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Product Environmental Steward

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<https://ftcpublic.commentworks.com/ftc/revisedgreenguides/>

Re: Environmental Marketing Claims - Project No. P954501

Boise Inc. (hereafter referred to as Boise) appreciates the opportunity to submit comments on the proposed Environmental Marketing Claims Guide, 16 CFR Part 260 (75 Fed. Reg. 63551, October 15, 2010) (hereafter referred to as "Green Guides").

### Introduction

Boise is a leading manufacturer of packaging products and papers, including corrugated containers, containerboard, label and release and flexible packaging papers, imaging papers for the office and home, printing and converting papers, newsprint, and market pulp. Boise employs 4,100 employees and is the third largest North American manufacturer of uncoated free-sheet paper.

Boise demonstrates a commitment to the environment and confidently markets and advertises the environmental attributes of our products, including:

- Chain of Custody Certification from the Forest Stewardship Council® (FSC™), which certifies and tracks attributes from fiber source to customer;
- Chain of custody and wood fiber procurement systems certified by the Sustainable Forestry Initiative® (SFI), which track wood procurement and fiber source attributes;
- Environmental management systems at our four white paper mills that are certified by an independent third party to meet the ISO 14001 standard;
- Producing about 65% of our energy from renewable, carbon neutral wood-based biomass
- Being a major manufacturer of a full line of recycled content paper products.

It is important to Boise's success that our marketing practices continue to be aligned with the FTC Green Guides and that misinterpretation of the Green Guides does not preclude us from continuing to make marketing claims that are consistent with paper consumers' understanding.

In general, we support the comments from the American Forests & Paper Association (AF&PA) and the Sustainable Forest Initiative (SFI), but Boise has some special concerns and distinctions upon which we wish to comment. Our comments relate to the use of URLs; recycle content averaging; use of EPA recycle definitions; treatment of precipitated calcium carbonate; certified fiber claims; applicability to not-for-profit organizations; and paper's renewability qualification.

Use of URL to qualify a claim is not misleading in today's world.

Boise believes that in today's world, with the proliferation of smart phones and other technology, URLs can be an effective way to qualify a claim, even before the product is purchased. Some claims, in order to fully dispel any consumer misconceptions, require more than a few words to qualify with clarity. Boise believes that 2010 is the proper year to start recognizing that internet access is ubiquitous in our society and that URLs are the perfect tools to ensure full disclosure and prevent product misconceptions.

Recycle content averaging should be limited to a manufacturing run.

Boise believes that, particularly in the free-sheet paper market, recycle content based on annual averages is misleading. We believe the recycle claim should be carefully qualified anytime recycle content is averaged beyond a single manufacturing run. Boise further believes that averaging across products and products lines, without qualification, is a material deviation from what a reasonable consumer would expect. Our experience in the market leads us to believe that consumers would likely expect averaging within a single manufacturing run, but not over a year's time nor over a longer period than a single run.

Tracking recycled fiber content in an uncoated free-sheet is straight-forward and can be done with certainty. Boise has seen no evidence from our marketing research, or from the study discussed in the proposed Green Guides, to suggest that paper consumers expect large scale averaging. Boise believes a consumer would be surprised to learn that a product claiming to contain recycled material actually contained little or even none. Averaging over long periods, across manufacturing runs, or between products is misleading without clear qualification.

The EPA's definitions should be used for recycle content claims.

Boise urges the FTC to adopt the same definitions of recovered materials used by the United States Environmental Protection Agency ("EPA"), per the Comprehensive Procurement Guidelines for Products Containing Recovered Materials (40 CFR Part 247). Additionally, for recycled paper products the EPA has specifically defined recovered fiber in the Paper Products Recovered Materials Advisory Notice I (RMAN I, May 29, 1996 Fed. Reg., Section A-7 Definitions; maintained in RMAN II, June 8, 1998).

Boise believes that the EPA has adequately defined recovered materials and that claims consistent with EPA definitions will not mislead the public. In fact, adopting a second set of FTC definitions will likely confuse the issue for consumers, particularly paper consumers.

Boise strongly believes that relying on EPA's expertise by specifically adopting EPA recovered fiber definitions is consistent with FTC's desire to respect the technical expertise of other federal government agencies.

Recycle content calculations should exclude precipitated calcium carbonate (PCC)

It is an accepted, long-standing practice to ignore PCC (an additive used as a filler and to enhance sheet quality) and account for only pulp fiber when calculating the recycle content of paper. Based

on Boise's experience with consumers, consumers purchase recycled content paper primarily to reduce the number of trees required to make the paper, i.e., to save trees. Therefore, the important product characteristic is the percent of the total (virgin plus recycled) pulp fibers that are recycled pulp fibers. Uncoated free-sheet paper can contain ten to fifteen percent PCC. This PCC is not accounted for in the recycle content calculation upon which recycle content claims are based. It would be impossible to manufacture "100% recycle" free-sheet, if PCC were included in the calculation even if all the pulp fiber were recycled.

The Green Guides appear to accommodate deviations from the advice provided, when the advice does not coincide with accepted industry practice. To prevent misinterpretation of the Green Guides and unproductive challenges to paper industry practice, Boise proposes adding a specific example to the Guides.

Example: It is general paper industry practice to base recycle content claims on the percent of the total pulp fibers in the sheet that are recovered pulp fibers. Although precipitated calcium carbonate (PCC), used as a filler in uncoated free-sheet, is not a minor or inconsequential paper ingredient, it is not misleading or deceptive to ignore it in the recycle content calculation. Consumers purchase recycled content paper primarily to reduce the number of trees required to make the paper; therefore, a reasonable consumer expects the claimed recycle content to be exclusively related to pulp fibers in the paper.

As an analogy, the test recognized by the USDA to determine percent bio-based material does not measure the PCC content of paper.

Not-for-profit entities should be held to the same standards as businesses.

Boise finds it disturbing that the Green Guides applied to businesses do not apply equally to not-for-profit entities. For example, compare Sec. 260.4(d), describing why an unqualified "chlorine free" claim is misleading, with Sec. 260.6(e), wherein an unqualified "No Chlorine Products Association" seal is specifically not misleading. This is clearly a double standard that would likely confuse a consumer.

Claims made by not-for-profit organizations about products should be held to the same standards as those applied to businesses, because the organizations are purposely attempting to influence consumers' purchasing decisions. It should be unlawful to deceive and mislead a consumer no matter who you are.

There is no need to qualify a claim that paper contains renewable material.

Boise fully supports AF&PA's argument that it is intuitive that trees are a renewable resource. We have been making paper in this country for hundreds of years, yet the amount of forest area has increased. The bamboo example provided in the proposed Green Guides implies that paper producers would have to qualify a renewable claim with an explanation of why the particular product

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in question is renewable. Boise believes that this explanation is not necessary and just clutters the product, so the claim actually becomes less clear. It does a disservice to the consumer.

Advice on recycle content calculations do not apply to certified fiber content claims.

There is some concern that FTC advice on recycle content calculations could be used, by analogy, for certified fiber content claims; thereby, threatening the volume credit method of both FSC and SFI certification method. Unintended consequences, due to misunderstandings about how forest certification programs work, could be severe. SFI's comments on this subject are more extensive.

Boise appreciates the opportunity to comment on the proposed Green Guides. Please contact us if you have any questions or need clarification regarding our comments.

Sincerely,

Kate McGlynn,  
Product Environmental Steward

cc: Virginia Aulin  
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