FEDERAL TRADE COMMISSION

GREEN PACKAGING CLAIMS

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MR. KOHM: Good morning, everybody. My name is Jim Kohm. I am the Associate Director of the Enforcement Division in the Bureau of Consumer Protection. Welcome to the Federal Trade Commission Green Guides and Packaging Workshop.

Before I introduce our opening speaker, I have a few housekeeping matters to take care of. First, for participants and panelists, the microphones at the table look very high-tech. In fact, they are not. So you have to lean into them so everybody can hear. I am glad to see a full house and the people in the back will not be able to hear you unless you actually lean into the microphone.

Everybody is welcome to ask questions. We will start and end each panel exactly on time. So, there will be time for questions at the end of each panel. If you want to ask a question, there are cards out front. If you do not have a card, simply raise your hand and someone will bring a card to you. When you fill out the question, raise your hand again and somebody will pick it up.

If you are familiar with these proceedings,
with workshops at the FTC before, the moderator then will ask as many of the questions as there is time for. These proceedings, however, are a little different than FTC's normal workshop. Everything that happens here today will be part of the official record for the Green Guides Review. If you send a question forward, whether it is asked or not, if you put your name on it, it will become part of the official record. You are welcome to ask questions anonymously, but those will not be made part of the official record. So, we would request that if you feel comfortable that you put your name on the question.

That is particularly important because the record for this proceeding will be left open until the 19th of May. So, you will be able to go on our website after today and if you want to answer the questions whether they were asked here today or not, you can do so because they will be posted.

Additionally, today's events are being webcast and there will be an archive of the webcast on the FTC website. So, if you would like to go and review that webcast and make comments afterwards, we would encourage everybody to do so.

Now, regarding security. Everybody has a name tag. You need to wear that name tag at all times when
you are in the building. If you leave the building for any reason, you have to come back through security. We will be starting exactly on time after lunch. So, please leave enough time to get through security. This morning, fortunately, everybody kind of came in a staggered fashion. At lunchtime, everybody will be coming quickly, so leave enough time to get back in so you will be here for that first panel.

In case of a fire emergency, there are two exits through the pantry right in the hall in back of us and out the G Street corridor or out the front of the conference center, out the front doors of the building and we will all congregate diagonally to the left as you are facing away from the building next to Georgetown Law School, in front of their student union building.

If there is an emergency that requires us to stay here, we may have to go up or down, and please stay calm. There will be an announcement and we will tell everybody whether we need to go up in the building or come down.

This is a green marketing workshop. There are recycling bins out front, so please use those. There will be some sodas in the afternoon and with the coffee and the pastries this morning.

Finally, the most important announcement and
the reason that I am really up here this morning, the bathrooms are across the hall. If you go out the conference center, particularly for those of you who are going to be with us the whole day, out the conference center, across the hall to the left of the guard desk, take the hallway around to the left and you will see the restroom facilities.

This event is the second in the series of workshops that the Commission is holding on green marketing. The first event was opened by our previous Chairman. Today's event was originally scheduled to be opened by Commissioner Kovacic. But events intervened, and I am not saying, at least out loud, that it is because he is speaking with us today, but today's event will be opened by Chairman Kovacic. The agency could hardly be in better hands.

Chairman Kovacic has had the opportunity to study the FTC from multiple vantage points serving as a staff attorney, General Counsel and a Commissioner before assuming his current role. So, without further ado, I am proud to introduce the Chairman of the Federal Trade Commission, William Kovacic.

(Applause.)
OPENING REMARKS

CHAIRMAN KOVACIC: I want to begin by thanking Jim and his colleagues for putting together what promises to be just a spectacular agenda today. It is hard to look at the roster of speakers and topics without having enormous admiration for the work that Jim and his colleagues have done in not simply showing an eye for a great topic, but bringing together a true Hall of Fame cast to address these issues.

I am most grateful for our participants today, for throwing themselves so actively and thoughtfully into the preparation of their presentations for what again, as I will explain, promises to be an enormously useful contribution to our efforts to make policy in this area.

What I would like to do this morning is to give you a bit of motivation for this workshop and to put the initiatives that the Commission has pursued in the green area into a context. I would like to start by doing this, to look ahead by looking back at some of the Commission's history. To go back, in particular, to the time when I first started to focus on the Commission as a student in the late 1960s. I am going to identify two trends that take root in the 1960s, two streams of activity that come together in the program we have today.

There are a number of fairly dramatic and
important policy developments in the field of economic regulation that one can trace back to the 1960s. But two of the most important involve environmental policy and the role of the Federal Trade Commission in consumer protection and competition law.

I think we all recognize that both in the popular literature and in the academic literature, in a series of related public policy developments, the 1960s, in many respects, are the origin of modern environmental policy. It is the period in which the table is set for the formative enactments of the Clean Water Act; the Clean Air Act, the development of highly important non-government organizations and initiatives, one of which I spent a summer in the early 1970s, fondly recalling a summer spent with the Natural Resources Defense Council; the development of highly focused activities in the legislature.

This is really the period, not the only period, but really the period in which the field that we now teach and identify as environmental policy has its fundamental intellectual and policy origins. It is also the period in which we can trace the formulation and development of the modern Federal Trade Commission. The agency was created, as you know, in 1914, but its true regeneration and rebirth starts in 1969 as the result of
a series of wrenching policy developments that literally
turn the institution upside down, two highly critical
studies of the agency’s operations published in 1969, one
by Ralph Nader and a group sponsored by Ralph's
organization, somewhat more flamboyant, and a more
prosaic but, nonetheless, poignant assessment by the
American Bar Association which formed a Blue Ribbon
Commission to examine the agency's work.

These two reports catalyzed a fundamental
transformation of the agency and set in motion policy
developments that truly account for the use of the policy
instrument that we are engaged in today.

These prescriptions for the FTC boil down to
three basic propositions for the way ahead. The first
was that the appropriate substantive focus of this agency
should be state-of-the-art policy issues and that the
agency, both in the consumer protection domain and
competition policy domain, ought to stake out the most
difficult policy making frontiers. That is, we should
allow the simpler and less interesting issues to be
dedicated to treatment by other public institutions. It
was the unique capacity and purpose of the Federal Trade
Commission to deal with what my students in law school
call the hard stuff. Leave the easier questions to
others, but take on especially developments in dynamic,
fast-changing commercial sectors.

The second basic charge was that the analytical perspectives should reflect a complete merger of the agency's unique technical and analytical competencies. That is, the streams of thought coming from its competition policy work, its consumer protection work, and being anchored in many respects in the work of what is still, today, the largest single collection of industrial organization economists in any public institution in the world, our Bureau of Economics, and that our work should reflect a true fusion of these three analytical perspectives.

The third proposition was that the Commission ought to take advantage of the unique institutional strengths that were given to it by Congress in 1914 and that its policymaking approach should reflect the assembly and application of at least four basic tools, law enforcement, advocacy, education, and research, and that the agency would be judged by its capacity to use this array of policy instruments to pick the right tool for the right moment and to use them in combination to achieve superior policy results. Namely, to achieve results that reflect the sensible application of different tools.

And as I will say in a moment, this workshop
again, I think, is so pleasing to us because it is a manifestation of the realization of that vision.

Where do green claims fit into the role of the Commission? First, they are precisely the kind of state-of-the-art issue that the ABA and the Nader report scoped out for the Commission in 1969. And the way in which those issues were to be identified was, in many respects, taking account and following the way in which public consciousness for specific issues brought particular policy concerns to the agency.

In this respect, the host of non-government organizations represented here play a crucial role in stimulating policy developments that become subjects of our concern. That is, it is both media organizations, interest groups and advocacy groups that raise public awareness to specific issues and create a demand in many respects in the commercial sector for industry changes that become matters of keen concern for us.

We were also charged with taking account of developments in science, not to have a large body of scientists on our own. That is, we are not prescribing the environmental policies that provide the backdrop for our discussion today. We are not the scientists at EPA and a host of other affiliated bodies. But our role is complimentary, to take account of that science and to
ensure the product offerings serve the purposes that Congress charged us to see were fulfilled.

Third, this is exactly the right issue because we are observing dynamic commercial responses to the social preferences that, in many respects, have been shaped, stimulated and motivated by the consciousness-raising efforts by both media organizations, non-government organizations, and public policy bodies.

How have we brought our collection of perspectives to bear on this? That is, why are the three basic capacities resident in our agency relevant to the resolution of these policy issues, their clarification and elaboration?

First, the competition policy perspective has taught us in this area and others that industry commercial actors will respond to changes in social norms. That is, as individuals become aware of specific policy phenomena and it inspires in them a demand for adjustments and new product offerings, there is a large body of initiative within the private sector that will respond to those. To offer consumers who have decided that environmentally friendly approaches to providing products, packaging in this instance, will step forward to offer products that consumers demand and that the Commission's policymaking ought to take account of those
commercial responses.

Second, the consumer protection perspective has taught us that one of our most important roles is to ensure that advertising is truthful. That claims made about the efficacy of specific products, in fact, are grounded. In fact, that can be verified that they are substantiated. Because especially in this field, but in others in which we work, we have come to learn with absolute clarity that having confidence among consumers that claims are truthful, that advertisers who are willing to stake their efforts and reputations in making claims about product efficacy ought to be ensured that individuals who do not abide by those norms will not, in effect, pollute the marketplace for truthful information.

And, third, our economic perspective has given us in this area, I would say, two useful things. One is a greater appreciation for how supplier markets can drive individual producers to offer packages of product attributes that are attractive to consumers because they fulfill consumer desires for certain environmentally friendly features, and second, to better understand user behavior. More and more of our research has been going in the direction of trying to understand precisely how consumers absorb and understand the information provided
Finally, by what means have we tried to work in this area? Well, the first and most important perhaps is law enforcement. Law enforcement could be seen as the anchor tenant of the mall of FTC competition policy. Many malls, when they get started, have a showcase department store or other retailer that provides the main focal point for the mall. No anchor tenant, no mall. The project simply is not inspired. But if all you have is the anchor tenant, the Nordstrom’s, for example, in a specific commercial complex, you do not have a mall. It has to be complemented by other retail outlets.

But in many respects it is what gives our program the greatest credibility, but, in isolation, it cannot be the only element of what we do. And its most important contribution in consumer protection has been to underscore the importance of making truthful claims in advertising. We have an active program, both under Jim’s supervision and in affiliated bodies within our agency, to ensure that claims, in fact, are properly substantiated.

The second element is advocacy, to go to other public authorities, because ours is a world of fragmented policy decision making, both at the national and state levels and, increasingly, we devote resources to ensuring
that we work in a complementary collaborative fashion
with other public institutions to ensure that shared
public policy goals are realized.

The last two elements I underscore because they
are critical ingredients of today's proceedings.
Education. Education of consumers, but education for the
business community. That's a critical element of the
Green Guides themselves. To provide effective guidance
to business, to answer the straightforward question, tell
me what I can and cannot do. In this instance, the Green
Guides are an effort to provide that kind of instruction.

And, fourth, and indispensable to today's
proceeding, is to build knowledge. One of the main
criticisms of this agency going back four decades was it
did not spend enough time looking outside of its own
walls, that it relied too much on its own indigenous,
organic capacity. And a basic response to that was to
devote more and more effort to the consultation with wise
bodies outside of our own building. Academics, different
interest groups, industry representatives, consumer
bodies, think-tanks, a variety of different institutions
to guide us.

As Jim suggested a moment ago, we today devote
enormous resources to doing that. This is a dilemma for
the policymaker in Washington. Why? What is the typical
measure of whether I am doing a good job or my colleagues are? How many cases have you brought? If you go to an academic conference or professional society and you begin talking about an event such as this one, you see people nervously turning through the program to see if they can attend a parallel session, or to begin making plans for lunch, running out the hallway to deal with the cell phone. These projects are not seen in the simple-minded way in which we are sometimes measured as paying the rent.

But I would suggest this is the very foundation for making wise policy in other areas. These are the equivalent of the capital investment in knowledge that determines whether we can do a good job.

One of Washington's favorite aphorisms, as you know, is pick the low-hanging fruit. There's no suitable aphorism in Washington that tells people to plant trees. Because, as you know, if you have nothing other than a group of fruit gatherers running around the mall with baskets looking for fruit, and by the way, when it's cold, chopping down the trees to warm their hands, you don't end up with a foundation for effective policy.

So, one reason for which I so much admire Jim and his colleagues is the willingness to make the long-term investments that will not necessarily make our
policy better informed tomorrow or the week after, but it
will ensure that over time, five years out from now when
political appointees like me are gone, that this agency
and my successors will be making wiser choices about
policy.

Let me finish with a couple of specific
thoughts about the Green Guides and why, again, I think
this policy, even if you might not agree with every
specific element of it, I think represents a very
sensible process for making good policy over time.

The Green Guides originate in 1992. There's a
continuing assessment that takes place in '98 and today.
What's good about that? The recognition that the
industry developments are dynamic, the social norms are
changing, and that there has to be a continuing process
of reassessment, a norm that refuses to accept the status
quo as being good enough and presses us on a regular
basis to reassess assumptions made only in the recent
past.

Second, the basic aim of the Guides is to
encourage truthful representations, to develop a social
norm by which legitimate business operators who are
seeking to satisfy consumer desires in this dimension can
have confidence that their efforts will not be tainted by
unscrupulous operators. You can put, in many ways,
business operators into two baskets. There are, on one side, corrupt, craven individual who have no concern for reputation and are illegitimate operators. We deal with those. We have a serious fraud program that Jim and his colleagues implement and, where necessary, we seek to take their freedom away through collaboration with those with criminal enforcement powers.

But that is not the main focus of what we are doing today. Our main focus today is the large body of legitimate operators who make investments in reputation and want to get it right. So, a major focus of the Green Guides is to provide a basis, a set of principles, for making those good decisions to take advantage of the inspiration that comes from the motivation of individual sellers to do a better job. This complements work that we do with consumer education, that is, to provide guidance to assist consumers in making sensible choices among alternatives.

The vital foundation for doing all of this is public consultation. That is why we have asked you to assemble here today. Because it is part of the norm that takes root in this agency beginning in the late 1960s and has accelerated dramatically over the past 15 years. And the simple intuition is without a continuing effort to tap knowledge from wise observers on the outside, our
policies run the risk of becoming stale. And the real
hope, and I am sure it will be a realized hope today, is
to refresh our knowledge base.

I want to finish by underscoring how I think
this process realizes the multi-disciplinary approach,
the charge that was given to us 40 years ago. And, quite
important, it reflects our commitment to engage in a
continuing process of reassessment. So, what we see
brought together here, four decades after the
transformation and the discipline that led to the
formation of modern environmental policy and policy
recommendations that led to the transformation of this
agency, I would say those two flows of activity have
brought us to a very suitable intersection today. I am
most delighted that you are here to participate in it.
Thank you.

(Applause.)
SESSION 1: OPENING THE PACKAGE – OVERVIEW OF TRENDS IN PACKAGING CLAIMS

MR. KOHM: With that inspiration, we will start right away. If the first panelists could come up.

MR. KAYE: Good morning. I am Robert Kaye with the Division of Enforcement. I would like welcome to you all as well and quickly introduce our first panel.

John Kalkowski from Packaging Digest; Amy Zettlemoyer-Lazar from Wal-Mart, a small store you may have heard of; Michelle Harvey from the Environmental Defense Fund and; David Mallen from the National Advertising Division of the Council of Better Business Bureaus. Thank you all for participating.

John, if you would kick us off.

MR. KALKOWSKI: Hi, everybody. I am John Kalkowski, I am the editor of Packaging Digest Magazine.

I have to tell you that we are hearing more and more every day about sustainability in packaging. I do not think a day goes by, including the weekends, that I do not get at least one email that talks about sustainability in packaging.

It is interesting because not long ago we had an executive of a packaging company call us and he said, what is all this sustainability stuff about and how can I take advantage of it and how much is it going to cost me.
You can that there is a lot of misconceptions out there in the public. I think this points out several major questions. What does it mean to be green, eco-friendly and sustainable? How can I take advantage of the movement? How much will it cost? And how much of a commitment do I have to make?

If you look at the screens, there are several trends out there in the packaging markets and in the environmental area. Oftentimes, these just do not add up. As consumers, we are demanding more portability. We want to be able to throw that package away and we do not care what happens. Yet, it has to have a long shelf-life so it stays in our refrigerator or on the pantry shelf longer. It just does not add up if we are interested in protecting our environment also.

I think one thing that is important here is that we have to consider how the message is delivered. It is not just on the packaging, although the two most important functions of packaging are, number one, to protect the product, to prevent spoilage and wastage and, number two, to sell the product. So, it is a big part of the advertising and the marketing message, but it all works in with the advertising, the in-store displays, how it is being covered in the market, what kind of promotions they are doing. It all adds up to a total
market message.

Recently, I have seen a lot of different studies that have come out and there are somewhat conflicting results that are being reported. This is from a study that was reported on at a recent sustainability conference that Packaging Digest was a sponsor of, and this one showed that recycling and reduced waste are the things that people think most about when they think about environmental issues, but the environmental factors are not top of mind when they are making their purchase decisions.

One of the most interesting points I saw is that, yeah, most of us consumers will say we do have a responsibility to the environment. But what is interesting in the United States is that we put it on to other people and we feel that the obligation of our own is not as important as it is to the manufacturer, that they should be held responsible.

Do people really care about packaging messages and sustainability? There has been a lot of interesting studies. In July 2006, Brand Week had a study that talked about greenwashing and their study says most consumers just do not care that much. Landor Associates, a big packaging design firm, found that 58 percent of the population are non-green individuals and that really in
their survey only 17 percent of the people in the market were truly green-motivated. That means they felt it was important enough to consider all of this when they were making their purchase decisions.

On the other hand though, 60 percent of the consumers in another study said that they really admire companies that are tackling climate change, and consumers want brands to play a bigger role in how they do this. But there are other things that were surprising. More people are selecting a brand for environmental reasons than to avoid one.

What is a sustainable packaging? The best definition we have comes from the Sustainable Packaging Coalition. So, I will not spend a lot of time on this because I am sure we are going to talk about this more later, but I wanted to talk about a few things. One of the concerns that we have is, what do some of these terms mean? What does it mean to be green, to be natural, to be eco-friendly or even sustainable? Sustainability was something that was not even in our lexicon a few years ago.

So, what does green mean? Green could be less damage to the environment. It could imply that the packaging materials include renewable resources. It could imply that they are designing the products to be
environmentally sustainable and green could mean the use of less material and recyclable and degradable materials.

I have a few examples here. I am not questioning whether these companies are actually green companies, but look at the messages that they are sending. In this case, we have a soy milk. A lot of people who are environmentalists tend to drink things that might be considered more healthful. So, they are trying to portray that image. In this case, you are looking at a wind farm. It is saying that helping the earth is a breeze if you drink this Silk product. Well, the big thing here is it has a green cap on there, and I guess the implication is that by drinking this, you are going to be helping the environment. I do not question that, but it makes me wonder exactly how that message gets carried through.

Here is another one. These are recycled paper products. You can see here that the packaging itself really has a green theme to it. Sunrise, what a nice image that is. Over the green forests. If it is recyclable, they are helping to keep natural resources moving back through the system. Is it really green?

One of the biggest targets these days are bottles. Water bottles. In this case, here is a company that is using a bottle that has plastic that is 100
percent recycled. It is a 30 percent smaller label, 30 percent less plastic, it is easier to carry, flexible. But does that mean that it is really green?

I happen to be a big proponent of bottled water ever since the night that I saw my cat drinking out of the glass that I kept by my bed.

(Laughter.)

MR. KALKOWSKI: But here are a few other things. Here is a Coca-Cola bottle. These are things that we see every day. They designed a new bottle, it is slightly smaller, has less materials, lower transport costs. Does that qualify it to be green?

The Arrowhead water bottle, much like the one we saw in the previous picture.

Big Mac, they went from Styrofoam clam shells to paper-based ones.

Crest toothpaste. This is an interesting one because they went to a stiffer rigid tube that does not require an outer box and it allows them to display it better on the shelves. Instead of being horizontal, it is vertical. Does this mean they are green?

I think there are factors here that we have to consider. You have to evaluate. Are the materials that they are using needed? Are there options that they can use with their primary materials so that they can
eliminate secondary packaging all together? You have to validate any claims that they are making. You have to confirm those assumptions and claims.

Another big thing is, is the product or package certified? Although you will see on my next slide you have to be careful with that, too.

Minimize size and weight and optimize with cubilization (phonetic) of materials.

Here is a quick look at the groups that are doing certification. How do you know which one is most important?

So, finally, I just want to highlight a couple of items. Most green packaging these days and the advertising that goes with it emphasizes the type of materials that are being used. I think that the next phase will emphasize the processing of the packaging and the elements that are involved. These will include the components and the automation that are used in the processing materials and in the energy that is consumed and the efficiency of the packaging machines.

One thing I think we must do though is look not just at the packaging, but at the total environmental impact of a product. Because the packaging itself is often a very small part of the total environmental impact of a product.
Most importantly, I think we have to understand that sustainability is not just an environmental issue, but it is a good business practice. It is a way of managing our supply chains and keeping everything good for the environment. Thank you.

MR. KAYE: Thank you, John.

(Applause.)

MS. ZETTLEMOYER-LAZAR: Good morning. I would like to introduce myself. My name is Amy Zettlemoyer-Lazar and I have direct responsibility for Sam's Club packaging. I am also co-manager of the Wal-Mart Stores Inc. Sustainable Value Network. So, you will see slide backgrounds for Sam's Club and Wal-Mart. I am here representing both companies this morning.

So, I want to talk about recent history. I am not pretending to go back to 1992 or back to the eighties on what claims are. My recent history with Wal-Mart is the last three years. So, what we have seen is the history of claims on packaging have been organic, transitional, fair trade, products, also preparation. As space on packaging becomes limited, we are trying to put more on. So, how long is this going to take somebody to prepare as we get time crunched? Is it going to be in the oven? Is it microwavable? Is it portable? All these things are vying for space on an even smaller
In addition, packaging and material claims have become more important. Is it recycled? Is it recyclable? Is it a smaller size? Is it designed for reuse?

In October of 2005, Lee Scott, Wal-Mart Stores, Inc. CEO, gave his 21st Century leadership speech and made commitments across three areas for Wal-Mart stores. The first one is to be supplied by 100 percent renewable energy. The second one is to create zero waste. And third one is to sell products that sustain our resources and environment. The details of this speech are available on Wal-Mart Stores Inc. and Wal-Martfacts.com.

After this speech, we had a lot of suppliers coming to talk to us about opportunities. And the Packaging Sustainable Value Network created their principles of sustainability in 2006 as a response to a lot of these claims and a lot of products and packaging that were going to help us meet our goals. We know, as a company, we cannot do this by ourselves. We need our product suppliers, our packaging suppliers. We need academic institutions and the think-tanks to make sure that we are getting all of these technologies.

But our hierarchy was removing, eliminating unnecessary materials. We want to reduce material usage,
making sure things are right sized. We want to reuse materials that are appropriate and choose renewable materials when we can and have them be biodegradable. We threw in three ASTM methods under that as a response to some of the information we were receiving. We also want things that are designed of recycled materials and to be recyclable. And, of course, we put in that they need to be recyclable post-use and follow FTC guidelines for label claims.

After that, we got a lot more packaging claims and they were more specific. Our buyers meet with product suppliers every day. I personally meet with packaging suppliers at least every day, have conversations with them on the phone about what their materials and products can do for us. So, after we were very specific about what we were looking for to meet our goals, we continued to get other claims. Things are photo-degradable, landfill degradable. They are compostable. They could be renewable. They are designed for refill. They are recyclable in municipalities or they are recycled in somebody's facility. These are examples only. If I listed every claim that we have received in the last three years, that would be the speech alone in ten minutes. So, this is just an example of what we are receiving within Wal-Mart and
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1 Sam's Club.
2 And the thing I want to point out is these are all claims that people are making. It does not mean these are claims we want. These are things people are bringing to us without having a benefit stated.
3 So, when you go to translate this to our consumers and our members, here is just a very few graphics that could end up on our packaging. Possibly incorrectly. The green dot symbol should not be on any packaging within the U.S. However, we have seen suppliers that have put it on because they understand it to mean recyclable graphic. So, there has been a lot of misinterpretation on graphics. And as we see them, we send our suppliers and our packaging suppliers to the FTC guidelines to make sure that they are making correct claims.
4 So, in the beginning of this year, our CEO made another speech at our year beginning meeting. We were talking about the supply chain of the future and energy efficient products. We want to pre-qualify our factories. We want to make sure that they are certified to international standards. We want to make things more energy efficient, not just our own stores and trucks, but also products that we sell.
5 So, after this speech, we were wondering what
the next claims are that we are going to receive. Is it
going to be produced in a certified facility and does
that certification mean ISO 14001? How many less
greenhouse gases were produced in making this package?
Was it sourced sustainably, produced with renewable
ergy? And if these are the claims that are going to be
brought to us, how do our buyers verify them?

So, how are Wal-Mart and Sam's Club attempting
to manage the packaging claims overload? All of these
things are great. The fact that we have every meeting
going on at Wal-Mart and Sam's Club, discussing more
sustainable products and packaging is a great thing. But
how do we interpret this to our customers and members and
help us reach our sustainability goals?

We are actually positioning it as a save money,
live better marketing campaign. We have found that our
customers are ready to live better by making a
difference. They want low prices on products that make a
difference. They want to know which products make a
difference. So, we have a lot of customers. By offering
them products and packaging that make a difference, we
can actually make an impact on the world, and this is
part of our goal, to sell products that sustain our
resources and our environment.

