

Green Blue Institute (GreenBlue)

GreenBlue respectfully submits comment on the FTC's Guides for the Use of Environmental Marketing Claims; Project No. P954501
December 10, 2010

GreenBlue is a sustainability nonprofit that manages the Sustainable Packaging Coalition, a working group of over 220 companies as well as educational and government institutions. Through our work on sustainability, environmental issues, recyclability, packaging, and related communications, we have extensive experience with industry communication to consumers regarding attributes commonly used to characterize sustainability.

Recyclable Claims

6. Should the Commission quantify the “substantial majority” threshold in the recyclable section of the Guides? If so, how? If not, why not?

7. Should the Commission quantify the “significant percentage” threshold in the recyclable section of the Guides? If so, how? If not, why not?

GreenBlue believes the answer to both questions is yes for the purposes of addressing recyclability claims for packaging. We also support the three-tiered approach. However, the terminology “substantial majority” and “significant percentage” are too vague and not easily distinguishable from each other, and therefore confusing. We suggest FTC replace the use of “significant percentage” with the term “limited percentage” or “moderate percentage” to more clearly define an intermediate tier of access to recycling.

The precedent for “substantial majority” meaning “60% of the population has access to curbside or drop off recycling” is well established and accepted. Quantifying this term explicitly within the Green Guides would make what is now an informal interpretation into an actual standard and provide clarity to those making claims. Similarly, it is important that FTC more explicitly specify the threshold of “significant percentage” within the Green Guides.

GreenBlue suggests this percentage should be a high enough to reflect a reasonable commitment of infrastructure to collect a material, but also low enough to encourage the development and improvement of collection infrastructure. These considerations, in addition to our current understanding of access to recyclability data, suggest that a 20% threshold is appropriate. These thresholds could be revisited in the future to allow for innovation and development of recycling infrastructure that may change over time.

Additional comments related to recyclability claims

The current focus in the Green Guides on negative language to qualify recyclability claims does not serve to encourage recyclability labeling. The FTC should consider allowing a claim that says a package “may be recyclable” in your area, or encouraging “check locally” to inform consumers that the product or package may not be recycled everywhere, without discouraging recycling even in areas where the product or package can be recycled.

GreenBlue believes further clarity is needed to address how “access to recycling” data is established. The FTC should provide specific guidance or refer to a published reference on acceptable methodologies to develop the data used to substantiate recyclability claims, to include population extrapolation procedures. This would prevent potential bias and drive needed harmonization of data collection efforts in this area. By minimizing variability in how data is collected, the quality of claims made to consumers will be improved.

Use of the SPI Code as a recyclability symbol. The mobius loop/chasing arrows are internationally recognized as indicating recyclability. As such, the SPI codes for many polymers are fundamentally misleading, even when on the bottom of a package. The use of the chasing arrows on the SPI codes gives a misleading impression to consumers that all plastics are recyclable including those not typically collected. Further the lack of codes for new polymers presents a barrier to the development of collection infrastructure for new polymers.

There is an additional problem with the statement that “the Guides explain that the SPI code is not likely to convey a recyclability claim if inconspicuously placed on the bottom of a product.” Even when these codes are “inconspicuously placed,” the current approach employed by the majority of local governments and many other recycling-focused organizations seeking to educate on recyclability is to actively encourage consumers to look for the code. The FTC should recommend that the ASTM standard eliminate the use of the chasing arrows. The ASTM process is already planning on reaching out to state government to deal with the 39 current laws, and an FTC recommendation will further this process.

Life Cycle Assessment

We agree that the FTC at this time should not propose guidance about LCA either in marketing or substantiation. However, FTC should work with EPA to establish a process and the appropriate criteria which will distinguish between the types of substantiation needed for claims made from general LCA studies, environmental labels (Type I), claims (Type II) and declarations (Type III), all of which have different requirements.

As claims based on LCA become more complex, an independent third-party is needed to vet and substantiate LCA-based claims.

Scientific Basis for Claims of Environmental Benefit

GreenBlue suggests that as the momentum behind environmental claims grows and the complexity of claims increases, the FTC must consider reference to or affiliation with the appropriate and credible organizations to substantiate the scientific basis for claims of environmental benefit on an ongoing basis, not through intermittent updates of the Green Guides. While there is rapidly growing interest in the use of life cycle assessment methodologies and Type III environmental product declarations to make complex multi-attribute claims, there are also simpler examples where the scientific basis for environmental benefit is unclear. “Biodegrades in a landfill” is an example of a claim that may be a true fact, and one that consumers think is a good thing, but the environmental benefit is unclear and unproved. Scientific substantiation of environmental benefit should be established and made transparent to consumers before that claim can be used in the marketplace. Perhaps a public clearinghouse where consumers could review the substantiation of a claim is needed. There is no doubt the world and pace of environmental claims will become exponentially more complex and the FTC needs to be able to address the complexity in a timely manner for consumers.

The need for reference definitions and standards is already apparent. Results from FTC’s consumer testing found that consumers believe the term “renewable” means made from “recycled or recyclable materials”. So, does this imply that a “renewable” claim on a product such as a book, not likely to be recycled and made of virgin tree fiber, is misleading because it is not made from recycled or recyclable material? The quality and consistency of claims of environmental benefit will improve and consumers will benefit if there are specific definitions for reference as well as credible authorities to validate the scientific basis of claims of environmental benefit to consumers.

Sustainable Claims

We disagree that the Commission lacks a sufficient basis to provide meaningful guidance on the use of sustainable as an environmental marketing term. The consumer perception evidence cited clearly shows the consumer confusion regarding this issue; in addition, the term “sustainable,” like the terms “green” or “environmentally friendly” covered under “General Environmental Benefit” claims, has no intrinsic meaning in the context of claims, and confuses consumers, even if marketers qualified it with text that describes the specific attribute(s) that make their product sustainable. It also makes business-to-business claims less meaningful.

Our suggestion is to align North America regarding this issue and mimic the guidance provided in the *Canadian Environmental claims: A guide for industry and advertisers* document which says: “The concepts involved in sustainability are highly complex and still under study. At this time there are no definitive methods for measuring sustainability or confirming its accomplishment. Therefore, no claim of achieving sustainability shall be made.”