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December 10, 2010

By Electronic Delivery

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

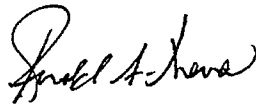
Re: Proposed Revised Green Guides
16 C.F.R. Part 260: Guides for the Use of Environmental Marketing Claims:
FTC File No. P954501

To Whom It May Concern:

Enclosed please find comments submitted on behalf of Seventh Generation, Inc.
regarding the Revised Guides for the Use of Environmental Marketing Claims.

Thank you for your consideration of these comments. Please contact me should you
have any questions.

Sincerely,



Ronald Shems, Esq.
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Encl.



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December 9, 2010

Federal Trade Commission
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RE: Request for Public Comment on Proposed, Revised Green Guides (16 C.F.R. Part 260: Guides for the Use of Environmental Marketing Claims: FTC File No. P954501)

Background on Seventh Generation, Inc.

Seventh Generation (SVG) is committed to being the nation's leading brand of environmentally responsible household and personal care products. With national distribution in thousands of natural product, grocery, other retail stores, and e-commerce retailers, we've become the nation's leading authority on consumer products that aim to protect public health and the environment.

Our corporate office is located in Burlington, Vermont. Our core operational activities include designing and formulating products, overseeing supplier manufacturing, maintaining quality control, managing transportation logistics, sales and marketing, and consumer education activities. Our product line includes laundry, dishwashing, household cleaners, hard surface disinfectants, paper products, trash bags, baby care, and feminine hygiene.

As leaders of the environmental movement for over twenty years, we applaud and support the efforts of FTC to prevent consumer deception or confusion when making environmental claims, and appreciate the opportunity to comment on the proposed Guides.

Comments on the Proposed Guides:

260.3 General Principles

1. Section (b) states that, unless it is clear from the context, claims should distinguish between the benefits of product, package, and service unless the claim applies to all but minor, incidental components of the product or package. As consumer products are typically comprised of multiple components, and because it is unclear how the Commission defines minor or incidental components, we recommend that FTC provide guidance around what constitutes "minor or incidental components" to facilitate harmonized interpretation of the Guides by manufacturers.



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260.4 General Environmental Benefit Claims

2. Example 1 states that a brand name such as "Eco-friendly" should not be used unless qualified and suggests that "Eco-friendly: made with recycled materials" be used instead. However, "Eco-friendly: made with recycled materials" is unlikely to be used as a brand name. Rather, the brand name, "Eco-friendly" is likely to receive prominent placement on the label, and any qualifiers, such as "Package made with 25% recycled material," are likely to be in much smaller print, possibly even on a separate panel. Therefore, we recommend that the example be changed to indicate that a brand name such as "Eco-friendly" should not be used under any circumstance because it cannot be appropriately qualified due to the prominence of the brand name on most labels.
3. Terms such as "sustainable," and images of plants such as aloe also express or imply a general environmental benefit claim. FTC should provide guidance as to the unqualified use of such words and images.
4. The FTC should also provide guidance concerning "organic" claims for products not included in the National Organic Program (NOP) of the USDA. For the same reasons that apply to "sustainable" claims, we believe that the FTC should provide guidance on appropriate qualification of such claims, rather than attempting to provide a definition of the term.

260.6 Certifications and Seals of Approval

1. Section (b) cites § 255.4 (Endorsements by Organizations) however, there is no discussion in the Guide or in § 255.4 about instances where categorization or approval is provided by a government agency, such as the EPA in the case of DfE. As such, we recommend clarification around such circumstances to better guide manufacturers using such labels.
2. The extent to and manner in which partnerships and material connections with non-profit organizations require disclosure under § 255.5 is unclear. We recommend additional guidance to avoid misinterpretation of the Guides.

260.7 Compostable Claims

1. 260.7(b) defines timely as "...in approximately the same time as the materials with which it is composted". Section V.D.4.c of the proposed revision to the Guide states that "timely manner" indicates that "...the product or package will break down in approximately the same time as the materials with which it is composted, e.g. natural plant matter." As written in the proposed Guides use of the word "materials" alone introduces a level of ambiguity that does not exist in the discussion of comments received regarding the 1998 proposal. In order to enhance the clarity of the definition of "timely manner" we recommend revising the language in the Guide to



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be consistent with the language in the comment discussion so that 260.7(b) would read “(i.e., in approximately the same time as the materials with which it is composted, e.g. natural plant materials)”.