So, this past month, the month of April was
Earth Month for Wal-Mart. And we actually had marketing campaigns on how our products help our customers save money and live better. And here are a couple of the ads. We talk about how the product packaging, when recycled, can actually make a new product. So, we are helping our customers and our members understand that they are closing the loop by purchasing from us.

Sam's Club has actually taken a step by putting this logo on products within our club. Simple steps to saving green. On our website, we actually explain that when you purchase Sam's Club products with this symbol, you are choosing products that are taking a step to become more environmentally sustainable. So, what we are saying is they have not been certified by Sam's Club to be green, they have not been certified to be sustainable, these are things that are actively taking a step compared to their peer set in that category to be more sustainable.

We have also tried to have behavioral changes within Sam's Club and Wal-Mart, and I think this is the biggest trend that I have noticed in the last three years of being with Wal-Mart Stores, Inc. Our suppliers are differentiating their products and their company by what they are doing, to use better materials, to recycle more, to design differently. Our buyers are also now receiving
information on both the product and package, which is really helpful for us in making decisions. The benefit is that our customers and members are receiving better products and packaging.

A great example of this is an Honest Kids product that has a really good product message. Gluten-free, it is kosher, organic, no GMO. This is the package that they brought to us in, their retail package shrinkwrapped together. This is the package we launched in. What you can see is there were 13.6 grams of total packaging in the original one, 8 grams of final packaging. The boxes is recyclable after the handle is removed and they call out specifically all of the different factual claims that they can make. Here is the overall fiber savings.

The great thing about this package is it is exclusive to Sam's Club and it has got a handle on it. So, not only did we design a better package with a great product, it is better for our members. Our moms can now take this to summer picnics or barbecues and it is more portable.

So, the great thing about us stating our goals publicly is that our suppliers and our packaging suppliers are bringing us better items and better packaging. The challenge for us is how to make
consistently better decisions. Thank you.

MR. KAYE: Thank you, Amy.

(Applause.)

MS. HARVEY: Good morning. I am Michelle Harvey. A year ago, I moved to Bentonville, Arkansas with a colleague at Environmental Defense Fund to open the first office of a national NGO to support Wal-Mart and their sustainability. So, the perspective that I am bringing is from the NGO side as opposed to the inside view with Amy. But the reason we are in Bentonville is we have worked with Wal-Mart since 2004. We found the efforts real. Our goal was to keep them that way.

Environmental Defense Fund. We are the Fund again. For those of you who may have noticed we had dropped it, it is back. In the days of Viagra, going by anything other than EDF was embarrassing.

(Laughter.)

MS. HARVEY: Our corporate partnership program is a globally recognized leader in partnerships with business. Through the corporate partnership program, we work with industry leaders to unleash innovations, reduce environmental impacts throughout the supply chain. What we are looking to do is to create efficiencies, new markets and competitive advantage through environmental innovation.
These are some of the companies we worked with.

John mentioned in the beginning McDonald's and the original Styrofoam to clam shell issue. That was our first major corporate partnership.

In the 1990s, we were really about paper and packaging. The corporate partnership efforts that we were engaged in were really looking at reducing, reusing, recycling the paper calculator which has just been reinvigorated with a new set of functionalities was really kind of where our focus and energy were. And what we were looking at when we looked at the FTC guides made our comments at the last iteration. We are looking at claims on degradability, compostability, differentiating pre and post consumer recycled waste. We were just beginning to question the emergence of certifications and sustainability attributes that were beginning to show up.

What we are dealing with now are the types of things that Amy mentioned, looking at retailers, looking at a much different interface with organizations. When you are dealing with claims at this level, a lot of what we are about is trying to ensure transparency, trying to ensure accuracy, and as we did with McDonald's in that first corporate partnership, what we are really looking to do is to find a way to move the business case so that
the environment comes out the winner.

So, did somebody say green at Wal-Mart? This is what the buyers feel like. One of the roles that I have played is to support the training, the sustainability training for the buyers at Wal-Mart. And this includes the Sam's Club as well. We talk Wal-Mart holistically, but it is actually the two organizations. This is where the buyers -- there is 2,800. One of the things John mentioned, the consumers are not really overwhelmingly concerned. If you ask my mom about the attributes of a package, she wants to know how well is it going to work, she wants to know is the product inside going to do what she wants. She does not want to get bothered with all that. That is my job. That is the way she deals with it.

Well, our goal is to ensure that it need to be less an issue for the consumer because the person making the choices of what to put on the shelf are better. So, when we are looking with Wal-Mart buyers, when we are looking sustainability education, a big piece -- and we work with folks at Amy's level, we work with folks all the way up to Lee Scott's level. What we are really trying to do is ensure that they make better choices so people do not have to think about it. It is easier to make a decision.
Big issues -- and you are going to hear from Scot Case later this evening, but in terms of what we have grappled with, these are -- the work that Scot's organization, TerraChoice, did was to sort of identify what they called the six sins of greenwashing. This is what we find grappling with the vendors as well as with the buyers. What does it mean?

These are some of the issues. I am just going to give you a quick run-off. The hidden trade-off is one environmental issue while hiding a trade-off with something else. This is a great package. Of course, what is in it is really lousy, but the package is really great. That is a hidden trade-off.

No proof. This is a wonderful product. Oftentimes, it is not validated. There is no indication why is this a better product. There is vagueness. One of my all time favorites, all natural. Cyanide is all natural, arsenic is all natural. I do not want my kid eating it, I do not want it in my family. But somehow these kinds of claims.

Amy showed you the marketing flier for April. We were one of the organizations that was asked about some of the claims that were in there and tried to provide our feedback to deal with some of this.

Irrelevance. It is CFC free. That is one of
my favorites. CFCs have not been around a long time. But it is still CFC free. It is like saying, look, it is made of metal, it is recyclable. Well, all metals generally can. So, making it a big part of your sign is not really a very useful thing to tell me. We already know this is going on.

Fibbing. I like the fact that they called it fibbing. It was sort of softer. The fact that we say we are certified, but we bet you cannot find it anywhere on the label, we bet you cannot find where to go look for that certification. Certified something or other.

And then, finally, the lesser of two evils, this is always a favorite. An environmentally-friendly car. Is there such a thing as an environmentally-friendly car? An environmentally friendly bicycle. Or organic tobacco. That is another one. Well, okay, yeah, okay, I guess so.

In truth, a lot of vendors make a lot of claims that fall into one of these six categories. In actuality, they are not trying to greenwash. The vendors are oftentimes just as confounded about how to show that they have made an effort. It is a better product, but is it sustainable? John did a beautiful job of running through that with his slides.

Is it green? No, usually it is not. But it is
better, and that is a big piece of what we have been trying to work on that retailers -- the reason we work with corporate partners like Wal-Mart, like some of the other organizations we work with, FedEx and Citicorp, is because they are trying to get better and they do not know how to deal with it. And even once you have got your graduate degree in sustainable education, you understand the six sins, you know the kinds of questions to ask, we teach people if you do not know what else to do, say is it whatever they are trying to do in their product category. Is it safe? Is it green? How do you know? You ask the vendor, how do you know and then can you give it to me in writing?

Even when they get all that worked out, next week what shows up, nanotech. I have worked with buyers and vendors where the vendor says it is nanotech, and I say that is great and what is it made of, and they say, I do not know, but it is only 15 percent nanotech and the rest is water, so it must be better. Well, that is an interesting thought. Do you know what the nanomaterial is? No. Do you know what is nanomaterial? No. We thought it sounded good. They have already trademarked all the words with nano in it. Nano guard, nano better, nano thing. But is it nano? Who knows? This is the kind of issue.
The opening Commissioner spoke about the hard
tackling things that people are going to have to do. You
get it all right this week, you figure it all out and
next week there is something else.

Green is not easy. It is not. It is the
reason that we partner with folks. I do want to make it
clear, we partner. We do not get paid for the corporate
clients we work with. Our donors support us so that we
can be there without conflict of interest. Because we
know that the people trying to be green are oftentimes
just as stymied as the customers, they are just as
stymied as the people all the way up the supply chain.

There are bad actors, there is no question.
There are bad actors that are humans, there are bad
actors that are chemicals. But the majority of people
are trying to be good. They are trying to do the right
thing. They do not know how. The Green Guides are a
real help, but they are way out-of-date, and the
opportunity today is to figure out how to help the people
that want to make the claim so when your mom goes to buy
a product she does not have to think about it. She can
buy something and the planet is the better for it. Thank
you.

(Applause.)

MR. KAYE: Thank you, Michelle.
MR. MALLEN: Well, good morning. I am David Mallen and I am going to talk about this trend in green packaging and advertising claims from the perspective of advertising self-regulation. I am with National Advertising Division, NAD, and that is the National Advertising Division of the Council of Better Business Bureau. NAD is part of a system of voluntary self-regulation that resulted from the partnership of the advertising industry trade associations with the Better Business Bureau. And that partnership led to the formation of the National Advertising Review Council and the formation of a variety of programs that have earned the praise of industry, government and consumer groups for its effectiveness.

National Advertising Division is designed and focused on upholding the truth and accuracy in advertising, and we do that through a review process. The majority of the cases that come before us are brought to us by competitors, and after a relatively quick and informal review process, we make findings and recommendations that are published. I am pleased to report that companies comply with these recommendations about 95 percent of the time. So, it is a very successful program.

And we look at all kinds of advertising claims
from we are number one to some very technical performance claims and that includes, of course, green claims.

Now, when we talk about the trends in green packaging and marketing, we have to recognize that not all of this is new. Back in the 1990s, we had a first wave of green claims and problems ensued when the ambitions of marketers outstripped the actual product design changes that were being made. For example, we had degradable garbage bags that were, in fact, degradable if they were exposed to the sun. Well, you can appreciate that the penetration of sunlight into landfills is not very high. And in the case of the lightbulbs, you did, in fact, have choices that were made to design a lightbulb that ran on less energy, and they did that by having a 100-watt lightbulb provide 90 watts. These, at least, were the allegations, and both of these resulted in some government enforcement, and in the case of one, a consumer class action settlement.

This was around the period of the first Green Guides. So, we have to ask, what is different, what is new today. Well, certainly we are seeing some different kinds of green claims as we talked about. Fifteen years ago, we were probably not talking about carbon footprints and sustainability and cap and trade. We are also, of course, seeing a sheer volume and pervasiveness of green
marketing. We are seeing carbon neutral financial institutions and we are seeing environmentally-friendly electronic equipment.

Perhaps though the most important trend concerns the consumer and the consumer understanding an expectation. Quite simply, we have a different consumer today, with a different level of environmental consciousness. The consumer today wants to do something. There is an imperative. The consumer wants to make choices and believes that the purchasing choices can actually drive policy, make a significant or meaningful impact on the environment, and that is the expectation of the consumer.

So, as far as the recent trends and the things that we have seen, one of the trends, of course, concerns life cycle analysis. This was an advertisement for nuclear energy and the claim was that nuclear energy is environmentally clean and that the plants do not burn anything to produce electricity, so they do not pollute the air. And the problem here was that while the plants produce no emissions, nuclear energy involved the mining of uranium, the enriching of uranium and the burning of coal. So, while there may be environmental advantages to nuclear energy, the suggestion that no emissions are produced was not accurate.
So, this was a claim where we felt that a sort of a life cycle analysis was certainly appropriate. And then that sort of begs the question, do I have to do a life cycle analysis and look at cradle to grave every time I make an environmental claim? And that, of course, is going to depend on the claim itself, but certainly broad claims are going to require broad support.

This is an advertisement for a pet food that was claiming to be eco-friendly, Pets for the Planet. And in this case the company was prepared to hold up its supply chain and talk about the choices that it made all along the line from the renewable energy on the farms to the choice of ingredients to the actual packaging of the product itself. They were prepared to demonstrate all that.

The more common trend that we see, however, is probably the case where a company seizes upon one environmental feature and wants to parlay that into a fairly broad and general environmental claim. Isn't it good to know that you can sit on your couch and watch football on a giant screen TV and still do your part for the planet? That would be fantastic. The claim here was that the plasmas are environmentally-friendly. We see this sort of thing sometimes and you have what is a legitimate product distinction that the company can make
and it is perfectly truthful. This is a product that
does not contain lead or mercury and the competitors do
and they should be able to call attention to that fact.
But that is not going to be justification for a general
claim that a product is environmentally-friendly.

Another trend that we see is in the competitive
realm. Sometimes we will see a company that is probably
ahead of the curve in terms of the green choices that it
is making. But then there is some advertising that
exaggerates the degree to which their competition is
either harming the environment, creating dangerous or
toxic chemicals.

In this particular case, there was advertising
which suggested that competitive detergents with chlorine
were not only hazardous in harming the environment, but
were actually creating danger out there and were unsafe.
So, sometimes there is exaggeration that we need to scale
back a bit because that is not the sort of advertising
that is really helpful for credibility either.

The final trend that we need to talk about, and
I know that we are going to get into this a little bit
later today, concerns third party certifications. We
have looked at third party certifications in some related
areas, animal care and fair trade. And one important
thing to consider is that a certification program or a
seal program not only needs to be internally valid and subject to the appropriate audits, but you also have to step back and consider how they are used on the package and how they are used in advertising and what messages are conveyed and whether, in fact, they correspond to what it is that is actually being certified.

And there is something that is true of the third party certifications that is true of most green marketing claims. And it is this, they are the kinds of claims that consumers cannot typically verify for themselves and because of that, there is a heightened degree of trust involved and there is a heightened degree of credibility that is at stake.

Green marketing claims contain a promise to consumers that, with their purchasing decisions, they can drive policy, make a difference in the environment and also that their purchasing choice is an expression of a social choice, of an ethical choice. That is a very powerful and great thing that advertising can do, but it is only helpful and it is only meaningful to the extent that advertising is truthful and accurate.

So, as we go forward today with this discussion and this dialogue and we consider standards in revising the guides, I think it is very important that we also consider the very important and vital role that industry
self-regulation needs to play in this important area.

Thank you very much for your time.

(Applause.)

MR. KAYE: Thank you, David. Thank you, everyone. Again, if you have questions, just raise your hand and someone will come by and pick up a card.

But I would like to start off, Michelle, I heard you say it, that the Guides were way out-of-date and, so, I did want to start and ask you to comment on some of the areas where you think the Guides could reduce some of the confusion, maybe address some of the sin areas you referred to and make some progress.

MS. HARVEY: I think probably the most confounding one really probably falls in the area of vagueness. I think the amount of terminology that has creatively come out of the marketing departments to describe attributes of green rivals the ability to name paint as far as I am concerned. How many ways can you name a green color? You can look at the Sherman Williams chart or you can look at the advertising claims and they are just as numerous. I think that is probably the most challenging area. Then I think substantiating things like certifications and those kind of things. The eco labeling areas, is it a real eco label or not? But I think the main one probably is vagueness.
MR. KAYE: David, let me kind of throw that over to you then. In terms of these new terminologies and the like, what are some of the terms that are gathering attention that people are complaining to you about in the green packaging area that maybe the FTC should be focusing more on in terms of the guidance it provides?

MR. MALLEN: Well, the things that we are seeing the most is probably the same area of vagueness. There are certainly concerns about terms like sustainability and renewable and what these things mean. But I think the more prevalent issue, at least from our review and the cases that come before us, are the general, the broad, the vague, the notion that this whole thing is green and then isolating just a couple of steps or a couple of measures that may be taking place but do not give you the true picture.

Michelle had the slide with the six sins of greenwashing, and we see elements of them in the challenges that are brought before us. Probably all six.

MR. KAYE: So, when you are looking at an ad like the Panasonic ad that you presented where there is a general claim and then there may be some specifics within it, but you sort of took the perspective of, well, but that does not tell the whole story and I think that is
sort of what you are talking about now. What kind of standards -- and I would open this up to everyone on the panel. What kinds of standards should be put in play to evaluate those claims? Where should the line be drawn when the general is too general, too vague, too inaccurate? I know that is a real easy question.

MR. MALLEN: I'll just start. I do not know if I can answer it directly, but the starting point has got to be from the point of view of the consumer. The claims are different and the contexts are different and the starting point has got to be, at least from our perspective, what does the consumer think this means and does the consumer think that this claim is telling them that it is going to either be carbon neutral or have the kind of effect on the environment that they are expecting?

I think we need to learn a lot more about consumers' interaction with these kinds of claims because the support for them, regardless of what the standards specifically are, the support for the claims has got to come from what the message is that is getting to the consumer.

MR. KAYE: Amy, has Wal-Mart and Sam's Club, have they looked at the consumer perception of what these claims mean in evaluating some of their strategies?
MS. ZETTLEMOYER-LAZAR: I think one of the biggest things Wal-Mart has learned and Sam's Club, is that if we have a good item that is also more sustainably sourced, uses less energy in production and has a better package than its peer group, that is exactly what our customers and members want. If it is not a good product that they want to begin with, it does not matter what claims you are making, they are not going to buy it. So, making sure it is the right item for our customers and members and then making sure that you clearly outline how that benefit impacts them, not just how that benefit impacts the environment, but how it impacts them and their purchasing decisions. We have seen, in general, a good return.

MR. KAYE: Is it your impression that consumers understand what these terms mean? I know you talked a lot about making sure that the businesses putting on these claims have a degree of specificity to the claim. Is that enough or are there claims being made that you have concerns still the consumer does not really know what it means?

MS. ZETTLEMOYER-LAZAR: There are definitely claims that they do not know what it means. Compostable versus biodegradable, I think is a huge confusion for our members and our customers. But when we translate the
claims or the benefits into their terms, it uses less
energy in their home which means it is going to cost them
less. When the benefit is translated into terms for the
customer or the member, then they understand it. It is
just then we need to back it up with accurate statements.

So, saying that it is recyclable in their
municipal waste stream, knowing that it is collected in a
majority of municipalities helps them. Making a
statement that it is capable of being recycled is not a
benefit to them.

MR. KAYE: One more quick follow-up on that
with you. Are you monitoring feedback from consumers as
to problem areas and are there any such areas that the
FTC should be aware of as it reviews the Guides?

MS. ZETTLEMOYER-LAZAR: We have a lot of
feedback from our customers on our websites. The best
way that we have been monitoring comments is through our
walmart.com and samsclub.com website. Most of the time,
the comments are both on the product and the package and
the benefit it provides to them. So, we have not gotten
a lot of feedback about a misunderstanding of compostable
or biodegradable. What we are getting feedback on, the
Honest Kids package that I showed, the member loved it
because it met their needs and it was capable of being
recycled. So, that is how we are monitoring comments.
Those comments are available to everyone that is in this room by going to our website. They are just consumer feedback that on our dot-com sites.

MR. KAYE: John, let me ask you, is there a general sense of concern or consideration of the Guides out there as businesses are making decisions in your view? Are people concerned about staying within the ambit of the Guides or are they thinking about the Guides as an after-effect and what, if anything, should the FTC do to more benefit businesses that are concerned about complying?

MR. KALKOWSKI: I do represent a trade publication, so the people that I deal with mainly are brand owners, packagers and the people who supply that industry. And, quite frankly, a lot of them are not acquainted with the Green Guidelines. You would think that these people in the industry would know exactly what the Green Guidelines are all about, but they do not.

So, somehow you need to make this better known, and they are hungry, I believe, for guidelines that will help them work. This is always a moving target. The standard keeps being raised higher as people learn more about what sustainability and environmental friendliness means. So, it is something I think that has to be addressed on a more frequent basis and it has to be
advertised or marketed to them just the way a product would be marketed.

MR. KAYE: Michelle, is that also your experience, that you are an educator about that the FTC Guides are out there or are businesses coming to you in the first instance with some understanding that there are some guidelines that have to be adhered to?

MS. HARVEY: No. I think most of the vendors that we are dealing with are not aware of the Guides. I think part of it is that the Guides have a lot of specificity in certain areas that I think have been dealt with. How to represent the recycled content, is it just for the package or is it within the products and those types of things.

But I do not think there is enough relevance for the issues they are really grappling with now, which get more into, as I say, either the -- how do I describe the fact that I am a little bit better, I am not a green product? And I think that is where the Guides do not give them enough guidance in terms of some of the terminology that they are trying to figure out to use to differentiate.

MR. KAYE: Is that terminology very package specific, industry specific or are there general areas that everybody seems to keep tripping over?
MS. HARVEY: I think it is pretty much across the board. What we do with the buyers when we are involved in training, and it gets a little bit to the question you had asked David earlier, we really are trying to teach them to look at it from a life cycle perspective because the Guide will say, oh, well, this is recyclable. But, as I say, it is something that has a terrible footprint someplace else.

The plasma TVs are a good example. They just have an enormous amount of vampire power that they -- after they get onto the consumer’s home, they are one of the worst. It is one of the reasons we are very pleased to see Lee Scott saying plasma TVs, in particular, are going to be 30 to 35 percent lower in energy use, where generally electronics are looking to drop it 25 percent.

I do not know how you incorporate a life cycle assessment checklist into a Green Guide that says you cannot frame it on this one attribute which looks pretty nifty when you are really miserable over here. I do not know how the Guides can help to get to that, but I think that is a piece of what you guys are going to have to grapple with. I do not want to see you all trying to define sustainability. I think we have a nice definition and I do not know how you translate that into packaging. But I think misrepresenting the package is
greener or the product is greener than it is is where you have the opportunity. I think it is going to be putting some terms perhaps off-limits.

MR. KAYE: I’m sure we will take care of that in the afternoon.

(Laughter.)

MR. KAYE: Amy, I have a question from the audience for you. Simple step to saving green. Do you have specific or quantitative criteria to qualify for this labeling?

MS. ZETTLEMOYER-LAZAR: We did not want that label to become a certification, so there are not specific steps or specific guidelines that have to be followed. What we do is communicate exactly what that claim is on the package and on our website.

We have over 6,000 items in each of our clubs. This logo is on maybe 20 items, maybe 25. So, we are very selective on what we have put it on and it has to have been clearly outlined to us, preferably verified by a third party certification, but we did not want that logo to be a certification process for a Sam's Club item.

MR. KAYE: So the criteria may be different for different types of products?

MS. ZETTLEMOYER-LAZAR: Yes, we have different categories and how they help us reach our goals as a
company as well.

MR. KAYE: And I have a question here for you, Michelle. If metal is virtually always recyclable and recycled, is it permissible to say that, for instance, a product is made with recycled steel? After all, it is better than non-recycled alternative materials and industry should be permitted to tout it in products.

MS. HARVEY: I think we get back to that balancing act. If it is a standard practice, then, to me, it stops being an announcable attribute, if it is just simply the way that the product is done.

On the flip side -- let me say, this is just my opinion. But I think the line you are trying to walk is, is the product better than the alternatives. I think that is what a customer is looking at, I know that is what the buyers are looking at. So, I think in Scott's list, it was sort of the question of irrelevance. You could label every attribute of everything, but is it really relevant to the consumer or is it simply the nature of the product so that telling me this does not tell me anything new, it does not change behaviors, it does not drive innovation, it does not make a better business practice because we have already got that one nailed. Let's work at the area where it is not doing the right thing or the best thing yet. I think that is
where, the irrelevance issue.

You can label these things, but is it really going to help us get where we are trying to get to?

Should you get credit for something that we figured out 50 years ago?

MR. KAYE: David, I wanted to follow up just a little bit more on sort of the general nature of what you are doing from a self-regulatory perspective and ask you whether you are drawing on the Guides as part of that process or have you all sort of moved on in your own direction in the way you are evaluating things?

MR. MALLEN: We certainly have drawn on the Guides. It is been important and relevant to our own analysis, particularly when looking at the cases when broad messages are being communicated to consumers. But even with the Guides, we sort of need to step back and focus on each particular case from the standpoint of what is the message that is being conveyed. So, it is just so inherently contextual that the Guides only go so far in terms of the guidance that it --

MR. KAYE: Well, let me ask everyone this question then because this seems to be coming up again and again. Beyond not trying, you have indicated, Michelle, well, do not try to define sustainability. But are there some issues, areas, context where more
definition is needed beyond recyclable, beyond reusable, beyond what is already in the Guides? You each have five seconds.

(Laughter.)

MS. HARVEY: Yes.

MS. ZETTLEMOYER-LAZAR: Yes. This is Amy Zettlemoyer-Lazar. I think the biggest concern we have is there needs to be more definition on all of them, not just recyclable or biodegradable, but the industry has come a long way and standards have come pretty far. So, we need to make sure that definition is around, even additional definitions are around some of the claims that are in the Guides now.

MR. KAYE: I would encourage everyone here who has ideas about some of those terms that should be defined to give us comments on the Guides.

I have another question for Michelle. Go ahead, John, did you want to add something?

MR. KALKOWSKI: I was just going to add there that I think the important thing is that, as I mentioned before, most of the things that people are talking about these days are the materials that are used. But I think you need to look at the processes of how packaging is made and what is being used to make it also beyond the materials.
MR. KAYE: And you mentioned that in your presentation, John, in terms of the future, and I heard references to nanotechnology, which I know is something I want to get in my next golf club even though I do not know what it does.

(Laughter.)

MR. KAYE: Any other thoughts about in big picture sort of looking ahead to the workshop that someone may be holding five, seven years from now, if we can get ahead of the curve at all of what some of the trend are coming up in packaging that haven’t yet hit the shelves?

Amy, I know that Wal-Mart is looking at what is going to come up in five years. Let me ask you this, Amy. In terms of the claims that are out there now then, have you gotten a sense as to which claims are most influential upon consumers in the sense of -- obviously, the green thing in general is having an impact, but of green claims, is there any sense of which ones are really making that extra step towards a consumer buying a product?

MS. ZETTLEMOYER-LAZAR: Let me preface this by saying I do not have any studies to back this statement up, but what we have seen in some of the purchase behaviors is where that claim is translated into a
benefit for them, meaning they can recycle it instead of paying a garbage bill. If that item is going to use less energy or take up less space or cause them less trips to a grocery store to do shopping when gas prices are high, any claim that translates into a benefit for them and their pocketbook has been the most important and most successful.

