



FEDERAL TRADE COMMISSION
Office of the Secretary
Donald S. Clark, Secretary
600 Pennsylvania Avenue, NW
Room H-135 (Annex J)
Washington, DC 20580

DECEMBER 10, 2010

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Electronic Submission

Dear Secretary Clark:

Foresight Sustainable Business Alliance (FSBA) applauds the Federal Trade Commission's careful approach and desire to solicit public comments regarding the proposed revisions to its Guides for the Use of Environmental Marketing Claims, commonly known as the Green Guides. We take this opportunity to not only state our support for the revisions to the Green Guides, but to advise the Commission of our concerns and provide recommendations for further consideration. Our organization proudly maintains a membership base of businesses and consumers that support a strong sustainability agenda and that work to ensure that their products, services, and operations adhere to sound social and environmental standards.

Overall, we welcome the emergence of these guidelines as they bring much-needed clarity and accountability to product labeling. Both our organization and our members value framework being established upon which companies and consumers can base common understandings. We appreciate that the Green Guides are an educational tool and can provide small manufacturers, in particular, with a way to more accurately identify where improvements need to be made in their current practices. Below we provide our comments for the FTC's consideration in finalizing the revisions and going forward.

"Free-of" Claims

While not directly addressed in the current version of the Green Guides, "free-of claims" are encompassed by the examples provided in the Green Guides and general principles regarding environmental marketing claims. The proposed revisions attempt to provide further clarity regarding "free-of claims;" however, we are concerned about how "free-of" claims may be handled by the FTC. On the one hand, free-of claims may be defined too loosely, referring both to the absence of a particular substance as well as to the presence of trace amounts of the substance. For some of our businesses and consumers, this distinction is very important. Understanding that the definition of what constitutes a de minimis amount of a substance would be handled on a case by case basis, we want to underscore that for a number of constituencies, such as chemically sensitive populations, the difference between "zero" and "trace" is significant. On the other hand, we also want to ensure that free-of claims are not overly restrictive, and will allow businesses to make legitimate free-of claims. Some consumers specifically seek information on the absence of chemicals of concern, especially in products for body care and household cleaning.

To achieve this balance, we urge the FTC to adopt the education and outreach efforts designated below.

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Focus on Outreach & Education v. Enforcement

After the revised Green Guides are adopted, the work of the FTC should not be over. Instead, we urge the FTC to shift focus to promoting education and compliance, rather than on harsh enforcement and legal consequences for small companies with a stated and demonstrable commitment to providing green products. Our core constituency consists of small businesses that strive – with limited resources - to make their operations a vehicle for sustainability.

For many small businesses, an FTC investigation or prosecution can drain their limited resources. This is an equity issue since large companies have legal resources to review FTC rulings and product claims, as well as financial resources to make quick and needed adjustments to product tags, packaging and Web sites. For this reason, we recommend that the FTC adopt the following measures for small business of fewer than 50 employees:

- Formulate an education process for small businesses to become compliant with the revised Green Guides, including outreach and workshops.
- Dedicate resources for small businesses, such as further FTC written materials and a dedicated phone number/email address to address questions.
- Adopt a compliance/enforcement protocol for companies with questionable products or marketing, along with information on how to be in compliance, before launching a full-scale investigation.

What has become clear to us is that small businesses do not have a genuine desire to mislead consumers. Armed with the right tools, these businesses can provide more accurate and effective marketing messages. The ideal process emphasizes education, clear communication, and reasonable timetables to come into compliance.

The FTC should also look to business membership organizations, like Foresight Sustainable Business Alliance, as a key resource in educating their business networks and should provide resources specifically geared to our organizations so that we can play a constructive role in outreach and education. For our own members, we have conducted several workshops on the Green Guides and issues in environmental marketing. This dialogue has increased focus by our members and increased awareness of the issues. Foresight Sustainable Business Alliance would be pleased to assist the FTC in future workshops or seminars in this area.

Small businesses and those with a commitment to high environmental and social standards can play a key role in the success of the Green Guides. Small business plays a crucial role in our national economy, employing half of all private sector employees, generating the majority of new jobs, and spurring innovation as well-documented by the Small Business Administration. We hope that the Green Guides will provide a valuable service both to businesses and consumers.

On behalf of the thousands of values-driven business and consumers that we represent, thank you for fostering transparency and accountability in the ever-growing green marketplace.

Sincerely yours,

Peter Nicholson, *Executive Director*, Foresight Design Initiative
Peter Locke, *Chair*, FSBA Public Policy Committee
On behalf of Foresight Design Initiative and the FSBA