2. The proposed Guides lack a definition of “usable compost”. The absence of this definition is problematic because as written it is difficult for a manufacturer to determine what would comprise competent and reliable scientific evidence of compostability. For example, the mention of toxins resulting in unusable compost in § 260.7 Example 2 introduces a criterion not discussed in § 260.7(a-d). Although the Commission ruled that citing a specific method for compostability substantiation was not appropriate for the Guides, adapting a definition from an established compostability evaluation method such as ASTM D6868¹, ASTM D6400², or EN 13432³ or other reliable source is recommended for clarification. According to most definitions, compostability encompasses three factors – biodegradability, disintegration, and eco-toxicity. Per the examples provided in this section it appears that these three criteria are consistent with the definition of compostability held by the Commission. However, an explicit definition will provide consistency in substantiation for the claim which will prevent unintended consumer deception.
3. Example 5 discusses composting diapers which raises public health concerns. No provision is made for the processing of human waste. This issue should be addressed.⁴ Other products such as surface wipes should also be used as examples.

260.8 Degradable Claims

1. This section combines multiple types of degradation and in section (b) states that to make an unqualified degradable claim the entire item must completely break down and return to nature. While this definition accurately describes the end product of biologically aided degradation processes (i.e. biodegradation, oxo-biodegradation, photo-biodegradation), it does not accurately capture the potential end products of other degradation processes (i.e. degradation, oxo-degradation, photo-degradation). For instance, Example 2 states that a photo-degradable claim is not deceptive if the product will break down into small pieces that become part of soil. While it is true that this is consistent with the common definition of photo-degradable, it also indicates the item does not return to nature which contradicts the definition in section (b). We recommend that the Commission delineate the differences between bio-degradation and

¹ ASTM D6868: Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates

² ASTM D6400: Standard Specification for Compostable Plastics

³ EN13432: Packaging. Requirements for packaging recoverable through composting and biodegradation. Test scheme and evaluation criteria for the final acceptance of packaging

⁴ <http://www.epa.gov/epawaste/conserve/rrr/composting/basic.htm>



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degradation to eliminate potential confusion by either creating two sections or providing clear definitions for the end products of each.

260.9 Free-of and Non-Toxic Claims

1. Section (c) of 260.9 states "...some no, free-of, or does not contain claims may be appropriate even where a product, package, or service contains or uses a de minimis amount of a substance". While we agree that the incidental presence of *de minimis* levels that do not differ from background environmental levels of a substance should not preclude such claims, we vehemently disagree that products that intentionally add a substance can make no, free-of, or does not contain claims in a way that does not deceive consumers. The use of the phrase "...contains or uses..." can be interpreted as the intentional addition of an ingredient at an "inconsequential" level is acceptable when these types of claims are made. We recommend that the revised Guides state "...some no, free-of, or does not contain claims may be appropriate even where a product, package, or service contains a de minimis amount of an unintentionally added substance".
2. Section (e) states that non-toxic claims should "...clearly and prominently qualify their claims to avoid deception" although no examples regarding how to qualify such claims are provided. Due to the variety of potential environmental toxicities, e.g. aquatic, terrestrial, atmospheric, etc., in order to avoid contradiction of 260.4 it seems that compliance with this section requires a high level of specificity in terms of claim qualification. For example, if the basis of an environmentally or human (or both) focused non-toxic claim is comprised of numerous specific, but varying environmental criteria, what qualification would the Commission recommend for avoiding consumer deception? We recommend the creation of additional Examples to provide guidance regarding qualification of claims with complex substantiation in a non-deceptive manner.

260.10 Ozone-Safe and Ozone-Friendly Claims

1. Seventh Generation supports the FTC proposal that manufacturers not misrepresent safety for or friendliness to the ozone layer or the atmosphere. The examples provided refer only to the product, package, or service as experienced by the consumer. The manufacturing process used to produce the product, package, or service has not been considered. Many manufacturing processes use substances that may be harmful to the ozone layer or the environment though the final product does not. For example, volatile organic compounds (VOCs) including halogenated substances (VOX) may be used as blowing agents for polymer foams. It would be deceptive to market a product, package, or service as "ozone-safe" or "ozone-friendly" if that product, package, or service was manufactured using substances harmful to the environment, though the final product, package, or service does not cause harm. Therefore, we recommend



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that the FTC provide an example of how a product, packaging, or service that incorporates VOCs or VOX in its manufacture would be deceptive if labeled "ozone-safe" or "ozone-friendly."