So, it is energy use, gas use, space constraints, garbage costs or even in the returnable state somewhere that they can actually make money for the return bottle bill states. So, those things are what is making a difference.

MR. KAYE: Michelle, I have another question for you. It is a broad one. How can consumers be better informed in order to make intelligent buying decisions? For example, most consumers would equate biodegradable to environmentally safe. However, in an extreme example, a product could contain toxic inorganics, such as lead, mercury and chromium, and still be biodegradable.

MS. HARVEY: How you become an educated consumers? You have to do a doggedly large amount of research, and I think that is inappropriate.

I think that one of the things we are looking for is a lot more transparency. We are looking for links to websites. We are looking at ways that a claim has to
have -- I mean, our recommendation is back it up, get retailers like Wal-Mart to put more information on their website about the products, if there are parts of it.

I am involved in work with Wal-Mart right now on chemical intensive products and we are looking at how do we -- should there be a consumer-facing piece, is it just between the buyers and the vendors to really grapple with this? But I think this is the big challenge is, can you require, through something like the Green Guides -- it is back to sort of that life cycle aspect.

Plasma TVs do not have mercury. That sounds good. Plasma TVs suck up a ton of electricity. That is bad. Do you now have to have a check box list? I think this is -- and the packaging is reduced, so should everything have a website on it?

I do not think there are easy answers, but I do think that taking certain terms and perhaps creating a category that has to have more information about it, teaching consumers, and this is the thing, how do you get a consumer to think about a life cycle analysis? We have enough challenges trying to give the vendors and the buyers a sense of do not look at that. I mean, when we started doing a lot of the trainings with the buyers, they basically were focused where there is a lot of benefit, reducing packaging. Reduce it, reuse it,
recycle it. I mean, that is a real good place to start.
But it is hardly the whole picture.

I dread the thought of getting into a land of
disclaimers where you can use this term, but only if you
put something over there. But I think that is really the
issue is should it all reside with the consumer or do we
get more voluntary engagement by organizations like
Wal-Mart? I mean, from the EDF perspective, you work
with the voluntary programs, you work with the people
that are interested in this and you start trying to
change it up the value chain. So that by the time it
gets to the consumer, they are not having to figure out
where is the hidden question.

I think really that is our philosophy, it is
why we do what we do. But, as I say, you cannot regulate
your way out of it with some Green Guides and I think
come out with where we would like to see consumer safety
and health end up.

MR. KAYE: Well, I want to thank all of our
panelists for their presentations and for their answers
to these questions. We will now break until 10:40, at
which point we will promptly start the next panel. Thank
you.

(Applause.)
SESSION 2: PARCELING OUT THE GREEN GUIDES - DO THEY NEED REWRAPPING?

MS. FRANKLE: Welcome back, everyone. I am Janice Frankle of the Division of Enforcement and this is Session 2, Parceling Out the Green Guides: Do They Need Rewrapping? Session 1 provided us with an overview of packaging trends. During this session, our speakers are going to examine certain green claims that are currently addressed by the Green Guides, but which may need updating. We want to learn from our panelists if there are any aspects of these claims that are outdated, need modification, and/or need to be updated. We have three very informative panelists and they will present us with their perspectives.

We are going to begin with Kate Krebs, Executive Director of the National Recycling Coalition.

Next, we will hear from Sara Hartwell from the Environmental Protection Agency's Office of Solid Waste.

And, finally, we will hear from Steve Mojo, Executive Director of the Biodegradable Products Institute, and he will make the final presentation.

Kate, would you begin.

MS. KREBS: Thank you so much. Great to be here. Great to see such a crowd. We were asked to come in and kind of lay out the landscape of what recycling
looks like since the Guides were first developed and put into place and then talk specifically about recommendations or some of the areas that should be looked at. In particular, our speaking will be on the recycling claim.

So, who is the National Recycling Coalition? We are based here in Washington, D.C. We have members all over the country that cover the very broad spectrum of recycling. So, it is both the local recycling coordinators, brand owners, manufacturers and the collection infrastructure are a part of our membership. Our mission is to eliminate waste and make sure that there are sustainable economies for raw materials in North America. So, that is our objective that we work on and what guides us as we look at our work.

We have also developed some guiding principles that we feel are important to guide us and guide our members in the work that they do. And really primary for us is making sure that the understanding is that recycling is really a resource management structure and initiative. It is not waste management and it is not waste management infrastructure. It is resource management. And that there is really a sharing of the responsibility when you talk about recycling. It is both a consumer's responsibility to be informed and to
participate; it goes to the brand owner to develop the
package or the product that is recyclable and has that
recycling element designed into the front end; it is
local government making sure that there is infrastructure
to capture the materials. There are efficiencies that
can come from the shared responsibility model that we
feel are very important and very vital.

The consumer engagement side is what I am going
to speak quite a bit to based on some research that we
did last summer and, clearly, understanding what is
recyclable, how to recycle it, what is not recyclable is
key, that is why we believe that the Guides and the
claims associated with recycling is really important.

The other big guiding principle for us is that
most of the recycling decisions are made on the local
level and, so, while we encourage our members and
celebrate when they think big, make sure that you know
that those kinds of decisions, as far as infrastructure
and collection, is taking place on a local level.

There is, for us, a number of elements that
have changed since the Guides were first developed, and I
am going to go over each of those that have affected
recycling. The four of them are the globalization that
has taken place within the marketplace for commodities,
last five, six years on the corporate or brand owner side. The business development that has taken place within the collection infrastructure and some of the efficiencies and some of the inefficiencies that are still in place, and then what has taken place with consumers, which is probably one of the most interesting aspects of it, and I think Amy spoke quite a bit about it with what Wal-Mart has been doing.

As far as globalization goes, the issue is no longer is there a demand for recyclable materials, the issue is where is the supply, where are the materials that we can utilize to capture and put into our package or our product. So, clearly, that is a significant shift from when the Guides were first developed. And it needs to be a primary focus as we look at what we do moving forward.

In the United States today, we are generating and throwing away much more waste than we did ten years ago. That gets to the consumer engagement side, but it also speaks to the importance and the value of the collection infrastructure that we have in place and making sure that we are getting as much as we can. I think it is really a sad state to be able to say that in this year our recycling rate, according to EPA, hovers on the national level just over 30 percent. Yet, we have
been talking about recycling for decades. So, I think that the infrastructure and the pull of materials is huge and the demand for materials overseas, those material that we are collecting here in the United States has changed the face of recycling.

The engagement that we are seeing, far and wide, and I know a number of the speakers earlier addressed the engagement and the real need for companies to look at the environmental footprint that they have for their package and their product and how they are incorporating that into their business values is a significant change that we have seen since the Guides were developed.

LCAs were spoken of earlier. Clearly, they are something that we heard about and saw 15, 20 years ago. Really are now in the private sector. They are a guiding force for brand owners. We celebrate that. We think that taking that into consideration when you are designing your package or your product is key. It does bring up all kinds of trade-offs and issues as was addressed earlier and, clearly, for us, from this narrow recycling perspective, they are very important and they are very important when you are trying to make a choice of your package. The confusion that comes from what am I really going to prioritize when looking at the LCA is an
aspect that comes up, I think, inside companies left and right.

Really the most important aspect for us is to make sure that there is a thoughtful process as transparent as possible and making sure that we are looking at not just the front end design, but what the end market infrastructure is because that is another aspect. We will see lots of folks focus in on designing and making sure that the design aspects are there. If the brand owner is also engaged in the end market and making sure that the end market is healthy and keeping it healthy really helps the recycling infrastructure take place.

The business development that we have seen since the Guides were first developed is phenomenal. Significant R&D has taken place both in the front end and design in the collection infrastructure in being able to commingle materials from a recycling standpoint as opposed to segregating them all in dozens of bins at your home. The technology to be able to sort materials so that what comes out of the recycling infrastructure really is a commodity and has a demand is important, and I think that investment that has taken place is huge.

What that will do and what we have seen happen when the collection infrastructure is improved and
efficiencies are brought into both collection and
processing is increased consumer engagement because it
gets easier, and when we go through that decision making
process as a consumer and it is easier, we see that that
increases participation in recycling.

But there are also a lot of new things in the
stream that were not there 10 years ago, 15 years ago.
As we, the community advocating for recycling, try to
address all these new things coming into the stream, I
think we need to keep in mind the basic kind of consumer
information that is needed and look at the claims in that
light so that we make sure that what is incorporated in
the Guides moving forward addresses the new materials
that are coming in the stream.

Then, again, consumers, we have all thought
about that, the lifestyle changes, the choices that you
make, the packaging changes are significantly different.
A really great package can't do everything that we want
it to do if it does not include recyclability, in our
perspective, and making sure that consumers know what it
is and that it is recyclable, I think, is the strength of
the claims and always has been.

On the other hand, we do not want to see the
claim being on a package and not have the infrastructure
there. That kind of hollow call to action that we give
consumers is really the biggest disappointment that we can see. So, our job is to make sure that that infrastructure is there and that the funding is there, the adequate funding is there so that there is not a claim on a package and then the consumer goes to put it somewhere and they can't. So, that funding goes along with the consumer engagement that is so critical.

So, last year, we did some great consumer research. We really have taken to heart the stagnant recycling rates and really wanted to understand what is it that consumers do not know or do not believe that is keeping them from recycling. What are the barriers? What do we need to do to speak to them differently, to communicate to them appropriately and how and who should be doing that?

So, we first did a real comprehensive gathering of all of the information available both from academia, from our corporate partners, research that they had done, and teased out what the high points were, what people think about recycling, and then tested it through ethnography and ethnography is when you actually move into somebody's house. It is much deeper information than a focus group and it really gave us information that we felt was vital.

What we did is we had, from our initial
research, bucketed people into two groups. Actually, there is three. There are never recyclers, but we were not focusing on those folks. We were focusing on those who sometimes recycle and always recycle. What we really wanted to understand is what makes the difference between those two categories of people, what are their understandings, and this slide shows who they are. And the opportunity for us, of those sometimes recyclers, 106 million Americans which are the 18 to 55 year olds, there is a huge opportunity for us.

So, you can see there is a lot of similarities between the two groups, but as we did our research, we found out more. We found out that the sometimes recyclers believe that recycling is important. They just do not do it consistently, and the difference between them and the always recyclers is, as I observed as I come the places like this, is the always recyclers will put, if there is not a recycling bin, they will put the aluminum can, the bottle next to the garbage bin, they will not put it in. They will be the ones that will take the cans and bottles from the picnic that you go to. The sometimes recyclers want to be that and they want to do that, but they just do not have the confidence or the knowledge or the deep belief and commitment to do that.

So, for us, what is important is how we
communicate to people that are the sometimes recyclers to engage them in recycling is critical and really making sure that the benefits are there so that they understand it. I think Amy underlined that in some of the things that she has seen on the website at Sam's Club.

So, the things that we heard that were barriers to recycling behavior, convenience comes up and, yet, I see trucks running up and down streets looking for full bins and they are not there. So, convenience was clearly something that we hear, but we can test that and show that that is not actually true.

Knowledge about what is recyclable came up and, in fact, in one study 51 percent of the respondents said that they rely on the symbol on the package to know whether it is recyclable or not. So, I think that is great feedback that the recyclable claim has had an effect.

What we also found is that the belief in the person's ability to really do something and have it matter was very important and, so, understanding the benefits of recycling and what it does, what your action does, is very, very important and however we communicate that, whether it is on a local level or on a global level is very, very key.

And really having those sometimes recyclers
take a step and have a good feedback from that, they will be more confident to take the next step. So, really leading them through a process as simply as we can is critical to increase the engagement, the consumer engagement of recycling.

So, to wrap up, what do the Green Guides mean from the National Recycling Coalition's perspective? Clearly, there is a value perceived in that chasing arrows, in that logo. It is not the only piece of consumer education, but it is a key piece. It is what people look at. We find people look at labels more and more and seeing that symbol is very, very key. Following that up with feedback on a local level of what is recyclable and what is not is very important. They need to know that their actions matter as a consumer.

I think that it is important when you are looking at the Guides to understand that knowing that there is a framework and an incentive to those companies that are doing good and that you will enforce the Guides and make sure that those who are not playing fair are clearly talked to is important and, last but not least, make sure that you are rewarding those good guys that have invested in the recycling infrastructure and the design for recycling is key. Thank you.

(Applause.)
MS. FRANKLE: Thank you very much, Kate. Sara.

MS. HARTWELL: Hi, I am Sara Hartwell. I am with the Environmental Protection Agency in the Office of Solid Waste.

So, I need to start by apologizing to those of you who are watching the webcast. I was dreadfully tardy with my slides, so you have the draft version. Those in the room will be seeing the complete version, so I will try to be more articulate about some of the additional data that I added.

I want to talk to you about for starters why packaging is such a real issue here in terms of these Green Guides. It is the single largest component of our municipal solid waste stream. It is about a third of it. Our general municipal solid waste recovery is about 32 and a half percent. Our recovery of packaging materials is about 40 percent. Slightly higher. But packaging materials are, by and large, with a few exceptions like newspapers, what we think about recovering curbside.

So, I have some data here because I always like numbers. So, packaging waste as a percentage of a total mass has increased municipal solid waste over the years. I think we all would assume that that was true intuitively. It has increased as a percentage fairly substantially over the years. It seems to have leveled
off. So, we are recovering about 40 percent of it and that seems to be the case over the last several years.

What I think is really interesting is to consider how the composition of packaging and the opportunity has changed over time. So, these are some data from 1960, a long time ago. Some of you were not even born yet. But it is important to see here that paper was a very large component of packaging, about half of it, and that that little tiny sliver that says .4 percent, that is plastics. It was most unusual in packaging a long time ago. And you will see that glass is there, steel, aluminum a little bit, and there is a bunch of wood, and then there is that forever other category.

1995, not all that long ago, plastics has increased substantially. Paper is still about half of our packaging waste stream. Glass has gone down, wood has gone down.

These data are from 2006. You will see that plastics have gone up again. It continues to be a larger part of our packaging waste stream. Paper is still about half. There seems to be a theme here.

So, the trends in packaging composition, the take-away message here is paper continues to be about half of our municipal solid waste stream. I would
suggest that over 48 years maybe it is going to continue
to be that way for the foreseeable future. Use of glass
in packaging has gone down. Aluminum has not changed
much in the last decade, though it has changed since
before that. The use of plastics has increased
dramatically. That is an important concept to hang on
to.

So, this is the actual numbers on the packaging
waste that we have generated in 2006. It is consistent
with the percentages we saw earlier. But that plastics
category could be a little bit misleading because
plastics, in fact, refers to many materials. There are
six primary plastics that we see in our packaging in the
United States. PET and HDPE being two that we see
primarily in bottles. Low density polyethylene is a lot
of bags and films. Polypropylene is used frequently in
caps and closures. It is also used frequently in dairy
containers, also for other things. There is that other
category at the bottom. So, again, we have a another
category of a lot of material that is covering lots of
individual materials. Polycarbonate, nylon, there are a
lot of materials in there.

So, these are our recycling rates for our
individual packing materials in 2006. So, steel is
recovered at a fairly high rate. I would suggest it is
probably because it is relatively easy because you can
just suck it out with a magnet. That is one of the cool
things about steel.

Paper, again, is at a relatively high rate. I
think there is probably some great consumer research on
why that is.

Plastics, that broad category, is recovered at
a relatively low rate. So, of those plastics that we
talked about earlier, this is the PET, so soft drink
bottles, soda bottles, those things are recovered at
about 26 percent of generation. High density
polyethylene is about 12 percent. Low density
polyethylene is about 8 percent. Polypropylene is 1
percent. Polypropylene, by the way, is an olefin very
much like high density polyethylene and low density
polyethylene. Polystyrene is about 3 percent. PVC and
those others are not collected at a rate that we can
calculate.

Now, the diversity in these plastics poses some
challenges for recycling. Because while regardless of
how the materials are collected, they need to be
processed separately, particularly to retain their value
for further applications. To be able to process them,
you have to have a critical mass of material in the
stream to make it worth somebody's while to process it.
You have to have enough material there for the infrastructure to grow up. This is going to become particularly important in the coming years as we see the advent of biopolymers, a lot of talk around PLA, there are a bunch of materials coming on stream. We are going to want to recover them for a lot of reasons. Recover the economic value, recover the energy investment, avoid greenhouse gas emissions. But you have to have enough material available, enough material that has been collected to be able to process it economically, make it worth someone's while.

I would suggest that limiting collection is going to limit that critical mass. So, it is kind of a chicken and an egg thing that we have going here. Despite the challenges by the diversity, the greenhouse gas and energy benefits in recovering these materials, it is different by material, of course. But, in general, it is about a million and a half metric tons of CO2 equivalent per ton of material recycled opposed to landfilling and about 500 million BTUs per ton of plastic material recycled as opposed to landfilling.

And these things have strong economic markets for the scrap material. There are strong economic markets for paper, huge economic markets. And frequently I will get calls from people saying, well, I can't
recycle this, there is no market for it, some paper
category. I go, oh, I am sure that there are markets for
it. People tell me that they can't recycle glass because
there is no market for it. There are really strong
markets for it.

I saw Owens-Illinois sitting over here. They
are rail freighting it across the country. There are
very significant markets for this material and a lot of
those markets are based on the energy benefits of
recovering the material.

So, what does all this mean in terms of the
Green Guides? Well, we know how much packaging is
generated and we know how much we are recovering. There
is some data, not our data, on the number of curbside
recycling programs. There is some data, not our data, on
the number of drop-off programs. I do not know of any
data, certainly not a significant amount of data, on how
many programs collect which materials.

So, when you come down to the part of the Green
Guides that says you need to be collecting in a
significant number of communities or available to a
significant number of people, I find it difficult to
envision how people are going to be able to substantiate
that they meet that claim because there is no single body
of data. Maybe big companies can go out and commission
studies, statistically significant and all that. But I think for a lot of companies that is not an available option.

How do you substantiate that claim of recyclable packaging? Well, I would suggest that some of the claims seem intuitively obvious and nobody would give you a hard time about it, but I am a not an attorney. But I would suggest, an aluminum can, my guess is you can recycle an aluminum can pretty much everywhere. There are other claims that I would suggest are true, but I do not know that. Corrugated is a great example. Corrugated is recovered at a very high rate. But I would suggest that a lot of that recovery is probably business space.

So, does that mean it is necessarily available to consumers? Maybe. Maybe not. I do not really know. Somebody needs to figure that out.

So, how do you substantiate that claim? Who should collect the data? What data should you collect? How much data do you need to do it? The one thing that is important to hold on to as we think about this is that the markets for these scrap materials are very strong. The economic value of these materials is enormous. As we face global issues of energy security and climate change, the motivations for recovering on those two fronts are
equally strong. Our national recycling rate of 32 and a half percent provided an energy benefit of about 1.3 quadrillion BTUs. That is a lot. It is a significant portion of our residential energy consumption. There are reasons to recover the materials.

If the markets are that strong and there are that many environmental reasons to do it, does the requirement for substantiating that recyclability to a significant number of somebody stifle the effort to develop recycling programs? Does it, in fact, limit us having a significant mass of material in the stream for the infrastructure to build up around it? I do not know that it does, but I think it bears consideration.

I think it is terribly important to be able to communicate to consumers correctly and truthfully and clearly whether or not a package is recyclable. But the other side of that coin is to be able to allow enough material to collect in the infrastructure that the markets can build up to collect it. Thank you.

(Applause.)

MS. FRANKLE: Thank you very much, Sara.

Steve.

MR. MOJO: Thank you, Janice. I appreciate the opportunity to be here. I am the Executive Director of the Biodegradable Products Institute. Despite the name,
our organization is here to promote the production, use and recovery of compostable materials and organics via composting. We have 52 active members and we will continue growing as this area of expertise grows.

I think, most importantly, for this meeting, we strongly support scientific standards as the basis for making claims such as biodegradable and compostable, which is what I am going to talk about today.

Now, these definitions are tattooed on my back, but most of you hopefully know them. If you are talking about a degradable, biodegradable or photo-degradable product, the Guides say that an entire package will completely break down in a reasonably short period of time after customary disposal. We believe that this is a little vague and we believe that the science has moved beyond this and I am going to talk a little bit about what the consumers think in this whole area, too.

In the case of the compostable claim, it needs to become part of a usable compost, soil condition or a mulch, it needs to do so in either home or it needs to be qualified as to whether it is a professionally managed industrial or municipal large-scale facility.

Since the Guides were last reviewed, the ASTM has made progress, and that is the American Society for Testing and Materials, one of the largest consensus based
organizations in the world. They have made a lot of progress in terms of developing specifications for compostable plastics and compostable paper or compostable plastics used as coatings on paper. You can get these specifications and they are very complete and I will talk a little bit about them.

Additionally, ASTM has come away with a test method, 6866, that will definitively tell you the percent of renewable carbon in a material. So, if you are making a biobased claim, you can use this test method to determine whether it is 10 percent, 20 percent, 100 percent. And I will talk about why that is important given these two terms.

Maybe most important for this audience and this meeting is the work done by the American Chemistry Council. I would like to thank Jim Kohm for actually asking the question, what do consumers think of these terms in a meeting that we had about three years ago.

Before I get started in that, I would like to thank David Mallen for bringing up the degradable garbage bag from the early nineties. I am here to tell you that it is déjà vu all over again.

I picked this off the web earlier this year. Here is a 100 percent biodegradable plate or cutlery that when buried and discarded in a landfill is going to
eventually biodegrade.

If you are concerned about what happens to your dry cleaning bags, you can now have ones that break down all by themselves after they are thrown away.

Here is a retailer that is talking about a shopping bag that when disposed of in landfill will degrade and, ultimately, biodegrade in the presence of oxygen microorganisms and heat. I didn't know there was any oxygen left in a landfill.

And my new favorite is, this product will completely break down in a landfill environment in 12 to 24 months, leaving no residue or harmful toxins. Yet, it will still last on the shelf for two years.

(Laughter.)

MR. MOJO: And I think the point is that I do not know whether these claims are supported by science or not, but I do know that there is a myriad of more claims or a whole lot more claims in the past 12 to 18 months than we have seen back in the late nineties, early 2000s.

So, as Jim asked, well, what do these claims mean to the consumers? The ACC actually did a study in 2006 of over a thousand adults, a statistically correct sample, and the point was they asked them about the terms biodegradable and compostable. When you put the term biodegradable on your package, it tells consumers --
take away that it will completely break down on its own, it will do so in a year or less, it leaves nothing behind, and as a result they say the material is not harmful for the environment. And, actually, to some it may even be a license to litter because they figure that if I can throw it out my car window and it is biodegradable, it is going to disappear on its own.

Frankly, I think consumers see biodegradability as the panacea of solid waste. If you can send a biodegradable product to a landfill and it somehow or another is going to disappear in your mind, isn't that a terrific thing? We do not have to worry about the waste. It just goes away. But, actually, I believe that the consumer perceptions are fairly in line with what the FTC promulgated back in the early nineties.

Consumers believe that biodegradation takes place everywhere. Almost nine out of ten said it will take place in a natural environment such as litter, eight out of ten in a landfill, and 80 percent in the backyard. Yet, when you look at where we throw away our trash, as Sara pointed out, we are recycling roughly 30 percent of our materials which means that the bulk is still either going to landfills or to incinerators. And here are the numbers, really the converse of the numbers that Sara showed.
So, it really leaves the question of where is customary disposal and what takes place in a landfill? I do not know how many of you ever read the book Rubbish by William Rathgy. It was published originally in the early nineties. He's the garbologist. If you have not read it, I urge you to do so. He spent a good probably 10, 15 years excavating landfills all across North America. His findings were that he found newspapers that were still readable after 40 years. He found fresh-looking five-year-old lettuce. He found 15-year-old hot dogs that looked fairly good, which I think is a testament to preservatives.

(Laughter.)

MR. MOJO: More importantly, 40 to 50 percent of materials that are in landfills were organics or paper, and these are materials that you would think would readily biodegrade. But, actually, it is food waste, it is paper. So, in a landfill, you are not seeing any significant levels of biodegradation.

And in his book, and Sara can talk at length about why it is a well-engineered hole and it is not designed to promote it, but in Rathgy's book, he designates a chapter to the myths of biodegradation. And his quote that really struck me as the truth is, however, that the dynamics of a modern landfill are very nearly
the opposite of what most people think. Well-designed and managed landfills seem to be far more apt to preserve their contents for posterity than transform them into humus or mulch. They are not composters, they are really mummifiers. I think that really is at odds with what consumers believe is happening.

I would like to move on briefly to compostable materials and consumer perceptions. What is composting? I do not know how many of you have actually been to a large-scale composting facility. Actually, it is biodegradation, aerobically, under optimized conditions. It requires complete, not partial, biodegradation. There is a disintegration requirement in it. There is also safety and plant growth tests. I think, importantly, large-scale facilities are manufacturing operations. They are not just sort of throw the stuff there and hope that it turns into something called humus.

I do not know how many of you understand what the biodegradation really is, but it is the process that keeps us all alive. The fact if you had a snack out there at the break, that piece of cake is actually sitting there in your stomach and slowly but surely biodegrading and you are not sleeping. You are turning out carbon dioxide and you are staying energized. I think that is the simplest form of what it is. It is
both rate and location specific.

So, what do consumers think about the term “compostable” from the ACC study? Actually, it is very much in line with what the FTC has said and it is also in line with what the ASTM specifications call for. And that is a compostable means that a material can be put back into the ground to make soil, mulch or fertilizer and can be used in a garden or a home. The attribute of a compostable material is that decomposition is beneficial to the earth, so you are turning out something good. Whereas a biodegradable material just disappears.

