Please contact me with any questions regarding these comments. I can be reached at (202) 319-2475 or claudette.juska@greenpeace.org.

Sincerely,

Claudette Juska Papathanasopoulos
Greenpeace USA

⁴ <http://www.bvp.org/fre/High/informations-generalistes/recommandations-deontologiques/integral-des-recommandations/10122/doctrine-espaces-naturels.pdf>