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DIRECTOR SUSTAINABILITY

December 10, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex J)
600 Pennsylvania Avenue, NW
Washington, DC 20580

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

Dear Sir/Madam:

Evergreen Packaging is pleased to submit these comments in response to the Federal Trade Commission's (FTC) Proposed, Revised Green Guides, 16 CFR Part 260, Project No. P954501. Evergreen Packaging is a leading manufacturer of paper and paperboard products in the forest products industry.

Life cycle analysis

Life Cycle Analysis (LCA) methodologies continue to evolve and we agree the FTC should not define or endorse a particular LCA methodology to substantiate environmental claims or choose one methodology over another. However, the ISO 14040 series of standards provides the internationally-recognized approach for LCA's. *Evergreen suggests the FTC support the use of the ISO standards to demonstrate appropriate ways to substantiate claims.*

General Environmental Benefits Claims

The current Green Guides suggest that unqualified environmental claims are difficult to interpret and substantiate and should be avoided. *Evergreen agrees that unqualified general environmental benefit claims should be discouraged.*

Evergreen shares the FTC's concern about a combined qualified environmental benefit and attribute claim. Additional examples would be helpful. One example is the claim where "saving trees" has been made, but where the overall environmental benefit is not greater than for products using trees.

Certifications and Seals

The current Guides do not discuss certifications and seals, except in an example. The proposed revisions provide a new section on certifications and seals clarifying that such certifications fall under the Endorsement Guides (16 CFR Part 255). The proposal also discourages the use of unqualified certifications and seals and does not establish a particular certification system.

Evergreen agrees that certifications and seals must be qualified and that unqualified certifications and seals are no different than unqualified general environmental claims and thus, should be discouraged. Evergreen also agrees that third-party certification should not be a requirement to substantiate a claim.

Evergreen agrees the FTC should not establish a particular certification system or provide guidance on the development of a third-party certification program. However, Evergreen believes the FTC could support the use of accepted standards, such as those under ISO and the US standards organizations (ANSI, ASTM, NSF, etc) that have developed criteria and attributes that should be found in credible certification programs.

Recyclability

The current Green Guides require marketers to assure recycling facilities are available in the areas where products are being sold in order for the marketer to claim that a product is recyclable. *Evergreen believes that this approach has worked well for the paper industry and continues to make sense.*

Quantification of “substantial majority” and “significant percentage” has been accomplished in the paper industry through the AF&PA Community Survey that determines the availability of recycling programs across the U.S., about every two years. *Evergreen believes the paper industry has the information available to substantiate recyclability claims and additional quantitative efforts are not needed.*

Free-of and Non-toxic Claims

The FTC expands its current guidance to include free-of claims. The FTC does not allow a marketer to state free-of a substance if there are other substances in the product that pose the same or similar environmental risk as the substance that is not present. Marketing for a product should also not claim that the product is free-of a substance (even if it is) if that substance has never been associated with that product category. The commission also states that in certain circumstances, free-of claims are appropriate if the substance is present in the product but it is in an amount that is at or below a de minimis amount. The FTC is proposing free-of claims to convey additional environmental claims.

Evergreen supports the FTC's proposal of allowing a "free-of" claim even if the product contains the substance but is at an amount at or below a de minimis since this amount is inconsequential to consumers. We agree the only information that should be of interest to consumers would be whether the amount of a substance present in a product is in an amount that would result in an unsafe exposure to a consumer. Therefore, if the substance is present in a product but in an amount that would be inconsequential to the consumer, the manufacturer should be able to make a "free-of" claim.

Qualifying Non-toxic Claims

Evergreen agrees with the FTC proposal that would allow marketers to claim the product is "non-toxic" if the product does not pose a health threat for humans and the environment.

Sustainable Claims

Evergreen agrees that determinations should continue on a case-by-case basis because there is no agreed-upon definition of "sustainable".

Renewable Material Claims

The FTC states that its research indicates confusion among consumers as to certain aspects of claims regarding renewability. The research apparently indicates that consumers interpret "renewable" to also mean made with recycled content, recyclable, and biodegradable. As discussed below, the FTC proposes that marketers avoid unqualified renewability claims and they provide specific additional information about the claim. *Overall, however, the FTC is not proposing to define the term "renewable" or endorse any particular test to substantiate such claims. Evergreen supports the FTC's decision not to provide such overall guidance.*

Qualifying Renewable Materials Claims

To avoid confusion, the FTC proposes that marketers qualify renewable materials claims by "providing which renewable materials were used, how the materials were sourced, and why the materials are renewable." 75 Fed. Reg. 63588. It provides an example of an unqualified claim that bamboo flooring is "renewable," stating that the following qualification likely would render the claim not deceptive: "Our flooring is made from 100% bamboo, a fast-growing plant, which we cultivate at the same rate, or faster, than we use it." Section 260.15(c), Example 1, 75 Fed. Reg. 63607. Example 3 on the same page makes a similar point, that an unqualified "renewable materials" claim likely would be deceptive, unless the marketer can substantiate that the product is "recyclable, made with recycled content, or biodegradable," because consumers likely will perceive products with a "renewable materials" claim as having these environmental benefits.

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Evergreen does not agree with the FTC proposal. We believe it will perpetuate confusion and continue to confuse the concepts of “renewability” with “recyclable,” “made with recycled content” and “biodegradable.” We would further object if Example 1 means the FTC is requiring that a marketer is required to somehow match the rate of harvest of the renewable material used to manufacture a product with the particular product that is being sold. This would place a significant burden on manufacturers and, in the case of wood products, is not necessary. In all regions of the U.S. the amount of wood fiber grown exceeds removals. Thus, it is clear that forest products are made from renewable materials.

Evergreen appreciates the opportunity to provide our comments on the proposed revision to the Green Guides.

Sincerely,

Derric
Director

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