What is important from a consumer's perspective is they say this process should take three months to a year. This is based on what the consumer said, the thousand consumers, and, actually, depending on the composting process you go to, it can take three months to a year.

What is interesting and exciting is the two ASTM specifications that I talked about for compostable materials are actually fairly in line with consumer perceptions. They require disintegration in a 12-week period, they require significant amounts of biodegradation within six months. There is plant and safety tests. And maybe, most importantly, these products that meet these specifications are used in
successful composting programs throughout North America, Europe and Asia.

I want to touch on renewable feed stocks. As part of this, there was a lot of questions about plant-based packaging and is plant-based packaging also biodegradable? Eighty percent of consumers said that it was. I think that my message as part of this is that I believe the FTC needs to deal with the terms “renewable content,” “biobased material,” “natural content,” because not everything that is natural is going to be biodegradable.

Our friends at Dow, for example, are working on polyethylene that is going to come from ethanol not petroleum. So, in five years from now, you may have a naturally based PE.

So, where should the Guides go? First of all, I believe that biodegradable, as a term, should be split out from degradable and photo-degradable because biodegradable takes the material out of the environment. I believe that the terms “converted to carbon dioxide,” “methane water” and “biomass” should be added because that is really what it is, using the appropriate ASTM test methods, often landfilling, and there are test methods for every disposal avenue that we have. I think there should be a 12 to 18-month time horizon to get us
out of the game of ultimately biodegradable, because
ultimately we all will biodegrade.

(Laughter.)

MR. MOJO: I think, importantly, that the FTC
should once more reiterate that biodegradability in
landfills is not a meaningful claim. I think this would
take a lot of the confusion out and, frankly, it would
force consumers or encourage consumers to look to recycle
and divert materials from landfills rather than to store
them there.

I believe the compostable claim is on the mark.
The only thing I would urge is that they add the
requirements of ASTM 6400 and 6868 so that folks who are
in the business can feel comfortable that, in fact, if
they meet these specifications, they have a material that
will, in fact, perform satisfactorily from the FTC's
perspective.

I think also we need, as an industry, to keep
informing consumers that programs are not always
available. If you live in San Francisco, they are; if
you live in New York, they are not. It does not mean
that they are not going to be, but they need to look for
those things.

I think in the case of biobased, renewable and
natural content claims we are in much the same place we
were maybe 20 years ago with recycled content. I think
there needs to be direction that speaks to if you make a
renewable claim, are my materials renewable materials,
what is the minimum acceptable level? Is it 100? Is it
95 or higher? I do not have an answer for that one, but
I have the test method that can tell you specially what
the number is in the material and I will tell you that
based on the work the USDA has done, that they have
looked at a variety of “biobased” or “renewably-based”
materials and the number ranges from 2 percent to 100
percent.

So, if consumers are buying based on renewable
content and they are not being told what it is, it is
easy to see how it could be confused. And, importantly,
the notion of renewability and renewable content should
be distinct from the notion of compostability and
biodegradability. Renewable content is a feed stock
discussion. What is the product made out of?
Biodegradable and compostable are, in fact, end-of-life
scenarios.

Lunch. All right. Thank you very much.

(Laughter.) (Applause.)

MS. FRANKLE: Sorry, it is not lunchtime yet.
We have about 20 minutes of questions and answers. So,
thank you all for your very informative presentations.
Now, I would like to start off a question for all three of you and get your feedback. Based on the changing green landscape that we are all experiencing, if you could make one revision or an update to the Green Guides, what would it be and why? You want to start it off, Kate?

MS. KREBS: Sure. I think for my answer it will be on the recycling claim. I think the part that Sara brought up and that we talk with folks about an awful lot is the actual standardizing the substantial majority aspect of making the claim. And there should be, I think, some sort of a national survey that is done, EPA can do it, someone should do it, that will survey what recycling programs are in place and what they accept and if your material fits that, within that survey, then you are done. If you do not, then you have to do the work yourself to try to make the claim. But it seems like that is something that really needs to be focused in on and it is what we hear the most about.

MS. FRANKLE: Thank you. Sara.

MS. HARTWELL: I think it is probably obvious from my presentation. I would really like to see some broadening in that claim of recyclability. It still obviously need to be really clear to the consumer because
we do not want people to think it is recyclable and it ends up in the trash. That takes us back 20 years ago and that would be bad. But, as an example, there is something like a billion pounds, roughly, of polypropylene that goes into dairy containers, margarine tubs, yogurt cups, all those things. It’s a great material, single component. The structures do not have lots of pieces to take off. It is, by and large, not recovered in the United States. It makes me crazy.

What we need to do is be able to foster that, to give municipalities both the information and encouragement and I think being able to claim recyclability on that package might be part of that. I do not have the easy answer on what that broadened claim should look like, but I think we need to take it into consideration.

The world of packaging, of recycling and recovery has changed over the last several decades. Changed a lot. We are now capable of doing a lot more than we used to be. We need to take advantage of that.

MS. FRANKLE: Steve.

MR. MOJO: I would like to see the definition for biodegradable materials tightened up to the point where it is scientifically accurate, as I showed on my recommendations, it is in line with consumer thought,
and, frankly, it does not leave consumers with the idea that if something is biodegradable it is going to somehow or another magically disappear in the landfill, because I think that sends a very wrong message and it does not fit with what we, as an organization at the BPI or even other parts -- like the EPA who are working to divert materials from landfills and recycle them or compost them.

MS. FRANKLE: Thank you, Steve.

Steve, this is a question for you, and anyone else, too. If consumers buy compostable bags and put them out with their trash because they do not understand the proper disposal, isn't that misleading?

MR. MOJO: I do not know whether it is misleading or whether it is a lack of education. I think if the manufacturer is labeling it as compostable and they are giving an accurate description of looking for a facility near them and the consumer does not either understand it or does not act upon it, I do not know at what point where you draw the line being misleading. I think the manufacturer has done everything that they possibly can to tell the consumer to make sure this goes to the appropriate facility.

I think it is almost the same, I would say analogous to if somebody labeled something recyclable and they put it into the trash.
MS. FRANKLE: Okay. Any other comments?

Steve, I have got another question for you.

You have recommended that the FTC require that all biodegradability and compostability claims meet ASTM standards. At this point, of course, the Guides do not mention these standards. In your opinion, would a safe harbor for biodegradability and compostability claims meeting the ASTM standards provide effective guidance?

MR. MOJO: Understand that ASTM publishes many things called standards, including specifications, such as 6400 and 6868, which detail the requirements and include the test methods, the conditions and the passing and what is acceptable. They have test methods that will describe how you test these materials. I think in the case of compostable, adopting the ASTM specifications is something that should be done, and as long as the manufacturers have the data to show that and appropriately label it, it should provide safe harbor.

I think that in the case of biodegradable, they need to do all of the testing to show that it is going to break down completely in the appropriate disposal method using the right test method in 12 to 18 months. I mean, ultimately, we all biodegrade. It is really a question of rate.

MR. FRANKLE: Sara, are the current Guides
flexible enough to address the dramatic changes in the composition of packaging? If not, what suggestions do you have for modifying the guides to deal with this?

MS. HARTWELL: The first answer is, no, I do not think so. And one of them is clearly on recovery. The diversity of materials that we see in packaging, as well as the proportion of packaging in the municipal solid waste stream, has increased dramatically. And I think we need to be more flexible to allow the marketplace to be able to take advantage of the economic value of these materials.

Still cautioning that, I think the consumer, at this point in time, has such a wealth of well-intentioned but misleading information, I would not want to suggest that we mislead them any more. I think that the biggest benefit we could do to address the diversity of materials is to allow more room, perhaps in terms of the language that goes on the package, about the ultimate recoverability of that package.

MS. FRANKLE: Okay, thank you. Kate, this is a question for you from the audience. It is about the chasing arrows. I know you pointed out how important they are and how consumers look for them. The chasing arrows seem to be confusing to consumers as to whether they mean recycled or recyclable and the Guides say if
you do not distinguish, then it means both and you need
to qualify it if that is not true.

There used to be distinction between dark
arrows on light background and reverse colors. Do you
think there is anything that the FTC should do to make
more of a distinction or give examples about the
recycling symbol?

MS. KREBS: Well, I think the guides have been
good in ensuring that the claim is recyclable or
recycled. I think that that is important. I have worked
in recycling for 30 years and I was even confused on is
the arrow filled in or not when you use it. So, if
professionals in the sphere do not understand it, then
how in the world are we going to get consumers to
understand it?

So, I think that there is great value in the
chasing arrows, they are very powerful. It is probably
one of the most powerful icons that we have and the
distinguishing words, I think, are important.

MS. FRANKLE: Also, Kate, you suggested that
the guides need to deal with new materials so that
consumers actually know what is recyclable.

MS. KREBS: Uh-huh.

MS. FRANKLE: Any thoughts about how to do
that?
MS. KREBS: Well, I think Sara has talked a bit about all of the new materials that are coming into the marketplace and we see it, too. We see the Guides though as an incentive to businesses, especially when they are clear to do good. I do not think that making them fuzzy is the right message that we need to do. I think that being clear on what the claim is and what it is for has got to be a part of the FTC's guidance that they give, that clearly the Guides have been an incentive to businesses to create a package that is recyclable.

The private sector understands the brand value of the chasing arrows. So, they have worked quite hard to meet those standards and hit the right mark. I think if we make them fuzzy at all, we are dis incentivizing those companies that have tried to be good and do good. So, I think that clarity is needed.

The flexibility as new packages come into the marketplace, there needs to be a real transparent process that you go through to evaluate that package or product to see what does this new thing mean and where should we go with it? And, transparency, I think, is very important in that process.

MS. FRANKLE: Thank you. Sara, I wanted to ask about disclosure that is currently in our Guides. I will quote it. “This product or package may not be recyclable
in your area.” Is this disclosure helpful or a hindrance to marketers trying to qualify their recyclable claims, and if it is a hindrance, what suggestions do you have for improving that?

MS. HARTWELL: I suspect it is a hindrance for some people and not for others. The breadth and understanding of consumers never ceases to amaze me. There are people who will read something into all of these things, and that is one of the challenges with this claim. To say that it may not be recyclable seems to me to be a disincentive and the reverse would be may be recyclable. I would prefer to phrase it a little more positively. But I also think that it would be helpful to offer people some route to find out if it is. This package is -- this is too long for a package, but this package is technically recyclable. Check with your local government to see if it is collected there. That is really the difference you are talking about.

Is it recyclable? Is it collected for recycling? I think that is the two messages that you want to get at, because one of the things I would like to see happen is I would like to see more local governments, who are the ones who actually control recycling programs, to collect more material. And, so, I would like to see using the Green Guides to leave that room to perhaps
incentivize people to do that as well.

One thing I would say is the Guide currently says in a significant number of -- is it significant number of communities? I have heard more interpretations of the word “significant.” It amuses me to no end. A lot of companies that I talk to think that means 51 percent, just over more than half. But in conversations with you, I heard 65 percent. No matter what you do, I would --

MS. FRANKLE: So, that is a substantial majority. I think you are talking about substantial majority.

MS. HARTWELL: That is what I meant.

(Laughter.)

MS. FRANKLE: Substantial majority being around 60 percent.

MS. HARTWELL: I would strongly encourage you to lose the weeny word of substantial and go quantitative.

MS. FRANKLE: Thank you. Kate, did you want to add something?

MS. KREBS: I just wanted to follow up. I do believe and we know that the recycling decisions of what goes in the bin decision is made at a local level. But if that package does not have value as a commodity in the
marketplace, it should not be collected for recycling. So, I do not like full recycling of materials that have no economic value.

I think that is the power of the Guides is that if we put some framework on those Guides and make sure that the claim is accurate, I think that that is the right framework, it sends the right message both to the consumer and to the private sector.

MS. FRANKLE: Thank you. Steve, this is a question from the audience. If a material is certified as compostable per ASTM 6400 standard, how will a consumer know if it will actually biodegrade in their backyard composting bin?

MR. MOJO: That is a fair question. I think the key is the second part of the statement which is check to see if this package is designed to be composted in a professionally managed facility, check to see if there is a program in your community. I think it is part and parcel to what Sara was talking about in terms of recycling, which is it is one thing to be, in this case, compostable according to the ASTM specifications, it is another to be collected in an individual community.

I honestly believe that given the 27 million tons of food waste that go to landfills every year, you are going to see more and more communities become like
San Francisco, Seattle and Portland, Oregon and collect food scraps both in institutions as well as households. I think the critical piece is the follow-on message which is check to see if it is collected in your community.

MS. FRANKLE: So, in other words you are saying you need more of a message than just meets ASTM standards.

MR. MOJO: Yes. We agree with the Guide that currently has the caveat in it or the qualification.

MS. FRANKLE: Thank you. Steve, another question for you. As you point out some consumers mistakenly think that plant-based packaging claims also mean that the package is biodegradable and compostable when, in fact, it may not be. How do you suggest the Guides be modified to address this type of confusion?

MR. MOJO: That is an interesting question. I think part of it should be to reach out to those manufacturers who produce plant-based materials, such as NatureWorks and others, and there will be more, and ask them what is the best way to label these things, understanding the benefits that their materials provide both from a feed stock perspective as well as an end-of-life perspective.

So, I think this is a term that you are almost
starting from scratch on and that you might take some
direction from recycled content from 20 years ago in
terms of identification and just make it clear that
naturally-based materials may or may not be compostable
or biodegradable.

MS. FRANKLE: Thank you. This is probably for
Sara and Kate. This is about the recycling symbol, not
the recycling symbol but the SPI code that is on the
bottom of bottles, the one, the two that consumers see
and that the Guides say if it is inconspicuous it does
not make a recyclable, recycled content kind of claim.

How are consumers actually seeing this? Has it
changed in the last ten years? Are consumers truly
looking at this to give them guidance as opposed to the
recyclers knowing that this is a way to know the plastic
resin code?

MS. KREBS: I will start and then turn to Sara.
As a person that ran recycling programs for many years,
it is probably the most confusing symbol for consumers.
They see the chasing arrows, they see the number inside.
Once they get past the number means the resin type, they
get that, and then they come in to the their recycling
center or put it in the bin and it is not recyclable
there. So, if there is a rub within the recycling
community, I think that the SPI guides have really
We have tried, on the local level, to use the SPI guide to inform consumers, look for this on the package and if it is this number or that number, it can go into the system. And, so, I think that that has been a positive. But for many of the resin types, there is not collection infrastructure across the country and people are confused. So, I think that they have promoted a lot of confusion amongst consumers.

MS. HARTWELL: I would agree that many people find them confusing. I frequently find them confusing and frustrating. I understand what the number in the middle means, but how we collect materials is most often, at least with plastics, is in the shape of the converted package as much as it is the resin. So, I have a PET bottle, resin identification code of one and I can recycle that in my bin. I have a PET clam shell that my raspberries came in and I cannot recycle that. It is PET. A lot is going to the same end use, it is going to fiber. It has the same value. But that resin identification code on the clam shell makes me want to put it in my bin, and I confess I might sometimes.

And then I think a lot of people do not understand that the number is, in fact, related to the resin itself. I have had people call me up and tell me
that PET was resin identification code one, one in the chasing symbols because it was the best one. I think that they are confusing on a wide variety of aspects.

MS. FRANKLE: Thank you. Kate, one of your recommendations is that the Green Guides should ensure flexibility for future claims. What are some ways that the FTC can ensure that the Guides do remain flexible for future claims?

MS. KREBS: I think the flexibility that I was referring to is a new product or package coming into the marketplace and making sure that there is a good transparent process to address a package that is going to come into the marketplace anyway and developing the steps that they need to take to try to reach the claim.

So, the flexibility really is I think if we look at what has taking place in the last 20 years within the marketplace and packaging marketplace -- and Sara's slide showed that, my flexibility comment was to understand that there will be even more packages coming into the marketplace and making sure there is transparency and flexibility in addressing them and trying to see how they can or can't fit within the claims framework.

Ten years is a long time within the marketplace, so I think new materials are going to come
in faster than ten years. So, that is really the flexibility aspect.

MS. FRANKLE: Any thoughts how we can just be on top of things? How the FTC can be on top of this in the Guides?

MS. KREBS: Well, I think within the guides it would be good to have it very clearly stated if there is a new package that comes in the marketplace, here is the steps that we are going to take. We want to work with you to see what this package is, to evaluate end markets, just make it as clear as possible to whoever it is that is innovating the package, that they know what the road map is to move forward with you.

MS. FRANKLE: So, it sounds like the Commission should do more consumer and business education. Do you all see that as an area that would be useful?

MS. KREBS: I think from the business side, yes. I think that that is very important.

MS. HARTWELL: And I think from the consumer side it might be more challenging.

MR. MOJO: But I do think that you might want to consider relooking the guides every five years rather than every ten. And you might want to, as part of that, consider outreach efforts to the business community to educate them as to ways to make claims on a consistent
and appropriate basis.

MS. HARTWELL: Not only educate, but also to their perspective on challenges that they are presented with from the Guides because that might be where some opportunities lie as well.

MS. FRANKLE: Excellent comments. Thank you all so very much.

(Applause.)

MS. FRANKLE: And now it is lunchtime. We will meet back here at 1:00 and have a wonderful lunch. Thank you.
SESSION 3: UNPACKING THE NEW GREEN CLAIMS - SHOULD THEY BE COVERED?

MS. KOSS: Welcome back, everyone. I hope everybody enjoyed their lunches. I am Laura Koss from the FTC. This is Session 3, Unpacking the New Green Claims - Should They Be Covered? During this session, we are going to be focusing on new green claims that are not currently covered by the Green Guides. We have four very knowledgeable individuals to discuss this who each have their own unique perspective.

To begin with, we have Kelly Tullier, a Vice President and General Counsel for Frito Lay, Inc. who is here on behalf of the Grocery Manufacturers Association. Next, we will hear from Kathy Abusow, the President and Chief Executive Officer of the Sustainable Forestry Initiative.

After that, we will have Anne Johnson, the Director of the Sustainable Packaging Coalition. Finally, we will wrap up with Brenda Platt, who is the Co-Director for the Institute for Local Self-Reliance.

So, Kelly, if you could please come up and begin.

MS. TULLIER: Good afternoon. I am Kelly Tullier and I am the Chief Counsel for Frito Lay, but I
am not here today in my capacity on behalf of Frito Lay.
I am speaking on behalf of GMA, as well as the American
Bakers Association, the International Bottled Water
Association and the International Dairy Food Association.
These associations were indeed some of the original
supporters of the Guides as they were issued in the early
1990s. And the members of these organizations have found
the Guides to be extremely useful over the last 15 years
when they are working through communication and how to
talk to consumers about their environmental processes and
the benefits of their products.

However, in the past 15 years, we have seen a
lot of change. We have talked about a lot of it here
this morning. We have seen advances in technology and in
science. We have seen renewed consumer interest in this
area. We have seen a lot of new terms, terms like
sustainability. We are seeing carbon footprint offsets,
renewable energy certificates. I do not know about you
all, but working for a company who is one of the largest
purchasers of renewable energy certificate, I had no idea
what they were a year and a half ago.

So, with all of these developments from science
to terminology in our vocabulary, it presents an
opportunity to the FTC, an opportunity for us to improve
the guides to address the nuances in this area.
Companies are making improvements in the area of environmental sustainability. They are talking about those changes that they are making. For example, with respect to manufacturing, Sun Chips is one of Frito Lay’s products. In case you have not noticed, we have some right outside the door. So, when you take a break, please enjoy some of the Sun Chips. We have recently been talking about Sun Chips because of developments that we have had at one of our plants in California. In fact, Governor Schwarzenegger was with us last week to announce our implementation of our new solar panel process and field.

We turned those on last week with the help of Governor Schwarzenegger and the thermal energy that is coming from that field of solar collectors will provide the energy that is needed to actually produce, to cook Sun Chips. The energy for that product, prior to last week, came from natural gas. It is those types of developments that companies are talking about.

In addition, I mentioned RECs, renewable energy certificates. Last year PepsiCo, the parent company of Frito Lay, was the largest purchaser of renewable energy certificates. At the last workshop, you heard a lot about those. But we are talking about that as well.

Other companies are talking about the other
parts of the life cycle of products in terms of the improvements that they are making. For example, Nestle’s Pure Life Water makes the claim on its packaging about 30 percent less plastic being used in that product today.

But companies are not just talking about these improvements in their advertising directly and on their products. They are using the internet to communicate to consumers improvements in their environmental efforts. For example, SE Johnson and Cadbury’s website talk at length about the efforts that they are making. The great thing about the use of the internet is unlike a product label or point of sale, it provides a company the opportunity to give detail about their efforts.

Consumers are noticing. Consumers are going to company websites to get information about this area. In fact, there is an online survey done by Burst (phonetic) Media in April of this year that shows of 6,000 consumers interviewed, 80 percent of those surveyed are going to the internet to get information about environmental initiatives and products.

But consumers are going beyond the company sites. Environmental blogging is becoming increasingly popular. What we have on the screen here are four of the most popular environmental blogs today. TreeHugger, World Changing, Biopact and the Oil Drum. Look at the
numbers in the last month, the hits at TreeHugger, 623,000 hits to that site. These blogs are providing a lot of information. There are discussions going on about a wide range of topics, from global warming to products and companies and the claims that they are making. They are also providing information about -- we were looking at one of the sites last night. It was giving a lot of information about how I can go green in my personal life, in every aspect of my personal life, from gardening to cleaning my house, et cetera. A lot of information available to consumers on the web at this time.

But there is also, beyond the blogging sites, the sites like the EPA Green Power Partnership site. That site lists the largest purchasers of green power in the United States.

On the internet, you are seeing a lot of references to the term “sustainability.” In fact, since the end of 2006, the use of that term on the internet in blogs specifically is up 100 percent. But the question you have to ask is, what is sustainability? Well, we all know this particular definition from the Brundland Report, that it is meeting the needs of the present without compromising the ability of future generations to meet their own needs. That is a very broad definition. Sustainability goes beyond environmental sustainability.
to social issues and others.

This chart shows a survey of 22,000 consumers and asked them which factors influence their purchasing decisions. This shows that 50 percent of consumers are indeed influenced, to some degree, by a factor of sustainability. You will notice that the factors listed here as a product’s organic attributes, the packaging is better for the environment, the product itself is better for the environment, you also notice the manufacturer treats employees and suppliers fairly all coming under the umbrella of sustainability. Again, a very broad concept.

With respect to environmental sustainability and claims about that, we feel that it is appropriate for companies to be able to talk about sustainability with respect to particular attributes of their products so long as that information is qualified.

Here is a good example. This is a Proctor and Gamble claim on its website. It says, during the past decade, we have made significant progress in the area of sustainability. We are helping save energy and reduce greenhouse gas emissions through products such as Tide Cold Water and Ariel Cool Clean, which reduce energy through cold water washing. The internet provides information about the fact that you when you use Tide
Cold Water and you use a cold water cycle versus warm you
save 80 percent of the energy that you would have used
versus warm water washing.

Those types of claims about particular products
and their attributes are to be distinguished, though,
from discussions about general company philosophy on the
internet and on websites. Companies are talking about
their sustainability initiatives and their philosophy in
a variety of places, on the internet, in their annual
reports, in their corporate responsibility reports.
Statements such as Kellogg’s is helping to minimize
environmental impact of our business while also being
socially and economically responsible. A very broad
term, a very broad statement about their philosophy that
does not need to be addressed by the Guides.

Another example, General Mills. The General
Mills Sustainability Initiative is companywide effort to
responsibly manage the natural resource base our business
it depends on. As a leading consumer packaged food
company, we are committed to balancing our current and
future resource needs with the natural resource
requirements of future generations.

Another example from Unilever. So, you can see
that these are very broad statements about the company
philosophy versus an actual product or service that they
are providing.

In summary on behalf of GMA, ABA, IBWA and IDSA, we want to thank you for the opportunity to provide input to the Guides. We feel like they are a very important tool, a road map for our members to be able to speak about the initiatives that we are engaged in.

Thank you.

(Applause.)

MS. KOSS: Thank you, Kelly. Kathy, please.

MS. ABUSOW: Thank you very much for having me here today. I am a little bit of a labels and claims junky, I must admit. I joined SFI in August of last year and the Sustainable Forestry Initiative is a North American standard, and you can probably tell from my accent, I come from northern places. And when I was in Canada quite a bit, I did sit on a CSA Environmental Labeling and Claims Committee and worked a lot as a consultant with the Consumers Association of Canada, monitoring environmental and social claims in the marketplace.

I am pleased to have come to SFI where they already paid quite a good amount of attention to their labels and claims, having consulted with FTC Guides and, in Canada, Competition Bureau Guidelines. And I still think that we can go further, although it is a strong,
strong standard as it stands. One of the first things that we have set out to do is to do an environmental labels and claims review. It is just wonderful that FTC, at this point in time, is doing the same thing, considering the green claims because the outputs of that will be very useful to us and I think we can add a little bit to the discussion though, however, in terms of setting some models to consider environmental claims in the marketplace. I think SFI is a great model to look at.

What I am going to do is explain a little about the standard in terms of the underpinnings of it and the basis of the claim and then give my opinion on the words “sustainable” and “sustainable forestry” and “renewability.”

So, the standard itself, what is important is there is a standard and there is a standard that sets out clear definition for sustainable forestry. It is developed with public input. We are going into revision. Every five years, that standard does get reviewed, and when it gets reviewed, there is a 60-day public consultation at the outset and a 60-day public consultation at the end as well, and it is an open and transparent process.

