NAPCOR

December 9, 2010

Federal Trade Commission
RE: Letter of Public Comment
Subject Category: Guides for the Use of Environmental Marketing Claims;
Project No. P954501
Sent via Email Comment Form

Dear Sir / Madam:

The National Association for PET Container Resources (NAPCOR) is the trade organization for the PET plastic packaging industry in the United States and Canada. An important component of the NAPCOR mission is to overcome barriers to the successful recycling of PET packaging and to that end, we provide comment below specific to the term "Recyclable," as well as to the terms "Degradable" and "Compostable," as defined in the proposed revisions to the "Guides for Use of Environmental Marketing Claims" (Green Guides).

"Recyclable" is Not Synonymous with Collection

Consumers expect recycling to mean more than access...

Since its inception in 1987, NAPCOR has worked to build the PET bottle recycling infrastructure and consumer understanding of recycling, and has done so very successfully. Directly and indirectly, NAPCOR is responsible for more than $100 million spent in support of recycling infrastructure and consumer education; PET recycling is now commonplace throughout most communities in the United States.

NAPCOR's communication to consumers has always emphasized the connection between recycling PET and the next-use products made from that recycled PET. NAPCOR's nearly 25 years of experience in consumer recycling education confirms that this is the truly compelling part of the story for consumers: if you put your PET bottle in the bin, it will end up as carpet, fiber for clothing, fiberfill for pillows, a new package, etc.

While we have not initiated consumer research specific to this issue, it is strongly implied in several contexts. The FTC Marketing Survey work done by Harris Interactive in 2009 found that 61% of survey respondents associate the term "green" products with recycled materials; 56% associate the term "eco-friendly" products with recycled materials. An undeniable understanding of at least some key aspects of the recycled material cycle (i.e., end use) is strongly implied by these survey findings and is corroborated by NAPCOR 's long-running work in consumer recycling education: consumers understand *and expect* recycling to be about more than simply access. Evidence of this is also inherent in the current preference for packaging that incorporates recycled content, a preference that has driven a 44% increase in the use of recycled PET in food and beverage container packaging between 2008 and 2009 (based on "2009 PET Post Consumer Container Recycling Rate Report," http://www.napcor.com/PET/pet_reports.html).

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Recycling infrastructure health is essential to recyclable marketing claims, § 260.11 (a) ...

Consumer protections surrounding recycling claims also require the viability of the recycling system itself. The terms used in the "Green Guides" to describe consumer recycling access – "Substantial Majority," "Significant Percentage," and "Less than a Significant Percentage" – only truly have meaning based on the strength of the processing capabilities and end markets for the collected recyclable materials, whether PET plastic, glass, paper, metals or other.

The term "recyclable" cannot be divorced from the viability and economic feasibility of the United States' recycling infrastructure. In fact, the revised Guides emphasize this in § 260.11 (a), "A product or package should not be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the solid waste stream through an established recycling program for reuse or use in manufacturing or assembling another item."

If the "Green Guides" stop short of further developing this definition of recycling, and neglect to cite an example of when a recycling claim is not appropriate, the Guides inadvertently allow for – even reward – unrecyclable packaging that "freeloads" through the system. This puts consumers at risk from deceptive recycling claims. Furthermore, these contaminants put the entire concept of "recyclable" at risk through increased yield loss and costs, threatening the economic feasibility of the system. If recycling isn't economically feasible for communities, it is not sustainable in the long term, nor meaningful as an environmental marketing claim.

It is at this deeper level of meaning that the Guides can have the greatest impact, by preserving the integrity of both the use and meaning of the term "recyclable." The current Guides potentially allow look-alike packages that are, at very least disruptive, and at worst, truly damaging to the recycling stream, the same environmental marketing benefits as those that are completely recyclable. This unfairly rewards some marketers, while unfairly penalizing those that are proactive on this issue. The current Guides don't go far enough to protect consumers from false or unsubstantiated claims, nor do they allow them to make fully informed choices.

What we request that the FTC consider with respect to "Recyclable"

NAPCOR respectfully requests that the FTC consider expanding the Guides to better protect and serve the consumer, and to preserve the integrity of the term recyclable.

Specifically, we request that section 260.11 (a) of the Proposed Revision to the Green Guides, as excerpted above, be further extended and recognized in terms of an Example 11, to be added to the 10 examples already listed in the Guides, all of which are illustrative of claims as they pertain to various packaging or product scenarios.

This eleventh example would illustrate the practical application of 260.11 (a), emphasizing that a product or package must be recoverable for use in manufacturing or assembling another item, and thus by implication, not be overtly disruptive to the recycling or reclamation process, i.e.,

"**Example 11:** A package is labeled as recyclable, but it is a package specifically excluded in the material purchasing specifications used by a representative portion of the U.S. reclamation industry for that material. The recycling claim on this package would be deceptive, assuming that the reclamation industry can substantiate its material specification exclusion as essential to successful processing of that material and/or end-product manufacture from it (substantiation as defined in revised Guides § 260.2)."

By this example, packages that are agreed by the reclamation industry to disrupt manufacturing of next-use products, and can be substantiated as such, would not be permitted to be labeled as recyclable since this claim would be deceptive to consumers and contrary to the Guides' full definition of recycling.

Degradable and Compostable

NAPCOR supports the FTC revisions to the "Degradable" and "Compostable" sections of the "Green Guides." We support these fully as important clarifications for product marketers and consumers.

We'd be happy to elaborate on any of the points or suggestions raised in this letter, or to provide any additional information. Thank you for your attention.

Sincerely,

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