260.11 Recyclable Claims

1. The three-tier system represented in § 260.11(b)(1-3) has a high level of complexity which could be simplified. For example, Canadian regulations have adopted the ISO 14020 standard with an added definition of "reasonable proportion" meaning 50%.⁵ Since many products are traded across North America, a uniform approach could be advantageous for both manufacturers and consumers. For recyclable claims under the 60% threshold, the Commission already requires the claim to be qualified through a negative statement indicating to the consumer the limited availability of recycling for this item. We recommend that the Commission consider simplification of the three-tier system.
2. Should the Commission deem a three-tier system the best approach, we recommend additional clarification. Specifically, in section (b)(1), the Guides define "substantial majority of consumers" as at least 60%. However, sections (b)(2-3) do not quantify "significant percentage of consumers" which introduces substantial room for interpretation. We submit that quantification of "significant percentage" in these sections would avoid ambiguity and prevent vast differences in interpretation by marketers.
3. The proposed qualifying statements in section (b)(2-3) are rather lengthy. As the cleaning products industry moves towards concentrated products, package size is also reduced which results in significant space limitations on product labels. While we agree that reducing package size and encouraging recycling, even if limited, is critical, communicating recyclability to consumers clearly and concisely is also critical. As such, we recommend consideration of short statements and visuals, such as the proposed Sustainable Packaging Coalition labeling system⁶, as an alternative to the lengthy statements in the proposed Guides.

260.12 Recycled Content Claims

1. As proposed, section (b) does not require recycled content claims to distinguish between pre-consumer and post-consumer recycled content. We strongly disagree with this approach as post-consumer has a significant environmental benefit over pre-consumer recycled content. As such, we recommend that FTC require disclosure of post-consumer content when a recycled

⁵ ISO 14021:1999, Environmental labels and declarations -- Self-declared environmental claims (Type II environmental labeling), Competition Bureau Canada: PLUS 14021 - Environmental claims: A guide for industry and advertisers, 2008

⁶ <http://www.sustainablepackaging.org/content/?type=5&id=labeling-for-recovery>



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content claim is made to increase the level of transparency to consumers as well as promote increased use of post-consumer materials.

2. Example 9 describes a packaged food product labeled with an unqualified Mobius loop and required qualification regarding recyclable packaging and contents as well as recycling availability. In the case of cleaning products (as opposed to their packaging), which are never made from recycled materials and cannot themselves be recycled, it is unclear based on the proposed Guides if and how cleaning product manufacturers should specify that recycled content claims apply to the packaging. We recommend enhanced clarity regarding this point for cleaning products.
3. Section (a) defines recycled content to include not only recycled raw material, but also used, reconditioned, and re-manufactured components. We recommend that FTC maintain distinction between recycled, used, remanufactured, and reconditioned rather than allow these terms to be used interchangeably to avoid consumer confusion. For instance, consider the confusion introduced when considering the guidance provided in Example 12 given Example 11. Both refer to "used" products, but per the Guides one cannot be called "recycled" while the other can. However, bear in mind that an engine can be made of recycled iron, so this claims framework could result in significant consumer confusion.

260.15 Renewable Materials Claims

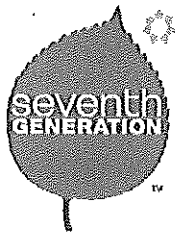
We support the proposal that marketers not misrepresent renewable material content in their products. However, we disagree with the FTC understanding that consumers interpret renewable material claims specifically with claims that a material is recyclable or biodegradable.

Example 2 suggests the qualified renewable materials claim, "Our packaging is made from 50% plant-based renewable materials. Because we turn fast-growing plants into bio-plastics, only half of our product is made from petroleum-based materials" is unlikely to be deceptive. Yet the claim is silent on the issues of the packaging's biodegradability or recyclability.

We therefore suggest that this section require that marketers make clear how they are using the term "renewable" in a manner that is distinct from biodegradable or recyclable.

260.16 Source Reduction Claims

1. Section 260.16 states that "It is deceptive to misrepresent, directly or by interpretation, that a product or package has been reduced or is lower in weight, volume, or toxicity." The inclusion of toxicity in this section is confusing as the relationship between health/environmental safety and source reduction is distantly related at best. Should the Commission desire to include claims about environmental safety improvements in the Guides, we recommend the creation of an additional section.



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Respectfully submitted,

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