There is balanced governance as well. SFI Inc.
is governed by fully independent, non-profit, charitable 501(C)(3) and the governance structure is based on equal seats for environmental, social and economic interests. That governing body takes the input from the public input on the development of a standard on labels and claims, et cetera, and will make decisions based on that input.

We have a definition. So, we talked about sustainable and how that word can be vague and misleading when it is not linked to something. We believe sustainable forestry is unique. This is something that governments around the world have dealt with. Coming out of the Brundland Report, whole suites of criteria and indicators to define sustainable forestry have been developed by governments around the world and governments around the world are looking at the sustainable and legal procurement of certified forest products. Increasingly, governments in the UK and Germany and Japan, throughout, are looking to source products from certified forests.

So, as I mentioned, what is important is that we have a standard. That standard has nine principles, but in addition to those principles -- and all these are auditable requirements. Thirteen objectives, 34 performance measures, 103 indicators. So, certainly, more precision in terms of what does that definition mean on the ground.
And it is not enough. These claims are not
self-declared. People do not implement the standard and
say, I think we did a good job, so let's make a claim.
There has a third party audit that is by an accredited
certification body that has to conduct these audits, and
that accreditation comes from an organization that is
separate from us. It is the members of the International
Accreditation Forum. So, in the United States, it is
ABAN, ANSI, and in Canada, it is the Standards Council of
Canada. So, those are bodies that develop the
accreditation programs to ensure that our certification
bodies conducting the audits are competent, qualified,
know how to do sampling, et cetera to ensure conformance
to our standard.

We have several certification bodies, I have
just included a few here. The full list is on our
website.

So, you have forest certification, but then how
do you bring it to the market? There has a separate
certification for that and it is known as chain of
custody certification. And this is where I do believe
there is some confusion in the marketplace and I think
that clarity is required. Chain of custody certification
is a wood flow tracking system. That is what it is. It
allows you to track your flows of certified content, of
uncertified content and also of recycled content. The fact that you have a chain of custody certificate does not mean you have certified content in your product.

This is why buyers -- I think the customers of the world know this; consumers, I would dare say they do not understand that. So, that is why a chain of certificate is an important step. It is a link to be able to track your certified content, but it is really the labels that is where the rules come into play and it is the label that communicates that information. So, you have to look to the label to know whether you have certified content or not. And, certainly, we have a suite of labels for certified content and then others for what is known as fiber sourcing, which I will speak to in one minute.

So, the certified content labels use the chain of custody tracking system that has been third party audited and they will make a claim much like a recycled content claim that X percent of the product and this product line comes from a certified forest. You can see the word “certified forest” out there and the SFI program website where people are directed to for more information. Right on our home page, actually, where currently you can get to the label section from our home page, but in May we are launching our new website where
very, very clear icon bar right at the top is called Labels and Claims to really facilitate it. And all our advertising and our labels you will find on our website there with a clear link to labels and claims for people to seek more information.

The reality is, however, that only 10 percent of the world's forests are certified, and we are pretty much at that ratio here in the United States as well. So, having a certified content label is much like a recycled content label. It is an achievement for sure, but what about the other 90 percent that is not certified? That is where we believe SFI makes the biggest difference on the ground. This is when we force continual improvement and change.

We recognize that 60 percent of supply in the United States comes from small family forest owners, and many of them cannot deal with the cost or complexity of a certification that I have just spoken to. Many of them are managing a few acres or a few hundred acres. So, we put the burden, the onus on the manufacturing facilities to look at not just the certified content, but their uncertified content in that supply, and we have a standard on procurement objectives to say, all right, we want to see logger training, we want promotion of best management practices, we want land owner outreach, and
all of this gets audited.

And we have spent about 885 million in research since 1995 through this. We have spent 45 million on logger training. This is the grass roots of our program. We have 37 implementation committees across North America doing this work to reach out. This is where the real effort comes into play and we have a label on that called fiber sourcing. You will see in the claim, in the previous labels I showed you, the last line is certified forest. Here, we talk about the sourcing requirements of the SFI program. And this is the procurement objective. So, we are looking at the whole fiber supply and that the companies have met the objectives.

So, onwards. Sustainable. Yeah, it is vague, it does not mean a lot, and our opinion is is it needs to be linked to something to be meaningful in the marketplace. We are recommending that it is a North American standard, but, more importantly, it is a North American marketplace where there is a lot of trade and ebb and flows between the two markets and being as consistent as possible with other things that exist is important.

Certainly, taking a look at the Canadian Competition Bureau’s interpretation of Clause 5.5 in 14021 is quite important. The Competition Bureau, with
the Canadian Standards Association, has just produced a plus 14021 that is likely to be published next month. I am sure there is someone in the crowd from here that can give more specifics on that. But what they say is, yes, sustainability is vague alone, but when it can be done by certified program, it is definitely possible. And the one example they give for preferred is the one that you see up there, where they are recognizing forestry specifically and these standards specifically as a way of demonstrating the use of this term.

Renewable, I was asked to speak on that. I will say that certainly forest resources are renewable. They can be replanted, they can be regenerated naturally, and our standard ensures the prompt regeneration of it. All wood products are renewable and to not that allow that on a work product other, I do not even understand, to be honest, why I am being asked to speak about that. I think that is a really important asset that needs to be communicated.

Quickly, we have already had the recycling forum. I do just want to say that our chain of custody audits track the recycled content claims and, yes, from a resource management perspective, recycling is important and we care about it. We also think that there is another aspect to resource management and that is the
management of the resource and the forest and that is
where certify comes into play.

Yes, this is a single aspect issue. I am a big
believer in life cycle assessment, but this single aspect
verification feeds in nicely to life cycle assessments
which often say wood is a preferable building material or
a product provided that comes from a well-managed source,
and we demonstrate that.

I will just say quickly on the consumer
research that Smead has just done a national survey and
said 77 percent of office workers said buying paper
office products made from trees grown and harvested in a
sustainable manner was important to them. There has some
research done by Harris that I just found out yesterday,
a 5,000 sample that looks at environmental behavior of
consumers. In the bottom right quadrant, you will see
less action now, more to come. And out of 20 odd choices
looking for certified sustainable paper and certified
sustainable wood was something that consumers said they
were going to look to do more of in the future.

What else did they say? That they thought
governments could definitely do or probably do more of.
Number four on the survey, but showing number two here,
was 85 percent thought promoting certified, sustainable
wood and paper was a reasonable thing to request of the
government. So, certainly, FTC guidelines that facilitate that is something that we encourage. And thank you very much. I know that I have just run out of time. So, I talk quickly which serves me well in this audience. Thank you.

(Applause.)

MS. KOSS: Thank you, Kathy. Anne.

MS. JOHNSON: Well, good afternoon. And I think that was a great segue into what I am going to talk about. My name is Anne Johnson. I am the Director of the Sustainable Packaging Coalition. I am also a Program Manager at a non-profit called GreenBlue.

I have been asked to speak today on the issue of sustainability and specifically the context of sustainability with packaging. So, I am going to talk about our definition of sustainable packaging. As you can see, in the subhead for many presentation I have something that says, a systems concept in a marketplace of singular claims. I think this touches on many of the conflicts that we are discussing today. And I am going to focus on this idea of a systems concept which is really the idea that to understand a problem or to understand a solution, we need to think of the parts in the context of a whole.

When I talk about our definition, I would like
you to keep that in mind because that is very much what
our definition is, to try to encompass a very complex
system idea that is the package and the packaging system
that it flows in.

So, who is the Sustainable Packaging Coalition?
We are an industry working group with membership from
across the packaging supply chain. So, our members range
from commodity raw material producers through large
packaging converters, we have some printing and labeling
types of people, but we also have a lot of consumer
products goods companies, retailers, and we even have
recyclers. So, the membership represents very much the
production value chain. As I said, we also have some
recyclers.

That is really important when we talk about
this definition because what sustainability means is
quite different depending on where you are in that supply
chain, where your opportunities are and what challenges
are associated with it.

GreenBlue is a non-profit that focuses on
sustainability and sustainable product design, material
design, chemistry design. As a non-profit, we are
somewhat unusual in that we actively engage with
industry. Our projects tend to be collaborative efforts
with industry. The project that I manage is the
Sustainable Packaging Coalition. It is very important to understand that it is a project. The coalition is not a legal entity in and of itself. It is a project of a non-profit.

So, we were founded in 2004 with nine founding members. We now have grown to more than 160 member companies. So, we have a very significant representation within the packaging supply chain.

What we do as a coalition is we focus on education around sustainability issues as they pertain to packaging. So, that could deal with issues of how you source materials, how you manufacture materials, how you design packaging, manufacturer packaging, recover packaging. So, beyond education, we also develop tools and information resources to support efforts to improve the environmental characteristics of packaging.

So, why do we create a definition of sustainable packaging? It has really been a foundational piece to the coalition and it is the first project that the coalition did as a group. We did this work in 2005, and I think it is really important to understand kind of in contrast to the definition that Kathy was talking about for sustainable forestry, this is a definition that we developed as a coalition, not as standard. We did it in a committee of 17. GreenBlue did a lot of drafting of
the original language, and then through a very exhaustive committee process, we went through a comment period and review period where we finalized the language of this definition.

So, it very much represents a consensus point of view of coalition members. We put it forward very much as a vision, as an aspirational vision of what it would mean to succeed in achieving sustainable packaging. It was not ever intended to be a standard or to be interpreted that way.

However, we are a business group. Our members pay membership dues to belong to the coalition. They are very much oriented around the business realities of selling products out into the world, selling packaging. So, what does that mean? It means that how those realities translate into a definition was important as well. So, our definition is also very much grounded by business realities.

So, we felt it was really important as an initial project for the coalition to define a common understanding of what do we mean when we say the term “sustainable packaging.” As people have alluded to, it is a very large term, it is vague, it lacks some definition. So, we felt it was important to do that.

We did that so that our members could
understand, relative to this definition, what do their current activities look like, what opportunities do they have, what challenges do they have. So, that is a tool for identifying priorities. Now, these areas could include materials, energy, packaging or packaging systems.

So, let's get to the definition. The first criteria -- there are eight criteria in this definition. Sustainable packaging is packaging that benefits individuals, communities throughout its life cycle. This touches on a social element of packaging beyond its performance in providing service to consumers. We add a concept of across its life cycle to this. So, right there and then, you broaden the scope of interest for packaging.

Sustainable packaging is packaging that meets market criteria for performance and cost. This gets to many of the business issues. If we do not meet market expectations, if it does not perform in the marketplace, you have probably resulted in more environmental harm than good. So, that is a very essential part of it.

Sustainable packaging is packaging that is sourced, manufactured, transported and recycled using recycled energy. Well, this is a quite an aspirational concept, as any of you might imagine, but it is very
central to the idea of what a sustainable package would be. Having some sort of emission-free type of energy source. And, again, we add the concept of the full life cycle here.

It is made from renewable or recycled source materials. So, now we are down to many areas where people are making marketing claims which is on the materials in their package. So, we make a statement and we use a term called renewable. There has been discussion in this room about what does renewable mean. Kathy was talking about the need to be able to use the term “renewable.” When we use the term “renewable,” we imply two issues there. One is it touches on the biobased content that Steve Mojo was talking about. It also has to deal with the productivity of the ecosystem where that material comes from. It is not renewable in the long term if that ecosystem is degraded over time and cannot actually regenerate that resource. So, both those concepts are implicit in our use of renewable.

Recycled source materials. We have heard a lot of discussion on that.

Is manufactured using clean production technologies and best practices. So, it is not just where you get the materials, how you get it or what the materials are, but it is how you actually manufacture
those materials, manufacture the package that has also an impact when we talk about sustainability.

Is made from materials healthy in all probable end-of-life scenarios. This really has to do with the chemistry of your chemicals, your materials, your final package. And are they appropriate and are they compatible in all end-of-life scenarios.

Is physically designed to optimize materials and energy. This is an area where there is a proliferation of green marketing claims having to do with either energy, carbon, energy efficiency, resource efficiency. Often, especially if there are efficiency claims, you are talking about being efficient compared to what? In benchmarking what that comparative assertion is is incredibly important. Is this a more energy efficient package? Well, if it is, what is it being compared to and how do you substantiate that?

Is effectively collected and recovered biological or industrial cycles. This is the end-of-life concept that we have brought into here.

So, we have touched on a number of parts of the sort of production value chain. Here we deal with the sort of waste management aspect or the end-of-life scenarios.

So, a couple of take-aways for this, as you can
see, we are dealing with issues of materials, manufacturing, energy, not just quantity of energy but quality of energy, and we are dealing with recovery. That is a very far-reaching, very comprehensive vision, something that is very, very hard to capture in singular claims.

So, again, this definition was put forward as a vision, not a standard. It is very comprehensive in scope and addresses the entire life cycle.

So, I have systems oriented. We cannot reach sustainable outcomes without supply chain collaboration. So, this is a really important aspect of this in understanding that it does take the sum of the whole to understand the relevance and the benefit of a part. No one criteria in our definition is more important than another. Currently, to my best knowledge, no current packaging meets any or all of these criteria at this time. We did not intend this definition to be used as a marketing claim. So, claims of sustainable packaging, I think, are quite problematic.

As I have alluded to, sustainable packaging is composed of many criteria. So, the use of a single attribute or characteristic or even multiple attributes to make a claim of sustainable packaging is very problematic. There are currently no accepted set of
criteria or what we might call a standard with supporting test methods or validation procedures to support a claim of sustainable packaging. I think that is a piece of incomplete work today.

I think it is very important that we make a distinction between specific singular substantiated claims versus these concepts which are very much systems-oriented that are made up of multiple attributes that require probably a more sophisticated development of standards and test methods to support those types of claims. Thank you.

MS. KOSS: Thank you, Anne. Brenda.

(Applause.)

MS. PLATT: You can label me petite and the qualifier is still needed.

The Institute for Local Self-Reliance is a non-profit organization based in Washington, D.C.. I have been there 22 years. I come from this issue from the recycling and composting side. For 22 years, I have worked in recycling and composting, documenting the best programs, recycling and composting.

For the last year, I have been heading up the Institute’s Sustainable Plastics Initiative. I have come to realize in the last two years that sustainable plastics is like, I think Michelle mentioned this, the
environmentally-friendly car. It is somewhat of an oxymoron.

And you just put up no package or product on the market meets criteria or definition. In the work I have done for sustainable plastics, we have kind of come to the same conclusion. Not yet, although I am very hopeful that we will have sustainable plastics on the market.

This is just kind of a brief outline of what I am going to touch on. So, I think this is a good segue back from sustainable packaging back to sustainable biomaterials and then back to biobased materials, bioplastics which is what I am working on. I am going to touch on a little bit of what the sustainable plastic initiative is. As part of that, I am co-chairing a new collaborative called the Sustainable Biomaterials Collaborative, which is looking at sustainability issues, but particular to biomaterials. And the first products that we are look at are bioplastics.

I am going to revisit a little bit of what Steve Mojo, the Biodegradable Products Institute, touched on on biodegradable versus degradable, biobased versus biodegradable. I think these terms are so confusing that it is worth revisiting and I have just a few thoughts to add to what he has already said, and I agree with most of
what he said by the way, which is important for you to
know because I represent an NGO and no corporations, but
he represents an industry corporation.

So, sustainability challenges for bioplastics, there is quite a few in that list. I am going to touch
on those. And then labeling which, of course, is the
heart of what I kind of want to go through based on the
topic today. And then some recommendations specific to
the FTC Green Claims and Guidelines.

So, the Sustainable Plastics Initiative, I am
doing a variety of things as part of this project. But
one of them is coordinating the Sustainable Biomaterials
Collaborative. When we define sustainability, similar to
what the Sustainable Packaging Coalition is looking at,
we are looking at each step of the life cycle for
products. So, when we look at paper, paper is a
biomaterial, but not all paper products are created equal
and we know that there has some that are more
environmentally sound and others that perhaps aren't.
Some have higher recycled content, some have higher post-
consumer recycled content.

So, how do we help consumers and buyers kind of
navigate this maze of new and emerging bioproducts coming
on the market? We are looking at -- some of the groups
that I am coordinating with -- I put the website on here
because I encourage you all to go to the website. Since I have limited time, I cannot go through the Collaborative itself and who the members are. But we have 16 organizational members and they range from leading green businesses to other non-profit organizations, sustainable agriculture groups. We have social venture networks.

One of the things that we have developed is a 15-page guidelines for sustainable bioplastics. What this covers is what do we mean. If we want a sustainable bioplastic, we want bioplastics that are going from sustainably harvested resources. We want them to be clean and non-toxic during production and we want them to be recycled or composted at the end of their life. So, go to the website and download those 15-page guidelines and please contact me for more information on that.

So, one of the things in looking at bioplastics over the last two years is they are not created equal. When you look at the websites, you will hear all kinds of environmental claims, green, sustainable, one of my favorites, returns to nature without a trace, sustainable. But just because they are compostable or they are made from biobased content does not mean that they are “sustainable.”

One of the things we are finding is that the
location of where the feedstock is grown really varies depending on what product you are looking at. Not only do we have PLA, polylactic acid, which is made from corn grown in the U.S., but we have products that are made from palm fiber grown in Malaysia. So, there are some issues of are the rain forests being cut down to grow the palm fibers? So, these are issues related to sustainability. So, what the material is and where it is grown and how it is grown are really critical.

The biodegradability, one of the good things about biodegradability in the last few years is there is now ASTM standards about biodegradability. Biodegradability not only relates to the time frame which has been already been touched on today, but where it ends up. So, you could have a bioplastic that is compostable in a commercial composting facility, that is biodegradable there, but it is not biodegradable in the marine environment and certainly may not be biodegradable in your backyard bin. So, in terms of labeling, we would like to see that the biodegradable labels qualify where the product is biodegradable. And the good news is there are standards.

Degradable is not an environmental claim. In fact, new evidence shows that if a product is just degradable into smaller pieces, it is very bad for the
environment. So that should not even be an environmental claim at all.

This is the USDA’s definition of a biobased product. One of the things I find interesting about this is that it has to be made from renewable domestic agricultural materials, which turned out to be controversial because what is domestic, and as it turned out, domestic is anybody that the U.S. has trading relationship with.

(Laughter.)

MS. JOHNSON: The other thing that is interesting about biobased products, this definition is the ASTM standard to measure biobased content, renewable content cannot distinguish whether it is domestic or not.

Steve Mojo mentioned that we have non-biodegradable, biobased, plant-based plastics coming. I know you cannot read this, but this is just articles on not only what Dow is coming up with, the polyethylene made from sugar cane, but also another Brazilian company, Braskem. So, we will be seeing biobased plastics that are not biodegradable.

So, biodegradability does not have anything to do necessarily with biobased. In fact, some of the plastics on the market that meet biodegradability standards have no plant matter based content in them
1 whatsoever. They are made from fossil fuel based
2 plastics. So, that is really important to understand,
3 that biobased has nothing to do with biodegradability.
4 Now talk about confusion for the consumer. The
5 consumer hears biobased, they think biodegradability.
6 I am not going to go through the ASTM
7 standards, but here is a list of what they are. Steve
8 Mojo touched on those.
9 These are some of the sustainability challenges
10 with bioplastics that the Sustainable Biomaterials
11 Collaborative is looking at, and some of the issues is if
12 you have a corn-based PLA bottle made and it is made from
13 genetically modified corn is it sustainable?
14 So, we are developing some baseline criteria
15 for purchasing specs, and one of the baseline criteria is
16 that at least the product test have GMO offsets.
17 We want to see more composting programs
18 developed. I think Sara Hartwell from EPA mentioned
19 that, too.
20 Nanotech materials was mentioned earlier
21 somewhat in a positive light. But on the negative side,
22 there is quite a number of question marks about the
23 public health impacts of nanoparticles due to their small
24 size. And one of the things that I found is that
25 bioplastics do not have the same performance
characteristics as their conventional plastic counterparts. One of the ways that the industry is improving the heat temperature and gas barrier properties is adding nanoparticles. So, this is another issue. The label here was a contest. That was one of the winners for maybe a label if it had nanoparticles. Would you like to see your products with this label on it? Probably not.

Then labeling, which I am going to talk about, how to label these products.

This shows some of the compostable food serviceware that is actually being used in Congress right now at the U.S. Capitol. I do not know how many of you get down there, but if you go into the cafeteria, all the food serviceware, they now have moved, just as of December, all to compostable food serviceware.

The good thing about the labeling for these products, because the bins are well-labeled there, it is probably not as essential that these products be labeled, but these are very typical of some of the products that we are seeing in the marketplace around the country.

This is a PLA corn takeout container. Can you read that? I tried to get a good photo, but it is really difficult. It has the resin identification code, which you can barely see, and it says number seven, other.
That is PLA. Then it says NatureWorks compostable. Very hard to tell for anybody that that is compostable.

These are compostable cutlery they use, and on the handle it says biocompostable. I do not know any standard defining what biocompostable is.

The plates I think are very well-labeled. I especially like that it says made in USA, which is something we do not see too often, but 100 percent compostable in composting facilities. I think that is getting us in the right direction. It is on every single plate.

This is a cup that they use, and it says, this cup is made from corn, environmentally sustainable and 100 percent compostable, but PLA is not compostable in your backyard. I know the FTC guidelines say that if it is compostable, it should be home compostable. So, that is a big issue that probably needs to be addressed.

This is a soup container. Again, it says compostable, but there is no qualifier that clarifies that this is only in commercial compost facilities.

These bags are made with a lot of fossil fuel content. Some I am opposed to these in use for trash bags. I know there was a question earlier. They are good for getting those food scraps collected and composted.
Since I am out of time, I am going to wrap up. But the SBI resin identification code, which I think most of us are familiar with, although you cannot see it on most of the products that we have, is something that I believe the FTC should revisit. It has probably outserved its useful purpose now, and I know that is probably a controversial position to take, but with the new biopolymers coming on the market besides PLA, we have PHA coming on.

The one through seven is just too limited and the chasing arrows, even though the labels should be inconspicuous so as not to influence the consumer buying decision, the chasing arrow tells people when they see it that it should be recyclable. So, a lot of people in the recycling movement would like that replaced with a circle, anything, a triangle, just not chasing arrows.

These are just some better things. But one thing I will just mention is this is a PLA bottle. And on one side of the label it has very clearly that it is a corn container, it is made out of corn, Better Earth, Better Juice, Better Bottle and explains it. I think that is a pretty decent label. But if you look on the other side, you will see the chasing arrows symbol and that indicates to somebody who buys it, this looks like a recyclable plastic bottle, I am going to put it in my
recycling bin. But there is no program in the country where that would be collected for recycling. So, that, I would say, probably borders, if not directly, is deceptive labeling.

Eureka Recycling in Minnesota did this in terms of identifying biobottles. Labeling is not just for the consumer, but also for the recycling. Can you identify where is Waldo, the biobottle? There he is. And it is not just PET bottles, it is also milk bottles. These are milk bottles, one of these is a biobottle. There is Waldo. So, it is an issue identifying the bioplastics.

And these, I will just leave this up as we open it up for questions, but these are just some of our recommendations particular to the FTC guidelines and what we would like to see.

MS. KOSS: Thank you, Brenda.

(Applause.)

MS. KOSS: So, now, I would like to start off the question and answer period with a question for all of the panelists. The Green Guides provide a number of illustrative examples to show marketers how to make non-deceptive environmental claims. If each one of you could go down the line, starting with Kelly, and tell me if you could add one new example to the Green Guides, what would that example be and why?
MS. TULLIER: I think our members would like to see some specific examples that talk about the appropriate use of the term “sustainability.” So, a claim, for example, could be as part of our sustainability efforts we purchase Product A from local farmers and transport it on energy efficient hybrid vehicles, for example. It is something that would show companies how to actually qualify claims with respect to sustainability to put it in the proper context.

MS. KOSS: Thank you. Kathy.

MS. ABUSOW: Likewise, I think recognizing in the Guide that claims generically to sustainability are potentially vague and misleading, but when they are defined and they have substance to them through input, relevant stakeholders, et cetera, certainly they are appropriate. You could use -- by way of example here is some self-interest coming out, you could use an example of, of course, forest certification and some of the labels that are out there and what they communicate.

For example, a definition, a standard, a third party audit to demonstrate conformance to the standard much like the Competition Bureau has used for their example.

MS. KOSS: Anne.

MS. JOHNSON: Not to sound repetitive. I guess
my recommendation would be guidance on the term “sustainable” versus a sustainable product or package. I think there needs to be clarity under both of those terms. Obviously, both are not the same. I think part of that discussion is around the concept of whether we move out of a mode of singular claims or the sort of voluntary, self-declared environmental claims to something where some standard is developed for if we are going the make a “sustainable packaging claim” or a “sustainable product claim” that there is a standard and methodology underneath that.

I think not only is it standards but it is really understanding what data is appropriate, what are the boundaries of that data and what are the methodologies for calculating that data in support of those claims.

MS. KOSS: Okay, thank you. Brenda.

MS. PLATT: I concur that the FTC guidelines should add clarity on sustainability claims, but not necessarily that we should be encouraging sustainability claims, but exactly the opposite. We do not want manufacturers to be making sustainability claims when, in fact, we do not have any standards to support any scientific basis to support those. At this time.

MS. KOSS: Okay, this is a question for both
Anne Johnson and for Kathy Abusow. Could you comment on the use of the phrase “cradle to cradle” in conjunction with claims and certification? Is this too broad to be substantiated?

MS. JOHNSON: Well, I will start. I think cradle to cradle has become part of the vernacular and is used as both an adjective and as a proprietary sort of concept. It is very much associated with Bill McDonald and Michael Brownguard in their book, but I think the use of that term is also very much in the vernacular as an adjective, specifically an adjective associated with the flows of materials.

And the idea that as opposed to using a cradle to grave metaphor for landfilling something, we use a cradle to cradle metaphor for the recycling of materials.

