

Comments on Proposed Revisions to the FTC Green Guides

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1. Sustainable Claims

Although staff concludes it will not offer guidance on claims of sustainable or sustainability, but will address this on a case-by-case basis, this is actually the single most important claim and merits at least some measure of formal guidance from the agency. It is unrealistic for FTC to believe it has resources to address these claims individually.

With global warming the central issue in what promises to be a planetary catastrophe, claims of sustainability are already abundant and will certainly continue unabated and unqualified. This phenomenon will in fact accelerate if FTC does not provide any guidance if nothing more than because the agency's not doing so will be perceived as giving advertisers a green light to continue to use and abuse claims of this nature.

Sustainable does have meaningful dictionary definitions that can be relied upon. The Harper Collins Free Dictionary defines sustainable as "capable of being maintained at a steady level without exhausting natural resources or causing severe ecological damage". The American Heritage Dictionary defines sustainable as "capable of being continued with minimal long-term effect on the environment".

By adopting at the very least a well-recognized and well-respected minimum definition of sustainability, FTC can cause such claims, including third-party certifications of sustainability, to at a minimum be stated with adequate qualification.

2. Recycled Energy Claims

Although counterintuitive, claims of recycled natural gas are being made in the marketplace. This claim is unqualified as to pre-consumer or post-consumer content because the final product is derived from landfills that are actively managed to capture methane gas. The captured gas is refined and combined with naturally occurring geologic gas (natural gas) in order for it to be properly used and the resulting product called recycled natural gas. Landfill gas and natural gas are not the same and have different compositions and btu values.

In a similar situation, EPA states that when tires are burned for fuel (TDF, or tire-derived fuel), this is not recycling.

Similar to the textiles issue, FTC should address recycled energy claims. Issues include whether and to what extent reclaimed energy from compost or other organic processes that do not occur other than in a man-made created environment must be qualified, can be claimed to contain recycled content or can be called recycled at all.