MS. KOSS: Go ahead, Kathy.

MS. ABUSOW: Certainly, we do not ourselves get into cradle to cradle claims. As I mentioned earlier, forest certification is unique in that it is a single aspect claim that often, in the world of consumer rights and knowledge, people are uncomfortable with single aspect claims. We make the case that forestry is unique, as I mentioned earlier recognized by governments around the world.

Even when you came up with the ISO 14001
standard on environmental management system, out of all the products and services that it could apply to, whether it is was McDonald's fast food joint or an oil company or forest management, it was only forestry that they decided to make a guide clarifying how ISO 14001 could be applied in forestry.

It is a really unique issue. Why? Because people do not go for walks through open mine pits and they do not go for walks through the tar sands. But, man, we have history and heritage of walking through forests. It is something that we relate to and we care about and people get emotional about, and because of that, it does really merit a standard so that those practicing in that sector have a chance because of the perceptions related to what people hold dear. That is what this standard is about. It is a single aspect standard, but it feeds well into other more life cycle approaches.

MS. KOSS: Thank you, Kathy. This is a question for Brenda. Brenda, do we have the necessary infrastructure in place in the United States to process biopolymer waste? Depending on your answer, how does this impact the guidance this the Green Guides should give on biobased plastics?

MS. PLATT: The short answer is not yet. We do
not have the composting infrastructure in place to
compost compostable plastics. However, we have the
technology and composting is a proven technology, it is
cost-effective, and there are a number of early adopters
already doing it around the country.

I have been visiting a number of those. So, I
think that the future is quite bright for compostable
plastics as we learn what works and what does not. And
Europe has been doing it as well and there are a lot of
lessons learned coming out of Europe. So, this is all
really good news combined with the standards,
compostability standards for the products having the
label and whatnot.

In terms of how the guidelines could help
promote that, I think clarity on using the label
compostable is what needs to take place.

Right now, the ASTM standard and the U.S.
Composting Council have joined forces with the
Biodegradable Products Institute. Steve Mojo spoke. And
there is a logo that products can have that meet the ASTM
6400 standard compostable. But, right now, a lot of the
uses of the label does not clarify that it is just in
commercial composting facilities. The reason for that is
those products need the high temperatures for two weeks.
Now, you could reach those temperatures in your backyard,
but most backyard composters do not. So, I think the qualifying language that says that commercial facilities may not exist in your area, I think I have it up here, compostable in commercial facilities, appropriate facilities may not exist in your area.

There was a suggestion also that there could be a website for people to search and that could be something that might be worth looking into. There is findacomposter.com, which is a new website identifying compost facilities which could be adopted and expanded to include facilities that accept these type of products.

MS. KOSS: Thank you. Anne, this is a question for you. I know you have touched on how to make a sustainability claim, but if sustainability is a multi-attribute type of claim, can marketers ever make sustainability claim without deceiving consumers? If so, how would they do that?

MS. JOHNSON: Well, that’s a big question. I think it requires adding that layer of definition of standards underneath it. If we are going to say this is a sustainable package, then we have to say it means A, B, C, D, or A, B, C, D, E, F, G, whatever that means. There has to be some consensus of what that is and then some supporting test methodologies for how you then provide that.
I mean, it touches on this issue of complexity, of making a marketing claim on a very complex concept, and I am going to sort of go a little bit on a tangent here, but I think part of the conversation is we are talking about translating very complex topics into something that consumers can digest. It sort of begs the issue of audience for the Green Guides to me as to there is an audience, an industry audience for the guidance.

We are dealing with very complex material issues, production issues, sourcing issues that industry has become educated on, understands and works with every day. Consumers do not deal with those issues, are not as aware of those issues, and it is almost like there ought to be a parallel Green Guide for consumers that explains some of those terms. So, when they see a claim of sustainable packaging or renewable, they can go to one resource and say this is what it should mean when you see it on a product.

MS. KOSS: Okay, this is a question for Kelly. Kelly, in your presentation, you highlighted that companies are using the internet and other means to communicate their environmental philosophies to consumers. In your opinion, do you think that companies are concerned about running afoul of Green Guides when they are doing that?
MS. TULLIER: I think when companies are communicating about their general philosophy, whether it be on the internet or through other avenues, I think what they are trying to do is provide comprehensive information to their consumers, that mattered to their consumers and their investors and others about where the company is going in general.

I think that they have every interest in speaking truthfully and honestly about the efforts that are underway. I do not feel like, in that context, that the Guides really should apply. I think the companies, when they are working on these types of communications, are thinking through how they want to speak to investors and to consumers.

But when it is a general philosophical statement about where we are going as a company, it is our perspective that the Guides are not appropriate to apply.

MS. KOSS: Okay, thank you. Here is a question from the audience that I think I am going to open to everyone because we have talked a lot about the challenges of having a multi-attribute type of claim versus a single attribute type of claim. This question is, why is it not feasible for a product to be claimed to support sustainability goals in one or more specific
attributes? For example, recycled content that are substantiated. So, if anybody wants to jump in, this will probably be our last question.

MS. JOHNSON: I would say the problem comes when the next guy down the road defines it slightly differently with a different set of attributes underneath it. So, for instance, you find commonly sustainable material claims that this is a sustainable package because it is made from a renewable material. There is an equivalency between renewable and sustainable. From our perspective you are not dealing with sourcing issues. Just by virtue of the fact it is biobased does not make it sustainable. Or you might see a sustainability claim that this is sustainable because it is energy efficient, it uses recycled content. Well, that is a slightly different claim. And from the point of view of consumers, it is just a mixed bag. What is it?

So, I just think clarity under what you mean or what qualifies and clarity on what sort of information therefore supports it is what is needed.

MS. KOSS: Does anybody else want to add something to that?

MS. PLATT: I completely agree with you, Anne.

MS. KOSS: Okay.

MS. ABUSOW: And I would just say that recycled
content is something as well that consumers care about, they know about and, so, obviously a claim like that and the ability to continue those claims are important.

Yes, there is more education on the realm on the scope and these issues.

I just wanted to mention one thing as well. You have been asking us what we would recommend for FTC to look at. I would also put the onus on programs that have labels and claims in the marketplace and make some recommendations to them. Certainly, in our SFI program, we have a section on public claims where we direct our program participants to the Federal Trade Commission’s guidelines on environmental claims and product labeling and also to the Competition Bureau and Canada’s claims and ensuring you are consistent with that. So, we have our own labels, but we are still reinforcing that through our own program. I think people that have programs in the marketplace should ensure that.

MS. KOSS: Okay.

MS. TULLIER: One more quick comment. The research shows that consumers themselves are using the term “sustainable.” So, the perspective is it should not be an off-limit term; it should be a term that we should use. Consumers are using it, but the important part is that companies need to make sure that they are clearly
qualifying what that means in the context of the advertising or the communication.

MS. JOHNSON: Laura, if I could just extend that a bit. There is an advertisement in the packaging world, and just to give you an example sort of as a follow-up to that question about how sustainable is used. Environmental sustainable packaging, sustainable packaging for a brighter future, new environmentally-friendly packaging system and environmentally sustainable packaging alternative blister packs and clam shells. And these are the bullets, uses minimal plastic, easier to separate plastic from corrugated for recycling, minimizes impact in landfills, recycled paper board requires less energy to produce than recycled plastic. See the light, sustainable packaging. That is all in one piece.

MS. ABUSOW: I like the caution better, though. This packaging will impact your sales even more than the planet.

(Laughter.)

MS. JOHNSON: So, I mean, that thing is all over the place on there and I think that is the root of the confusion.

MS. KOSS: Well, thank you. I want to thank all our panelists. I think we are out of time. We
are going to take a break and be back by 2:15. Thank you.

(Applause.)
SESSION 4: SUBSTANTIATING GREEN PACKAGING CLAIMS - LIFE CYCLE ANALYSIS, THIRD-PARTY CERTIFICATION,

LOGOS AND SEALS

MS. McCORMICK: We are ready to start the final panel. While everyone is getting to their seats I just want to mention, because the question has come up, that all of the speakers’ presentations that they have been giving today will be available on our website in PDF format. So, as well as being able to take a look at the webcast itself after today’s program, you will also be able to go to the workshop website and access these presentations.

So, welcome to Session 4. Thanks very much for sticking with us all day. This is our panel on Substantiating Green Packaging Claims and we are going to cover life cycle analysis, third party certification, logos and seals.

And with us today we have Professor Sue Selke, the Acting Director of the School of Packaging at Michigan State University.

We have Cheryl Baldwin, who is Vice President of Science and Standards for Green Seal.

And, finally, we have John Delfausse, the Vice President of Global Package Development for Aveda, Clinique and Origins and the Chief Environmental Officer
for Estee Lauder Corporate Packaging.

If you are following along in your agenda, you might notice that we are missing Urvashi Rangan from Consumers Union who was also going to talk about labeling. However, yesterday, she had a baby boy three weeks early. Speaking of cradle to cradle.

(Laughter.)

MS. McCormick: So, we will start right away with Professor Susan Selke.

Professor Selke: It is very nice to be here today. We have heard a lot of reference to life cycle analysis through the morning and the earlier session this afternoon. So, my task right now is to talk a little bit about just what it is and what it can do and some of the issues associated with it.

So what it is, it is really a formalized way of looking at the effect on the environment of products, processes, packages, whatever this thing you might be wanting to look at, that considers the whole life cycle. So, you have heard reference before, again, that if you only look at a single attribute, A may be better than B in that attribute, but it may be a lot worse in something else. So, this is really a way of making sure that we consider everything, within limits of course, that we should be considering about when we are trying to make
decisions.

I borrowed this picture from detergent manufacturing, so you can ignore the detergent-specific part of this. But what I wanted to show was that there are actually three different types of approaches that are used for LCA. The blue arrow is the cradle to gate. You will find LCA analyses that are cradle to gate. The gate is defined at the point where really it passes out of the domain of what you are looking at.

So, if a retailer, for example, were looking at making the best environmental decisions for the products it was buying, it might or might not be concerned about what happened after the consumer bought it. So, it might decide that a cradle to gate type of analysis was the most appropriate.

You hear a lot about cradle to grave which says no, you really should not stop there, that you should consider what happens to the rest including disposal. And then when we started moving along really in environmental consciousness and thinking about, well, maybe we should not be sending all these things to landfills, maybe we should be thinking of material management was the term that came up again earlier today.

Then we get into a cradle to cradle analysis where we are looking at the impact over really a cycle of
life so that this material is ready to go back to some
new use. So, those are all kinds of terminology that you
will hear.

The reasons for using LCA, again I think I
already said this, it is a systems approach. And there
was, again, discussion in earlier panels about both the
desirability of systems approaches, but also the
difficulty in then conveying these very complex sets of
information to consumers who want to know should I buy A
or B? So, that is one of the challenges.

Even before environment kind of made a comeback
in packaging, one of the things that we have always
focused on with our students is that you need to think
about whole systems. We aren't thinking about it, again,
just for the environment, we were thinking about, well,
if you take the toothpaste out of the carton, then you
have to think about do you need to change the
distribution package that is going to get it to the
retailer without it being squashed and squirting
toothpaste all over and ruining the whole box full of
toothpaste tubes? How is it going the stack on the
shelf? All those things.

So, the message here is that if you change one
aspect, you may have unintended consequences down the
road. So, if you are going to make decisions, especially
in the realm of policy, you really need to understand what the ramifications of those decisions are.

Here is a graphic that illustrates generally the components that go into a life cycle assessment. I will be talking about some of these in a little more detail. You have to decide what you are trying to do and then you have to determine the scope of the analysis that you need to do to be able to accomplish your goal. Then you have the life cycle inventory where when you are defining your scope, you are really putting a box around what you are going to analyze. And then in the inventory, you look at what goes in and out over those boundaries, and then the impact assessment looks at, okay, we have all these things going in and out, what do they all mean?

And then the whole interpretation phase is really saying, okay, now, let's look at all this together and try to make some sense out of the whole thing. The box there on applications is just illustrating that you can apply this information to making a whole variety of kinds of decisions.

So, go on scope. Again, what we are trying to accomplish very much affects the kind of analysis we need to do. It is not just where we draw the boundaries, it is also what kind of data do we use.
If I am working for a bottled water company and I want to choose between bottled water, Bottle A and Bottle B, and they both contain the same amount of water, I really do not need to include in my life cycle analysis anything about the production of the water, for example, because that is not important to me. It does not affect the decision I am trying to make which is just choosing between the bottle.

If I am working for an NGO and I want to know whether to encourage consumers to buy bottled water or to turn on the tap with or without a filter, then I really need to look at the water production cycle as well as the bottling and everything else. So, again, the message is that we have to decide what we are trying to do in order to determine the appropriate type of analysis.

Another part of this message is that we do always have to simplify things. We always have to draw boundaries that may be a little narrower than in the ideal world because we can never include everything that might possibly be relevant. An example, think of bottled water again. If the two bottles were different in their filling characteristics, I should probably include some information about the billing process, but I am not likely to be including information about the energy and everything else that goes into making the filling
machines. So, we got to draw boundaries.

So, this one I think -- since I always take more time than I think I am going to, I will skip over that. That is just a listing of the inputs and outputs. You draw the boundary, you tabulate what goes across in the inventory analysis.

Impact analysis is less developed than the inventory analysis. We have some good guidelines for how to do inventory using reproducible data, et cetera. Deciding what this means in terms of environmental impact is more complicated because this can be time and place and situation dependent.

Here is just a listing of some of the common types of impact categories that are considered in LCAs. Some published LCAs that you will see will consider all these categories, a lot will concentrate on one or two that they feel are the most important.

So, issues in using LCA, it is complicated. It is expensive. It is slow. It results in massive amounts of information that can be very hard to interpret. And almost always you find that between choice A and B, A is better in attributes 1 through M and B is better in attributes N through these Z. And these trade-offs cannot really be adequately systematized.

An example I like to use, I was in Michigan, we
are surrounded by freshwater. If product A uses more water than product B but emits less greenhouse gases, that probably means A is better in Michigan. But if I were in Atlanta last summer during the drought, that might not be the choice that I should make. Not even saying that I would make, but that I should make. So, some of the things that make it complicated.

Of course the results you get depend on the boundaries you draw, the assumptions, the data you use, the impact categories. If you combine things into a few scores instead of massive amounts of scores, you have to weight things, you have to assign values. All of these things affect results.

This is an area that we can really benefit from standards to help ensure quality, to help ensure that data is accurate and, most importantly, I think to continue the methodology because LCA really is still an emerging science, it is not all the way there.

I just want to give you a couple of standards that exist. There is a set of ISO standards, there is a set of Canadian standards. There are others. I do not have all day to talk about this, so I will move along.

There are tools for doing LCA to try to make it more feasible for companies to do. Reduce cost and complexity. Also, very important, I want to stress that
if you are going to be relying on LCA information in a public manner, you need to make this transparent. People need to be able to look at what you did, what assumptions you made, what data you used. They should be able to replicate what you did. They might not agree with the assumptions, but if you are up front about what you did then you have accomplished quite a lot.

There are software and databases available. I just mention a couple there. The main message here is if you want to know about this, EPA has a wonderful listing of LCA resources. So, here is the website. You can go here, you can get publications, you can get other websites, you can get case studies, you can get all kinds of information from EPA, and I strongly recommend that you do that.

What this means for the consumer, I firmly believe that LCA is the right philosophical approach for making these decisions, but you have to interpret an LCA in context for it to be meaningful, and I would never advocate trying to summarize LCA results on a package. It is simply impossible to do in a meaningful way.

What can we do with it? Certifying organizations can use LCA to verify claims. We can use kind of generic LCAs to guide choices. But my final message, when we are talking about packaging, we have to
keep in mind that the choice of packages fundamentally has to be packages that work. If the package does not deliver a product or if consumers will not buy the product because the package is so ugly or something, then all we have accomplished is to waste the product along with the package and it does not matter how favorable the LCA was.

MS. McCORMICK: Thank you very much.

(Applause.)

MS. McCORMICK: Now, we will continue with Cheryl Baldwin on third party certification.

MS. BALDWIN: Well, thank you for having me. My baby to come will hopefully be a month from now, not today or tomorrow, to reassure you all, more than me probably.

So, I will be talking a bit more about certification and specifically eco label certification programs to build quite a bit from what you just heard about LCAs and relate that more specifically to the packaging itself and how the packaging fits into those types of programs.

To give you a little bit of information about Green Seal, for some of you who are not familiar with our organization, we are housed here in Washington, D.C., we are a non-profit organization with the mission that we
promote a more sustainable economy. We do that through a
couple of different initiatives which I have highlighted
just on the slide for your information.

We do develop environmental leadership
standards, which I will describe quite a bit for you
today so you understand what that means, and we also do
auditing and certification to environmental leadership
standards. We also do some assistance in terms of
procurement and other kind of greening initiatives for
governments and institutions, and we also try to help
with education so that people understand a little more
about what environmentally preferable products and
services may be.

So, first of all, what is certification? We
have kind of assumed a bit today, I think, so I will just
provide a general description of what certification is.
Certification, from our point of view, is that there is a
standard that is available and it has set criteria, and
that means then that a product or service could then be
verified to meet those criteria and the standard. And
that is an important component that not only is there a
standard, but it is verifiable so that if someone then
were to say they are certified, it is understandable
what, in fact, that means.

The term “third party certification” was
brought up. So, I will just briefly go over some of the main highlights about third party certification. It is an independent evaluation and I had mentioned before that there is a standard so there is a verification aspect involved in that. So, the third party is independent and takes the verification step to substantiate information that is being communicated. And it is consistent because there is a transparent standard, it is not a standard that is unknown to others, it is a standard that is available and widely accepted either through a consensus-based process or through developmental, like ASTM, methodology used to develop a consistent definition.

If you are going through a standard development process, it is important that that process is open and available during its development, so that it is not enough the standard is just available for people to review, to understand what a certification to that standard is, but that it has been open from the beginning so that others have had input on what that standard means, ultimately, when it is then verified against.

So, ultimately, what that comes out of is that there is credible substantiation. So, there is certification, but independent certification adds more credibility and with that transparent standard being
available, that credibility has strengthened quite a bit more. The credible substantiations I highlight at the end, I think is a key component to what the Green Guides are supporting.

I am not going to spend time on the single attribute claims because I think a lot of folks have spent time on that. So, I am actually going to look more to the multiple attribute claims because there has been a lot of discussion about that today, but I would like to spend more time on that at this point.

Multiple attribute claims have a number of different names. Type 1 is the ISO title that has been given to these types of programs. They actually take a life cycle approach to the development of the standard. So, to build on the conversation about life cycle and understanding that there are multiple inputs into an outcome if it is a package itself, from the raw material managing to the distribution of that product, ultimately its use and what happens when it is done being used. But there has a lot of things to consider when you are looking at that picture. And we also include not just the package when we are looking at a standard development, but we look at the product as well.

So, oftentimes, people look at our standards more from the product rather than from the package, but I
just would like to say here that not only are we looking at the product, but we are also looking at the package when we are looking at how the life cycle is impacted for that particular product.

So, what comes out of this is a standard and it is usually specific to a product or service. An example just on this slide is a cleaning product. So, we will have criteria, having looked at this whole life cycle for the product and package, everything about the product, what is the standard? The standard will include health -- actually, it begins with performance requirements. The product has to function the way the consumer or user is wanting it to function. So, performance is a key component of these types of standards.

Then there is health and environmental requirements. So, things from what health impacts ultimately could be a result of looking at this life cycle, is there a lot of exposure to potentially volatile components and how can we set a criteria to minimize that kind of impact?

We are looking at environmental attributes as well. So, aquatic issues, biodegradability, aquatic toxicity. And we also include packaging specific requirements because, oftentimes, they are a little
different in how the product relates and to the life
cycle and that is where you get to some of these more
single attributes and we can include the single attribute
claims that others developed into this more life cycle
based standard. So, not only do you have the advantage
of a life cycle, but you also have the advantage and
strength of other single attribute definitions and
standards that are already out there.

One other component that we have with these
types of programs is that we have some specific marketing
and messaging requirements. We follow the FTC Green
Guides for these types of messages because they are broad
in nature and, so, we have to have definition on what
that means. And I will go into that a little bit more.

This is an example. So, Green Seal is an
organization that sets standards and we do auditing and
evaluation to standards. So, this is just an example of
what our seal looks like if you do meet the criteria for
a cleaning product.

Now, we have a standard that is for
institutional cleaners and, so, on the slide you will see
not only the logo which would go on the product, but
whenever you see the logo on a product, you are going to
have to see the statement of basis of certification.
This is where we explain the scientific basis for this
broad environmental claim about the product. So, it will say specifically that it has reduced human environmental toxicity and reduced volatile organic compound contact. Or if it is a different product, different standard, it would have different language. But it explains the scientific basis for the broad claim that is being made because it is looking at the whole life cycle of that product and package.

I mentioned that our program also includes some marketing evaluation. Where we have our logo, we need to make the statement of basis for certification is there to substantiate that broad claim, but we also look at the other claims that are being made as well because we want to make sure those are in compliance because it is part of our program to ensure that all the messages that are being conveyed about a product that is certified through our program is credible. So, we do a marketing evaluation as well.

So, some examples that would be allowed on a product because they have met the standard and there is specific criteria with methodology to verify that, in fact, they have met those things is that we could allow something like an environmentally preferable claim or a specific recycled content or post consumer material content claim because we go through the whole process of
verification, and like I had said before, there is
criteria that are specific to confirm that that
information is, in fact, the case.

Now, life cycle was brought up. These points
are similar to those that others have brought up today.
But I will just reiterate them briefly because when we
are looking at standards, we are looking at the product
as a whole. Some of this is because when you are looking
at packaged product and the package component of that
product, the overall life cycle impact of that package
itself can vary widely. It could be a significant
component of the impacts of the life cycle or it could be
barely noticeable when you are doing the life cycle.

But just to mention some of the sources of
impacts just so you are aware, it usually ends up being
around resource waste, looking at distribution efficiency
like fuels, moving like heavier containers or lighter
containers around and, ultimately, waste, which was
already highlighted this morning.

So, when it comes to figuring out what claim is
important for a product, a packaged product, the priority
is going to range. It is very dependent on the
situation. And in some cases it defies common sense to
folks until you really look at it and understand what is
going on. So, that makes it harder to understand what
single attribute claim might make most sense and be most relevant and not misleading, ultimately, to a consumer.

So, as we said before it is important to keep the system in mind. This is just an example of how a leading manufacturer of consumer products has taken life cycle into consideration and that they do not ever look at the single component of a package in their consumer packaged products, and they have taken the statement that they look at the whole product. In some cases, they make those hard decisions where the package itself had a greater environmental impact when they made a development change, but, ultimately, the product itself had a much smaller footprint and total environmental impact. So, these are some of the reasons to think about the whole system or the life cycle aspect of a product and package.

So, what are the roles that a package claim can make? I kind of oversimplified this, but for the point of discussion, there are instructive types of claims where you are informing somebody that they have the ability to do something with the package now, so they can recycle it, they can compost it given the right instruction or they can refill it themselves or send it back to a facility to get it refilled. These things are important to consumers because now they know what they
Then there is also claims that are more about market differentiation which get to be a little more gray and that is some of the discussion that has been had already this morning with recycled content, source reduction. And, like I said, with life cycle, are these things the most important things? Even for that package itself and certainly that product, it is not necessarily clear if that is the priority from a life cycle perspective. That is where multiple attribute claims, like I was talking about like through our program where we have the holistic or life cycle approach may be more important or more appropriate. I am not saying in all cases, but, certainly, it helps because it adds some relevance to that type of claim.

So, we have looked at the whole life cycle. We understand the key impact areas of that product, but also we have post consumer content. That has been verified as well. So, those claims marry each other quite well, ultimately.

I just want to bring one other point of distinction here especially when you are looking at market differentiation, and that is, when you are looking at a packaged product, so where there is something inside the package versus the fact that the product itself is a
package, like coffee filters or something like that, those things have different considerations especially when looking at market differentiation types of claims where it seems more relevant when you are looking at the product being the package rather than a packaged product. So, relevance, ultimately, I think, is another very important consideration to keep in mind from that life cycle perspective, but also in terms of what are you actually talking about. So, just to summarize, and I think that the general principles for environmental claims is very nicely worded in the Green Guides, so I am just going to keep those there and just suggest that when you are looking at certification programs, especially third party certification programs, that they add this level of credible substantiation. But then when you are looking especially at Type 1 programs as defined by ISO, where they have this life cycle approach, you are adding a lot more relevance to some of those single attribute claims which sometimes can be confusing. So, with that, I just would like to thank you.

(Applause.)

MS. McCORMICK: Thank you very much, Cheryl. Now, John Delfausse who is having to cope with these claims at the supplier-vendor level as well as at the
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1 consumer level.

2 MR. DELFAUSSE: Green guidelines, okay. Good
afternoon. The last speaker, it is always great. Ten,
15 more minutes and we will be all through with this.

3 Anyway, if anybody knows me, sometimes I speak
for Aveda, sometimes for Origins, sometimes for Clinique
or Estee Lauder, a lot of times for the Sustainable
Packaging Coalition. I am very passionate about what I
do. Sometimes I just speak for myself. But one way or
the other, I am always speaking for the environment.

4 Innovation in thinking. I think this is
something maybe everybody ought to think about, maybe FTC
as you look at how you put your Guides forward. We got
the old concept of reduce, reuse, recycle. I am in the
cosmetic business -- and with cradle to cradle concepts
and zero waste concepts, we are talking more and more
about design, design for the environment, worry about
what do you put into your packaging, what are the
materials, how do you design it for reclaiming and end of
life. So, design your package properly, use it, reuse it
and then certainly recover it at end of life. We will
talk about recovery later on a little bit.

5 The Estee Lauder Companies, Inc. realized that
after a product is used, their packaging still remains.
Our environmental packaging goal is to find ways to
minimize the environmental impact of our packaging and make it available to be reused as a resource after our product has been consumed. Very much a cradle to cradle concept and it is a goal we are setting for ourselves. In the cosmetic industry, it is very challenging.

I was asked to talk today about life cycle analysis, and when we first discussed this on the phone, I said, I do not know if we really do life cycle analysis. If you think about life cycle analysis, as Susan said, it is very complex and difficult. It is also very expensive. If you do a full life cycle analysis, it can cost from 30 to $60,000. At Estee Lauder, we have thousands of different products, tens of thousands of different component parts, hundreds of different materials we use. So, how could we do that on a day-to-day basis? Yet, we still want to make sure we minimize our impact on the environment in what we do.

I thought about it a little bit. When I started with Aveda, we started using a material use kit, material guidelines and kits. And what we did was we put together hierarchies on plastics from known information about impact on the environment and we have polyethylene at the top and PVC as a you do not use it kind of thing. But there was a hierarchy that could give us some guidelines on what we did.
We later developed, working with Michael Brown, a tool kit which gave us an idea in different material categories of which materials were neutral to the environment, which ones would be positive and which ones would be negative. We are starting to use that as a guideline.

But probably the biggest tool that we have been using that really mirrors life cycle analysis and is much easier and less expensive, obviously, is the Merge tool. I put down Merge because Merge was from Environmental Defense, they decided not to support it a couple of years ago, and the Sustainable Packaging Coalition has adopted it and picked it up and are reworking it. I think it is going to come out late summer, early fall. But it is being rebranded as Compass. It is a perfect concept or name for it because it is directional in what you do, but it is also a comparative system for packaging systems. And when you think about it, it is comparative analysis. You take one package versus another and you look at it over a couple of different metrics. I will go through it real quickly.

Merge metrics had these seven categories. We never looked at pallet efficiency but certainly looked at resource consumption, energy consumption, virgin material content, non-recycled materials content, bad actors,
meaning whether there were carcinogens or toxins involved and greenhouse gases. This was really built as a system to look at these materials and processes through their whole life from the cradle to the end of disposal.

These metrics are changing as SPC looks at this and will be much stronger as they are supported by up-to-date data and benchmarks and data and metrics.

But what we learned by using metrics was that you could, as a company, pick any one of those as being more important than the other. You got ratings over the different categories or metrics and you might decide that greenhouse gas is really important to you as a company and you can take that rating and use that as driving your decisions.

The other thing that is really kind of becomes almost intuitive is making decisions because the weight of the package you use really drives so many of those metrics. If you did a comparison between a plastic bag and a paper bag, the plastic way, way wins over the paper bag just because of weight. You think about weight has to do with resource consumption, end of life disposal considerations, energy use, therefore greenhouse gases. So, all those kind of things come into play.

But you may, as a company, decide, well, we want to use renewable resources, so we do not like
plastic bags or we just do not like seeing plastic bags
all over the place, in the oceans and the rivers. So,
that could be your decision. So, those are the kinds of
things that we have been doing.

Claims substantiation is the other thing I was
asked to talk about. I did not realize it, but I guess
there are third party certifications and there is
self-certification. When we were talking on the phone,
somebody said, well, that is called voluntary
certification. I guess that is what we do in a lot of
cases. When I was thinking about it, we certainly use
SFC, SFI, BPI and compostable kind of claims. There is
the green E for energy and we certainly could not do a
lot of that substantiation ourselves. But if you look at
something like plastic materials, recycled plastics,
there really is not anybody out there substantiating
those materials. So, we really have to do it ourselves.

And how do we do it? We do it by writing
specifications for the materials we want, really going
and getting supplier certificates of compliance and
making sure they are documenting what they are doing,
what they are shipping to us, and then verifying as much
as we can.

Now, claims being made, recycled contents
sustainable forestry, recyclability, compostable,
renewable energy. I will go through those quickly. But I am trying to think about what goes into the design, what goes into the packages about the recycled content, the forestry, maybe the renewal energy. At the end of life, it is more recyclability and compostability.

This is a label that we have on one of our Origins cartons, made with 50 percent Forest Stewardship Council certified paper board, 50 percent post consumer recycled fiber, paper board and carton manufactured using only wind or hydro power. Both renewable energy resources. Please recycle where available.

Recycled content. We use a lot of recycled content especially in the Aveda Division. What I found is you have to do your own due diligence. When I ordinarily would buy a component from a supplier who molds a cap or a bottle, I would say give me a polypropylene resin or a polyethylene resin and we would go pick one, we would test it, and that was the end of it.

When I use recycled content, now I have to go back to the feedstock, I have to go back to the recycler and say, what is your feedstock, where does this stuff come from, what is your process to clean it, what is your process to assay it and make sure it is clean and safe? And then I got to make sure when it gets to my supplier,
what is the process to actually mold this and capture the material and what is your process to make sure that we are using that material?

So, in a lot of ways, we are sending specifications up through our suppliers through knowledge we have gained by actually going out to the industry and making sure what they are doing, and we really have to do that to self-certify.

Know the process, as I said. We specify, is it post consumer content, is it pre consumer or industrial scrap? And, again, verify. We always try to follow the FTC guidelines.

Typical claims, 80 percent post consumer high-density polyethylene or a minimum 95 percent post consumer high-density polyethylene. By the way we could not get the other 5 percent of something because the color carrier was virgin material. We try to be right aboveboard and tell people what we are doing.

Sustainable forestry, SFC, SFI, very important to us that we follow chain of custody, logo use. And that is one of the great things about third party certification, there are requirements for what you do, how you do it and what our suppliers do. They also certify now recycled content which is great for us.

Again, set a policy for your paper use,
specifications and make sure your suppliers are certified. We use SFC materials in our pencils. We have a policy at Estee Lauder on wood fiber.

Now, I want to talk about recovery at end of life, because I think this is a very important point. We are a global company, we do not just do business in the United States, we are all over the world. In the EU, we have a recovery standard we have to meet. That means at end of life all of our packaging has to be recovered by recycling, by composting or through energy. This is ways to positive energy.

One of the things that we always talk about when we talk about guidelines is is it recyclable, is it compostable. Well, how about we start talking about is it recoverable and how is it recoverable. And we need to think about how we talk to our consumers, how we talk to our manufacturers about recovery.

Recyclability. Again, you got the guidelines. Knowledge of recycling percent. The guidelines right now -- and Sara talked to this this morning I guess it was. We have pretty good information from year to year about how much gets recycled in corrugated, on aluminum, whatever. But the guideline says that you cannot make a claim of recyclability unless the majority of consumers have access to the recyclability of that product.
I am glad Sara said this because I thought it was true and I wanted to make sure I was not the only one saying it, but I do not think there is really a good place to go today for this kind of information as to, you know, what are the categories of materials that we are actually recycling and claiming? Every industry calls it something different. We do not know what communities have availability to that.

As a matter of fact, I thought maybe I should go into business and become a consultant and find that out so I could tell you all that. But once I told one person, you all know it.

(Laughter.)

MR. DELFAUSSE: So, it is like there is not a lot of money in it. So, I thought, well, maybe we need to get somebody like the EPA. I told Sara that. No, no, no, no. But SPC, National Recycling Coalition, somebody to put a study together. I was thinking the other day somebody could actually get together and they could go community to community on the website and see what is the population. They could go into the community local municipal recycling program and find out what do they recycle. Get a starting point someplace. But the industry needs help in understanding what can be recycled where and/or we may be talk about it in a different way.
Today, we talk about recycling is limited.
Please contact your local recycling program. Or we can
say please recycle if we know it is something like PET or
aluminum cans. But I would like to suggest -- and the
SPC is also working on a labeling concept about what do
we tell our consumers. I would like to tell you it is
high-density polyethylene plastic resin recovered through
recycling and energy because those are the ways it can be
recycled. I am talking global now, okay?. Recycle is a
number two, and if not available in your community, ask
why or why not.

(Laughter.)

MR. DELFAUSSE: So, those are the kind of
things that I would like to open up the thinking about.

Compostability, I only talk about
compostability. Again, we talk about end of life
scenarios. How you are going to recover your materials
that are compostable? There are ways of certifying.
ASTM standards, BPI can get out there and do their
measurements. But, in the end, people are talking about
biodegradable, degradable. I think we should get away
from all of those terms on degradable and biodegradable.

Compostability is the only standard to which we
are able to reclaim those materials at end of life and
have a useful nutrition go back to earth. So, that is
what I will say on that one.

Manufacturing using renewable energy. I do not think there is any current standards on this, but we certainly, through green E and everything, try to certify -- and Estee Lauder just went to 100 percent renewable energy in all their operations and in manufacturing distribution. We want to certify that that is correct, that we are really getting the wind going into the infrastructure, into the grid, whether it is solar, wind, hydro. What should we be telling you? I think we need to develop some kind of standard for what people are saying about energy because there is a lot of energy used other than just electric energy out there and people are saying we are running 100 percent on renewable energy. How about the other part of the energy? Steam generation and other things that are being done.

So, anyway, I think there is a need for standards on that and I think you had a whole other meeting on that. And that is it.

(Applause.)

MS. McCORMICK: Thank you very much. Now, we will have a few questions. Please feel free to hand up question cards. There are people going around the room with the cards for you.

I think I will just start with kind of a hard
one and throw it open to the entire panel. Should the Guides be revised to include guidance regarding life cycle or cradle to cradle claims? If so, what guidance should be included? Is anyone ready for that?

MR. DELFAUSSE: Didn't the last panel answer that? No, I am sorry.

(Laughter.)

MR. DELFAUSSE: Anne Johnson was talking about it last time. I think part of our sustainable packaging definition, it is a road map. It is things you can do to improve your sustainability.

Amy was saying this morning, Wal-Mart, the idea is that consumers want to know that we are doing better getting there. But I do not think there is a cradle to cradle, although I think I am close to one. I do not think there is a cradle to cradle package out there. And I think to encourage people to make those kinds of claims is misleading and very complex and I would say it is not the way to go.

MS. MCCORMICK: Thanks. Sue.

PROFESSOR SELKE: I would agree with that. I think life cycle analysis is a tool for making environmental decisions, it is not really itself something that could be claimed or should be claimed.

MS. BALDWIN: I will just echo I think what was
said on the last panel about these types of claims, and
that is that adding the criteria or the components that
led to that type of conclusion is already in the Guides
and that, I think, should continue to be the practice
because it is more clear to the people reading those
claims what it is.

MS. McCORMICK: Sue, this question is for you
and, of course, anyone else who would like to weigh in.
One of the things you mentioned in your presentation was
that a life cycle analysis needs to be interpreted in
context, be meaningful and that not all choices are going
to require a full blown life cycle analysis. And to turn
it around a little, are there, on the other hand, any
claims that, in your opinion, might actually require a
life cycle analysis? For example, is it really possible
to make a sustainability claim without some type of life
cycle analysis as substantiation?

PROFESSOR SELKE: I think you really answered
the question for me because it is precisely those broad
claims that should never be made unless you can back them
up and the only way you could back them up would be with
a full blown life cycle analysis. Now, I would also go
the other step and say people should not be making those
claims in the first place.

MS. McCORMICK: Are you seeing those claims or
have you seen anyone trying to come up with a label that
actually models the life cycle analysis?

PROFESSOR SELKE: I think we saw some examples
even earlier today. Yes, they are companies that are
trying to claim attributes they really should not, they
really have no business trying to claim.

MS. McCORMICK: This is probably self-evident
by now, but in your view, do consumers of goods that are
packaged for household or personal use understand the
notion of life cycle analysis? And just to string it out
a little further, do you foresee a time when they will?

PROFESSOR SELKE: No, they do not understand
it. I think most of the industry does not understand it
yet. I do not think academics understand it yet either.
Will we get there? I always like to be optimistic about
progress, but it is going to be a while.

MS. McCORMICK: Thanks. Let me give this one
from the audience. This is a question for the panel.
Given the complexity of making multi-attribute claims
when there is no certification or standard, is there a
role for a standardized label, like a nutrition label, to
convey basic environmental information about a product or
package, e.g., energy, water, GHG, waste?

MS. BALDWIN: I think the concept itself still
requires an accepted definition, which kind of leads to a
standard itself. Having been from the food industry and dealt with nutrition fact panels, there is a standard and there is a clear definition. We had this discussion a couple of weeks ago. There is a comparison to a standard, so that it ultimately becomes relevant to DV, daily value, as a percentage of a standard that is well-accepted. So, it adds relevance to people. Three percent of your DV, that is important to you. Less than 1 percent of your DV is not.

Ultimately, I think those types of labels still require a definition in standard, so there is work, I think, to make those relevant. I think that is a place that we are moving, though, ultimately.

MR. DELFAUSSE: If I could answer that real quickly. As I said, at SPC, we are working on a label concept. I think it is important to have to the industry some type of nutritional label that will be globally acceptable so you can talk about recovery standards, you can talk -- maybe it is an icon because you do not want -- one our issues is language. We have enough written information already on our packaging. I would be the last one to want to say that I want a law that says you have to have a nutritional label, but I would like to offer something to those people who would like to use it and recommend it. But I think absolutely it is something
we ought to do.

PROFESSOR SELKE: I guess I am going to be the devil's advocate. I think consumers are already overwhelmed with the amount of information on packages. From a sheer practical standpoint, we minimize environmental impact, among other ways, by minimizing the size of the packages including the labels. The more we try to put on the package, the less we can do that minimization. So, I could see this becoming self-defeating. We have to say so much, we got to make the package so big, or otherwise people cannot read it, that we have actually hurt more than we have helped.

MS. MCCORMICK: John, you brought up the global aspects of your operations. So, just turning to that issue for a moment, from your experience and in your opinion, is there anything in the Green Guides that might be impeding or hindering companies with respect to their international operations and calls for an update or a revision?

MR. DELFAUSSE: I do not really think so. I am thinking that from a global standpoint our biggest issue, again, is languages and multiple languages. But we have different requirements all around the world. The opportunity is really to globalize some of those requirements, if at all possible. I mean, it is hard
enough to get it consistent in the United States.

I would say one of the opportunities I discussed before is really the end of life scenario, to be able to free people up to talk about please recycle and let them do that based on information that we educate them with. We have SPI symbols on the bottom of our plastic packaging and we accept that, but we cannot say just please recycle. So, I think some kind of way of building icons that will enable people to understand what the material is and what the end of life opportunities are for the material would be great.

MS. MCCORMICK: In a way, John, I think you are picking up on something that Cheryl mentioned. That claim on packaging can also include an instructive element for consumers. And since the claims are a way of communicating with consumers, is there anything in the Green Guides that is impeding, and this is for anyone who would like to answer, business in their communications with consumers about environmental attributes or impacts and maybe getting in the way of the larger goals of actually having recycling work and of actually having a closed loop process? Is there anything in the current Green Guides that stands in the way?

MR. DELFAUSSE: Anybody else?

(Laughter.)
MS. BALDWIN: I would just add something that was said earlier, and that was that there is not a lot of knowledge of the FTC Green Guides and I think that would be a step in the right direction. There were suggestions that there are ways that all of us could help in that process. Certainly, we would like to assist in that fashion because that creates more commonality, ultimately, in how those types of things are communicated ultimately.

MS. McCORMICK: Cheryl, do you think that the Guide's current approach to third party certification is working?

MS. BALDWIN: I will just make the characterization first that it depends on the organization because, ultimately, the third party rests on its reputation. Our organization is a non-profit, independent organization, so we rely heavily on practicing in the most responsible manner. So, we do look at Green Guides carefully and follow those and ensure that anybody who we evaluate also follows this carefully. So, we feel that we have found them to be a useful tool in checking on marketing claims and also being clear about how a logo like ours is communicated clearly as well.

There are other programs that maybe do not take...
to heart some of that. So, it depends totally on the organization, but I think if it is a credible organization that I think they are working effectively.

MS. McCORMICK: How does Green Seal ensure that consumers seeing the Green Seal certification on the package are not confused as to the meaning of the seal when the size of the package might not lend itself to explanatory language?

MS. BALDWIN: We actually do require the explanatory language on the package. It means that if it is a really small package, it is going to be small font. But we do require that it has to be readable without it being too confusing. So that means that if the front of the package is significantly small that they at least have some reference, ultimately, to where they will see the explanation for the scientific basis for that label.

MS. McCORMICK: Do you have any data about whether consumers are confused about certification or whether they take away broader meaning from a certification than might be intended?

MS. BALDWIN: I do not have any data. If anybody --

MR. DELFAUSSE: I do not either. No.

MS. McCORMICK: This is a question from the audience for Professor Selke. Should the term be life
cycle assessment to include the impact phase according to
ISO 14040/14044 with requirements for comparison?

PROFESSOR SELKE: There is a tendency to use
life cycle analysis, life cycle assessment
interchangeably. That is certainly what I do because I
can't remember who likes which word.

MS. McCORMICK: John, you mentioned that in the
course of substantiating claims, you use third party
certification and also some self-certification. I just
wonder if you could talk a little about some of the
pitfalls to be avoided either when you are going for the
third party certification or you are attempting to do
your certification in-house from a practical perspective?

MR. DELFAUSSE: Certainly. It is interesting.
I was going to ask if I could ask a question from the
table. It has to do with third party -- you have seals
of approval and certification, all these kinds of things.
I think there is a huge potential pitfall that somebody
will go after a claim that is supposedly substantiated by
a third party and there is no science or process behind
it and it is really meaningless.

We have had discussions about the fact that
sometimes a company like Aveda holds themselves to a very
high standard and if they go to third party standard to
try to claim what they are doing actually it may be worse
for them than what they are already doing. I think you have to make sure when you go with third party that you understand what their process is, what their science is and what they are representing really and try to get an idea because it is really going to impact your consumer and your consumer's impression and industry impression on your company and product.

MS. McCORMICK: And, again, John, for you. From your experience on a day-to-day basis attempting to apply the Green Guides, is there any place where you have a recurring difficulty, for example, when you are dealing with your suppliers in the area of a new claim or a place where an additional example in the Guides might be helpful?

MR. DELFAUSSE: I think we try not to make claims if we do not have to. I think we try to do the right thing and, hopefully, that will be appreciated. But when we do make claims, I think the Guides are fairly flexible. I mean, I think there are new things that are needed. We need to have some kind of guides on how we talk about renewable energy. I think I said that before. And composting, I think we ought to relook at the way we talk about that as well. I cannot think of anything else right now.

MS. McCORMICK: This question goes to seals and
certifications. Should there be a threshold number of
companies that use a label or seal for it to be in use?
There are hundreds of labels now registered that are
related to the environment. I think it is going to
consumer confusion. I think the question is about
whether there needs to be any kind of limitation or
regulation of the seals and certification themselves.
Any comment on that?

MS. BALDWIN: Yeah, I will start. There were
two components there. First of all, on the number of
different types of programs there are, all the programs
oftentimes have different objectives. And as a result,
you will see different seals or logos as a result of
those different objectives and there are strengths to
that because an organization that is focused on forest
stewardship or chain of custody can emphasize that
particular focus and another that is focusing on
different attributes can focus that. Then you can bring
them all together with multiple attribute types of
programs as well. So, I think there are different roles
for different organizations because of the strength of
ultimately what needs to happen within those.

I think there was also kind of a question about
consumer understanding about those different types of
programs. I think that part of our responsibility is to
educate consumers to what is important, what is a credible program. Urvashi is not here, but Consumers Union has helped define what a credible program is in helping educate consumers what those types of attributes are about a credible program. More and more you see media covering these types of things.

So, what are the credible programs? They are really consistently the same ones that they talk about. So, I think some of that messaging is becoming more clear ultimately to the consumer.

MS. McCORMICK: This one I think is for John and Cheryl. Should recyclable and compostable claims be pulled out from under the umbrella of environmental marketing claims and looked at solely as instruction for consumers and how to participate in a system?

MR. DELFAUSSE: Yay. I totally agree.

(Laughter.)

MR. DELFAUSSE: I did not write that question. No, sir, I did not. I really believe, it is not about -- and I actually put this in there someplace. I look at the Green Guidelines right now, it is about the paranoia we all have about marketers and salespeople trying to make claims and maybe that is where we came from. I think the whole concept of sustainability in the environment has caught legs with everybody and I think
what we need to do is concentrate more on educating the consumer and talking about what end of life scenarios they have available to them, maybe enable them to become active in their local communities to build an infrastructure, get industry to build an infrastructure. But I think we need to look at it as educating consumers and as information and knowledge more than claims.

PROFESSOR SELKE: Can I weigh in on that?

MS. McCORMICK: Please, please do.

PROFESSOR SELKE: I see the attractiveness and the advantage of educating consumers to push for more composting operations, more opportunities for recycling. But the other side of that is that we know that consumers do, very often, interpret these claims as meaning that these things already exist.

So, I will give you an example. A couple of weeks ago I was talking to a representative from a company that wanted to take a film-based structure that was a multi-layer plastic containing very different types of resin and label it, market it as number seven recyclable. Now, there are no opportunities hardly anywhere to recycle those. I do not think that is educating consumers. I think that is deceiving consumers. It is a fine line, but there is a line.
MR. DELFAUSSE: Unless, Susan, I guess I would say that anybody who does that should not be -- whatever.

(Laughter.)

MR. DELFAUSSE: The education is this is polypropylene plastic, whatever but -- okay.

PROFESSOR SELKE: My message really is that you need to be careful.

MR. DELFAUSSE: Be very careful, um-hum.

MS. McCORMICK: I think this will probably be the last question from the audience. In regard to labeling seals and a topic touched on this morning of green washing, has the panel seen any labels that are misleading with placement or fake labels and what in the Green Guides might help stop this?

MS. BALDWIN: I will answer the first part of the question yes, certainly, and a lot of the fake labels, if you will, are kind of more along the lines of the self-certification. An organization actually that we see advertised at the local newspaper, the community newspaper that you get for free here advertises their own self-certification program where they have made up some attributes and say now they are green or whatever, they are certified, and that is quite misleading because it is unclear, it leads to the perception of there having been an independent evaluation based on clear criterion of
standard and you kind of have to go to the website and
figure out that is not the case.

So, yes, I mean, those things are out there. I
think they have a tendency to be more of the
self-certification end, which is why the third party
discussion is brought up oftentimes like here because it
adds more of that credibility factor to it.

How it could fit into the Green Guides, I am
not certain. I think, if needed, there could be some
element of third party requirement and not necessarily a
definition of what that means. I mean, some level of
definition, but certainly that some level of
self-certification to these broad level extremes could
be limited or more clearly defined like we had stated
earlier.

MR. DELFAUSSE: I was just thinking about that
kind of claim. I mean, it sounds like some of these
claims that are fictitious or whatever labels, they are
not -- and I am coming back to education versus marketing
kind of concept. It is obviously out there just as a
green kind of marketing concept that is going to show.
If somebody is required to actually educate somebody by
what they mean by that, it would be really great. I
bought some eggs the other day that said natural on the
top. I was not really sure what that meant.
(Laughter.)

MS. McCORMICK: I think, with that, that is the end of our time and we will be back at 3:25 p.m. for the round table. Thank you very much to the panelists.

(Applause.)
SESSION 5: ROUNDTABLE ON CONSUMER PROTECTION CHALLENGES
AND THE NEED FOR FTC GUIDANCE

MR. KOHM: We promised when we started the day that we would end each panel on time and that we would have plenty of time for questions and that the last panelist would have just as much time as the first and, so far, we have been able to keep our promise. So, we will begin the last panel of the day.

This panel will operate a little differently. It is an opportunity to change things up a little bit. Rather than have speakers, we have a distinguished panel that is going to answer questions for us. There is more opportunity in this panel to ask questions and the same process will apply for sending the cards forward. Hopefully, you will have plenty of good questions for our panelists.

The panel is comprised of Victor Bell from the Environmental Packaging International; Scot Case, who you heard about earlier, from TerraChoice; Joseph Cattaneo from Glass Packaging Institute; Keith Christman from American Chemistry Council; Snehal Desai from NatureWorks; David Duncan from Unilever; Jim Hanna from Starbucks; and Cassie Phillips from Weyerhaeuser.

So, I would like to begin today with the
question that we have addressed to almost all our panelists. And also this panel will operate a little differently. So, if you would like to answer the question, and hopefully you will, please just turn your tent card with your name in front of you up sideways and keep it in front and we will try and take responses in the order in which people have raised their tent cards.

So, to begin, a question that we have had for almost everybody. If you jump the gun, you go to the back of the line.

(Laughter.)

MR. KOHM: But if you had jumped the gun earlier, we would have taken away snacks, but it is a little late for that.

So, the first question is if you could suggest one revision to the Green Guides to address green packaging claims either adding new guidance, taking away guidance that is there or revising something that we have, what would that be? And you will get a chance to do a second if you want, but if we can stick to one to begin with.

Victor?

MR. BELL: There is a lot of issues that could be corrected, but one of the ones that I was concerned with, and I am not sure it really is one thing to change
the guides, it is one way to implement the guides. And that is I really think there has been a failure to enforce the Guides. And that failure to enforce the Guides has led to a huge amount of markings, inappropriate labeling, all over for the last ten years. And, therefore, we have gone so far out of the gate with recycling symbols and recyclable symbols, that it is so prevalent that even companies, very high end Fortune 100 companies who we deal with every day, come up to us and their marketing people, my competition uses this guy, why are you telling me I cannot use this label?

And we have gone so far in the other direction that we sort of let this out of the box. I think that there has to be some form of putting this genie back in the box, and maybe that is not how to change the Guides but maybe enforcing the Guides.

MR. KOHM: Thank you. Joe?

MR. CATTANEO: Basically, from our point of view, it is the updating to clarify the recycling logos and the meaning of them, the messaging on the packaging.

We conducted some research last week just preceding this FTC workshop and the basic research was really to find out what consumers felt about recycling, the message recycled content and the message recyclable. And about 77 percent of those polled felt that if it was
recyclable, it was recycled back into the same product that it was and it can be done so over and over again.

About 41 percent felt that it could go to something else, but then after that there was no answer about where does it go after it goes into something else.

Then the other comment or the question, they were basic. The question was, what do you believe recycle -- if you could cull your package of its recycled content, what percentage? And over 50 percent felt that 50 percent, you would have to have 50 percent recycled content, and 33 percent felt that you had to have about third percent recycled content in order to say that it had recycled content on the package. I have the information later to share with you about this.

But I guess the question is consumers are a little confused about recycled content and the term recyclable, what it actually means. Thank you.

MR. KOHM: Okay, and if you all could just put your tent cards down when you are done. Keith?

MR. CHRISTMAN: We talked a little bit about the sustainability claim and some of those and I think those are important to get some guidance on sustainability and green. One thing we have not talked much about -- and one thing also I want to mention is the Guides really are pretty fundamentally sound and provide
a good basis for considering claims. One thing we have not talked about is things like X free, Y free, polyethylene free. The implication there is that the alternative that is being used is somehow better for the environment. You see those kinds of claims pretty frequently, but there is no substantiation to it and I do not think anybody could substantiate them in many cases.

MR. KOHM: Okay. Snehal?

MR. DESAI: The one thing that we would suggest, and it was mentioned before, is more frequent review because this is a very fast-moving landscape. And the more frequent reviews would allow to keep up with actually the changes that we see going on right now. The point there being is that you were referencing today some standards. Well, standards are currently not only in place but being developed and to be able to modify what we are doing as raw material companies we are, but it is difficult when you have a static system. So, more frequent reviews would be our suggestion.

MR. KOHM: Just to follow up, how frequent do you think?

MR. DESAI: Five years is probably reasonable. I do not think that getting any faster than that, given the ASTM and ISO time lines for getting consensus. I am not sure that doing it faster than that would make sense,
but it is a start over ten years.

MR. KOHM: Thank you. Scot?

MR. CASE: We just released the six sins of green washing, and having talked with a bunch of consumers, one of the big items that people are looking for is actual proof of claims. So that as a consumer, I can call the toll-free number on the package or I can go to the website on the package and find some actual proof or substantiation of the environmental claims that are being made. That proof could come in the form of an eco logo or a Green Seal certification, some independent audit results or even if the company wants to self-evaluate as long as they provide some sort of documentation for this is how we audited ourselves. So that this information will become available to the consumer.

So, we need to think beyond just the label and look at websites and toll-free numbers as a way of providing the consumers with the proof to substantiate the claims.

MR. KOHM: Well, let me follow up for a second. The Guides are guidance on how marketers need to follow Section 5 of the FTC Act. So, we are not making environmental policy, we are giving guidance on a particular law. That law does not require a marketer to
provide the substantiation to consumers, only to have it. Given that fact, how would you resolve that problem?

    MR. CASE: I think for me the issue is with consumers being unable to gain access to that proof, they are less likely to believe the information. So, if the intent of the law is to actually facilitate marketplace environmentalism, allowing the power of consumers to actually drive environmental innovation. Consumers need information to verify the accuracy of the claims being made.

    MR. KOHM: Is there any way to verify that accuracy outside of requiring companies to put substantiation on their websites?

    MR. CASE: Independent third party certification is an option. There could be other sorts of audit and certification programs, which exist worldwide that does it, and as a third option is posting the information on their websites.

    MR. KOHM: Remind me, we are going to come back to consumer education in the end and that might be a good topic for consumer ed. David?

    MR. DUNCAN: My points are going to be very much -- I was really shocked about the lack or the claimed lack of awareness about the guidelines. I think we need to think very much about raising awareness. I
support the enforcement point and about how you really
make this stick and make sure people follow it.

But, finally, I think the other way I think the
most attention is needed is to get away from the general
environmental claims and make them more specific and
maybe have some points about things, you cannot use these
claims rather than -- but make the general ones much more
specific.

MR. KOHM: Thank you. Let's talk for a second
about general environmental claims. That has come up
quite a few times today. Can they be substantiated?
Should marketers be making general environmental claims?
Are there situations in which it is appropriate to do so?

And then I want to follow up with a question
about making specific claims that might be interpreted
more broadly.

But, first, does anyone have further opinions
about the making general claims generally and whether
marketers should be doing that at all? Victor?

MR. BELL: Presently, your Guides have a
section for general attributes, like environmentally
friendly, this is environmentally preferable. And you
have general interpretive guides in the claims. I think
people do not understand that sustainable, cradle to
cradle or any of those things are the same thing as those
general claims that are in the Guides already. I think it has not specified and brought that those things are actually the same exact, putting the picture of the earth on the cover and all that, which you do address already in the Guides. But I think you need to broaden and give more examples of ways that sustainable, cradle to cradle are actually words that would also be in that, that have to be substantiated.

MR. KOHM: Let me ask both you and other panelists, what are the new general environmental claims that were not around the last time we revised the Guides that are being made?

MR. CHRISTMAN: I think you could add the green and sustainable to those, and I think not only be able to substantiate it, but also qualifying it appropriately. That is what the guidance suggests for those broad claims, that they really need to be qualified to what attributes you are particularly pulling out. Otherwise, if you make a general claim, you should have life cycle assessment to show that that general claim is verifiable.

MR. KOHM: Does anybody else have a comment? Jim?

MR. HANNA: I think as far as general claims go, one of the trend that we are seeing at Starbucks is that the common metric of carbon is going to be the
metric that we are going to be measured by eventually and
translating recyclability and translating compostability
and translating all these other factors into carbon, I
think will help us have a common language in the future
and it is the direction we are going anyway.

That was a comment I was going to make on a
previous question was I would like to see that as a
factor within the Guide as addressing carbon. I know we
talked about that the last session really, but carbon
will help you get ahead of the game and not have to be
reactionary like I think we are with the current
standards where we are reacting to certain words. This
will really help us get ahead of that game and create
some standards and some guidelines out there around
carbon and around the footprinting of carbon and around
carbon claims.

MR. KOHM: Well, we did do a whole workshop on
carbon offsets that, as law professors are fond of
saying, this whole process is a bit of a seamless web.
So, let's continue on the strand for a little further.
What kind of guidance on carbon would you suggest that we
give?

MR. HANNA: It is difficult right now in the
U.S. I mean, it is the wild west in the United States
right now as far as carbon goes. As far as defining
boundaries around words, I think that the concept of
carbon neutrality and zero carbon are already living and
dying in the U.S. I think some of those concepts have
already run their course in the U.S. because of the
cynicism associated with them due to the lack of
regulation and due to the lack of any guidelines around
them.

So, whatever the next term is going to be and
whatever the next concept is going to be is where FTC
should really focus and help develop some concepts and
guides as opposed to looking at neutrality as one of
those factors.

Honestly, I mean, you know we as marketers and
we as consumer companies, we are the ones creating these
words and defining them. For FTC to continue to really
try to put boundaries and guidelines around words is
really a reactionary way of doing things. I would rather
you put some stakes in the ground and develop some
general concepts that we can look at and deal with
because Starbucks, we are great at inventing brand new
words and if you put some guidelines around frappuccino,
venti, all those fun things.

But if you put these guidelines around existing
words, we are just going to create a new set of words and
a new lexicon out there you have to react to again in
five or ten years.

MR. KOHM: That is what I was wondering whether there was venti carbon scrap from the atmosphere.

MR. HANNA: Great concept.

(Laughter.)

MR. KOHM: This is an important concept for those of you who are not familiar with FTC law and important for those who are commenting on our guidelines is that we always start with a claim and then what we look at, we do not define what claims mean. Sometimes industry is very happy with that and sometimes they are not very happy with it. But what we look to is the net impression to a reasonable consumer. That can change over time and that is not necessarily what the ASTM standard is or any other particular definition.

So, we are looking at what you actually communicate and that is what we will be looking at over time, and that is why some of the research that people have done is particularly useful to us.

I heard this morning Michelle Harvey talking about trade-offs and I know this came from Scot's six sins of green washing. Does anyone want to comment on what if I say that my package has 25 percent or any percentage post consumer recycled material, but I used a lot of chemicals or have done something environmentally
unfriendly in creating the package. Is that something that you think the Guides ought to address? And if so, how?

MR. BELL: A standalone claim like recyclability or recycled content, even though you might put 25 percent recycled content in, but raise the weight by 50 percent and, therefore, actually have more virgin material than you had before. The problem is the recycled content claim is one of the better recognized claims out there and it actually does a factual amount. So, I actually can understand why you do it.

People are going to have to be educated and understand that that is the only thing we are looking at, we are looking at size, we are looking at issues. I would think that your recycled content claim is one of the better and most consistent claims you have out there.

MR. KOHM: What I am really trying to get at, and then I will call on Scot whether he wants to or not, is this idea of hidden trade-offs. If I make a claim that is factually accurate, but there is a hidden trade-off, is that something that the Guides ought to say is permissible? Is that something that the Guides should be silent on? Is it something the Guides should say that marketers should not do? Scot? Then, David, we will go to you.
MR. CASE: Very good. So, obviously, I think the sin of the hidden trade-off is a pretty significant factor, but it is not quite as simple as saying are they only making a single attribute claim? It would be nice if it were that easy because then there would be perfect clarity for all of us. I think when you are faced with a single attribute claim, such as recycled consent, you really have to look at the context in which that piece of information is being conveyed to the consumer.

What we found and what we considered sinful were people that were making a single attribute claim like 10 percent recycled content and presenting the product as if it was God's gift to the green world, that this was the greenest product that would ever be possible. And, so, in that context, it is almost laughable.

And then the other thing that we are finding is that a lot of folks are kind of doing kind of a bait and switch type thing, taking advantage of consumer misinformation. So, we have actually encountered on trade shows, I love going to trade shows, where you will ask a sales rep, hey, I am looking for an environmentally preferable product and they will say, oh, well, what does that mean? You give a couple of examples, well, maybe recycled content and processed chlorine-free. Oh, well,
ours is recyclable as if that is somehow wonderful.

So, I think the sin of the hidden trade-off is very real, but it would be very challenging to quantify in the Guides other than raising general awareness that any environmental claim needs to be examined in a broader context. And I think just making people aware of it is a step in the right direction.

MR. KOHM: David.

MR. DUNCAN: I think there will be two kinds of trade-offs. There will be those which like you mentioned the example where the trade-off will be within packaging and you might have traded one thing and traded off something else. But I think the tensions are even greater on other issues that the world is currently facing. So, I think this point Jim made about carbon, now, you could increase your recycling and actually reduce your carbon or you could increase it. And I think, again, you might increase the amount of water you use, again, people are increasing concern across the globe about water.

So, I think the other tensions will actually in the future become more of an issue than just a specific one, the trade-offs within packaging material.

MR. BELL: Can I add one thing to that?

MR. KOHM: In one second you can, but I believe
I missed Snehal. Your tent was up before.

MR. DESAI: Yeah, and it is back actually on this carbon question and to Jim's point, which is, if you look ahead, and I think that is probably the thing that we have seen the most which is, to some extent, the Guides are retrospective and status quo is what it feels like. But looking ahead, even if we do not have a clear line of sight on carbon, what we can imagine is that life cycle will become some part of the equation in how one goes about calculating that.

So, if the Green Guides are silent on life cycle today, they will then be forced to try to address not only life cycle, but carbon as well at the same time. So, from a forward-looking perspective, we would encourage some inclusion on the appropriate uses or some discussion around life cycle because it is going to be required when some form of legislation gets passed here as it is already being done around the world so that we can actually go to the next level. We cannot go back and fix everything and then it will be too late.

MR. KOHM: This is the beauty for us of these kinds of workshops because, normally, we get comments, quite good comments like you just made and then we cannot ask the difficult follow-up. But, today, we can, which is what advice do you think we should give on carbon and
life cycle analysis? What is the life cycle analysis
advice that should be in the Guides? You said
appropriate guidance, what is that guidance?

MR. DESAI: I am assuming you are asking me
since I opened my mouth on this.

(Laughter.)

MR. DESAI: Well, I think the key starts with,
and you saw it on a couple of slides about some of the
ISO standards that exist, some of the standard
methodologies that would be recognized as the types of
processes that people should use when they do a life
cycle analysis. Because there are a lot of self-analysis
going on that, in and of itself, may feel like you are
making progress, but there are no guides around it, and
at least from a perspective of a material supplier, as we
are, we are watching a number of companies struggle down
this path. And giving some guidance on what are some of
the methodologies that would be considered within the
FTC's view as being reasonable and credible, that is
fine.

That is no different really than the advice
that Steve Mojo gave around compostability and the fact
that you do have standards. Well, you do have
methodologies, as well, on LCA. That would be a start.
It is an address to it. It does not say, now do it this
way. It just says, these are the ways that you would do it and how you would go down that path. That is an idea.

MR. KOHM: And anybody who would like to comment on that, that would be very welcome. Victor?

MR. BELL: I am going to go back to your question on single attributes and recycled content. What your Guides presently do now is if you make a claim environmental packaging and then you put underneath it because it is 25 percent recycled content, that is acceptable in the guide because you have qualified why you consider it environmental packaging. You may want to now decouple in the Guides right now, that you cannot claim something just because it meets one criteria, that it be environment or like this is environmental sustainable packaging, packaging made with recyclable plastic. Yeah, right, okay. PET.

You are linking those guides to it, so I think you have to de-link. Before you said you can make a claim if you substantiate why it is and people would substantiate one element to that. That would legally fit under your present guides. So, that de-linking may be a way of handling that.

MR. KOHM: Cassie.

MS. PHILLIPS: I want to segue from the carbon question back to what I wanted to say in response to the
first question which is what change would I make in the standards for the Guides. The carbon issue is one where, obviously, things are evolving fast. But I think it is an area in which people are more and more likely to be referencing third party labels. There already are a lot and there will be even more people out there who will say, we will certify you to be carbon neutral or whatever.

And I think the one area that really needs work on the Guides is to add a section about the role of third party labels. I am embarrassed to think it is needed, but it ought to just say that third party labels, certifications are subject to the Green Guides and that they are have to be substantiated or be able to be substantiated.

Then someone had said, in the written comments, pulling in the rules about endorsements and how endorsements are made and things about disclosures about financial interests and things like that. It should not be necessary because it is already the law, but this area is seeing so much growth and I do not think people mean to do things wrong, but there is just so many people in it that are not experienced in retail sales in this area. And it includes environmental groups because there are environmental groups that are making endorsements and
linking their brands, their labels to private labels
that I think are not done in ways that comply with
guidelines.

So, there are just a few things that could be
added to help to give people almost more of a checklist
of things you have to think about if you are going to go
into this line of work.

MR. KOHM: If you or anybody else wants to
suggest what that checklist is, we would appreciate that.

I am going to give Scot a chance and then I
want to use Kathy's comment to segue into consumer
education. Scot?

MR. CASE: So, I guess we are kind of still, in
many ways, talking about the sin of the hidden trade-off
and life cycle assessments and what consumers need to
know. What I would be a big fan of is the FTC somehow
requiring that all environmental claims be placed in some
sort of life cycle assessment like framework. So, there
would be a variety of different types of claims that we
are seeing on products. Some of them refer to raw
materials. Some of them refer to transportation issues.
Some of them refer to how a product is manufactured, how
it is used or how it can be disposed of.

So, I think even just requiring that people
explain where in the framework this particular claim fits
is useful information to the consumer because if they understand that this is really only addressing the raw material aspect, they will then recognize it is leaving out all of these other aspects. So, that seems to me a fairly straightforward, easy way of explaining it to the consumer and, again, you can do that in a standardized format on various company websites.

MR. KOHM: Okay. I would like to turn for a second to advice to consumers, but before I do that, just because this makes this both more informative and considerably more interesting, does anyone disagree strongly with any of their fellow panelists? And if you want to pick somebody who is farther down the line, feel free.

One of the things that we are looking for today and, obviously, we focused quite a bit on, and we will focus some more, is what specific guidance should the Guides give. But there is information that we can obtain through processes like this that is equally important, that does not go directly to the Guides. The Guides largely are a body of work that helps helps marketers and, as Chairman Kovacic said this morning, the Guides are not for those people who are out there trying to deceive consumers. That is what law enforcement needs to do. We do not think we are going to magically issue
Guides and that somebody who is intent on committing
fraud is going to say, oh, no, there is a guide out
there, I am not going the make the statement.

But the Guides, what they do not do is inform
consumers. I know we have talked quite a bit, there are
some tricky areas here that are difficult for marketers,
and a more informed consumer is not only good for the
consumer and good for the FTC, but could help clarify
what claims that marketers can make.

What education can we help do for consumers
that would make it easier for you all, and I particularly
address this question to David, Jim and Cassie, but to
all of you, what consumer ed can we do that would help
make it easier for you to compete in the marketplace with
green claims?

If I have to, I will call on you individually.

Jim, go ahead

MR. HANNA: I am not sure if that is your role,
educating consumers. So, I would almost question that
through the existing statutory authority that you have,
which I would argue should be modified, but through the
existing boundaries that you are operating on, I am not
sure if your role is educating consumers, that vacuum has
been filled by third party verifiers and that vacuum has
filled by marketers already.
So, for today, looking at today and the next couple of years, perhaps FTC’s role is not necessarily in that concept and your role should really be to verify the verifiers or your role should be to establish -- I know we are coming back to the word “standard” over and over and over again. But perhaps that should be your role is to establish that standard for those third parties and establish that standard for marketers and not necessarily be the education arm yourself.

MR. KOHM: Well, there are different kinds of education. We see ourselves very much as educators. We have a whole division that does nothing but. But the kind of education I am talking about is what are the things that we tell consumers to look out for, what kind of substantiation do we say that they might do on their own to protect themselves? What do we inform them about what claims generally mean or what kinds of claims to look out for? David or Cassie?

MS. PHILLIPS: Just one comment, which is it needs to be relative, of course, to the potential harm to consumers. And as much as I love packaging and think it is an incredibly important thing, a consumer who is disappointed at the recycled content of their cereal boxes is not really devastated for life, one hopes.

(Laughter.)
MS. PHILLIPS: Where if they buy a car expecting to get a certain mile per gallon gas mileage and they do not get that, then there is an ongoing and big pocketbook hit.

So, I guess my one comment would be that in your efforts, you need to put set priorities about what is most important to consumers.

MR. KOHM: That is absolutely true. Some of these questions -- we are talking about packaging today and there is some issues that are unique to packaging, but there are quite a few issues that bleed over into the products as well. And recycled content, for example, or biodegradability, those could be packaging claims or they could be product claims. And we would not necessarily distinguish between the two. Anybody else like to comment? David?

MR. DUNCAN: I think the most important role is actually helping to clarify and simplify the messages because it was mentioned by one of the other speakers about there is almost not enough room on the pack now for all things that everybody is looking to put on there. So, I think we are confusing people just by having far too much information. One of the big ways to improve the packaging is to reduce the size. But then you have even less space to put it on and you are trying to do
multi-lingual labels and then you have nutrition labels and column labels. So, the more we can simplify and clarify, the better.

The other point I wanted to make was about several people have mentioned consumer research and interviews with consumers. I think the other thing is I think that it is far more difficult than just asking people what they think about this topic because what people do and what they say they do are actually two very different things. We are getting more and more evidence in our business about the fact of how difficult it is actually to see what -- to actually get a handle on what people really do think and what they actually do.

But I would be interested to see, a quick question to the floor, because let's make it a bit more interactive, how many people here compost their food waste at home?

How many people recycle all their paper and board?

And how many people recycle their plastic?

That is pretty good. So, we are actually talking to the informed. I think the big challenge for all of us is to communicate to those who -- the vast majority of people who would not have put their hands up to that. So, I think there is a whole education program...
to be done. But I am with Jim, I think that is more our role and the collection of industries to get the communication right on this space.

I would agree with Cassie. People do not actually get really upset if there was not quite the recycle content that it said on the pack whereas they might get really upset at some of the aspects of the product or other types of product. Because, again, I think the other thing you need to remember about the consumer and what we put on the pack, at what point do you want them to look at that? Because at the point of sale, when there are consumers in Wal-Mart choosing the product, they might spend ten seconds to make that choice. Just remember that. Ten seconds is the average time the consumer of our product will take to make that choice. So, there is no way they can take in all of that information which is on front side or back of pack, often very small.

Now, it is important that they have it so they know how to reuse it or what to do with it at the end of its life. So, again, we need to think about at what point in the product use cycle do the people need the information and then how do you best get it to them at that point in time.

MR. KOHM: If David could take over as the
moderator, I could spend a few seconds as a panelist. To answer at least partially Cassie's point, which is undoubtedly right, that nobody dies because there is a percentage less of recycled content in the package that they buy their toothpaste in, that does not make it unimportant. Why it is important to us, particularly, is because we are big believers in making environmental claims, in advertising in general. And if your competitor can fudge a little bit, then you are not in as good a position to make an honest claim. Then there is kind of a race to the bottom.

What we want to make sure is that the system is honest for those people who want to be honest. So, small claims and small relatively unimportant claims at the time can become much more important.

And, David, if you want to ask me any questions, I would be fine. Snehal, you are next.

(Laughter.)

MR. DESAI: Just on the subject that David was mentioning, I guess this is, again, kind of reiterating something I said before. But we have to look at this almost in a future view, which is to expect that a package is going to carry all of this information is really not realistic. And I think as some of my colleagues say, it is the NASCAR effect on what we see
with a lot of products anyway. Labels and labels and stickers.

I think we have to think about where technology is going to allow the consumer to learn more because the fact of the matter is is that there is more penetration of the internet whether it is on your phone or at your home than recycling in this country. So, from the standpoint that we expect that we are going to communicate all of this complex information and say, oh, by the way, and put it on your pack, is not realistic.

So, the question then becomes where is the Green Guides’ role in trying to help with the process of being able to make that movement a reality? Because if someone felt, as they read the Guides right now, that everything they have to communicate has to be on the pack, which, by the way, is the way some people look at this, it is either all there or you can put it anywhere else you want, but it has to be showing up on the pack, is not taking advantage of where everything is going.

So, again, this is about more frequent review, but understanding that the world is shifting. That would be a question, again, about -- now you are going to probably ask how do we do that.

(Laughter.)

MR. DESAI: So how would you think we should do
MR. KOHM: I am a one-trick pony, but it is a good trick.

MR. KOHM: I would like to ask the question.

MR. DESAI: So let me answer the question.

(Laughter.)

MR. DESAI: So, the point there is is that to be able to state with purpose and with clarity that it is acceptable to provide further levels of information on a website through an instant text, however you think -- I think these are things that have to be seen as very clearly acceptable. Because to expect that we are going to be able to take one word and embody it with all this meaning when we sit here in this room and realize that we cannot agree amongst ourselves that all these one word have meaning, we have to allow that to be in the Guides. It says these are acceptable methodologies by which you can communicate the attributes of your product, because it could go very simple, to the point I think was mentioned by Scot, putting a website on there is not out of the realm of possibility today, at least I do not think so.

MR. KOHM: Scot, do you want to comment?

MR. CASE: I want to just kind of build on that naturally. What we are seeing in the marketplace now is
when you look at green consumers, various studies, they all kind of say there is about 20 percent of people that are kind of quasi green. There is a very small slice, 3 to 5 percent of hard core greens. I throw myself in that eco freak category. I will stand there in the aisle literally at the store, call up the toll-free number and ask questions, and they cannot answer them. I will go online with my phone and they cannot answer them.

There are services now that are supposed to kind of send me a list of products. I want to go to the grocery store, I want to buy laundry detergent, I want to buy toothpaste, I want to buy a couple of cleaning products, and it will send a list, here are the products you should look for.

The challenge is with everyone using different claims and different definitions of what this means and even different definitions of what the term “recycled” means, it is almost impossible to quantify that information in a way that allows me to access it via a database of some sort. So, providing some additional consistency and clear definitions of what these things mean allow it to be put into a database so that my wife will go shopping with me again.

MR. KOHM: There may be other barriers.

(Laughter.)
MR. CASE: I think she would agree.

MR. KOHM: Victor?

MR. BELL: One thing we do have to remember here, and that is, you do not have to use any of these claims in the first place. Therefore, if you do not have territory to put a claim on and you do not want to put a claim on, you do not have to put a claim on. But if you do put a claim on, it better mean what you think it is going to mean.

People are complaining about how much space we need and all that. Well, a single attribute claim, you do not have to say it is environmentally friendly because it is recycled content. You can just say the recycled content. It is clear. I do not think we have to. I think, yes, if we want to give a website, if you want to make a claim and you want to give a website, you can do that. I think we have that ability. But I really feel that people yelling about how much space we need for these claims is sort of irrelevant because they do not have to make any claims in the first place.

The other area you were talking about, which I want to talk about, was education. I think the people who really need the education is some of your packaging suppliers and packaging converters and all that.

Amy, I am sorry, but I was in your trade show
in your expo and I went through the store and I found
half of the -- not half, 20 percent of your people giving
samples out were giving misleading, under the guidelines,
inappropriate guidance. These are the people selling
products to -- name brand products, oh, this is really
good, this is environmentally sensible packaging. This
package is made with recyclable material, it is plastic,
no one is going to recycle it. It is reusable,
renewable. They used every one of your words, Amy, and
it goes against it.

But these people need to be educated to these
Guides out there. I went to each one of them and asked
them, well, how did you justify this? They never heard
of the Guides. They never heard of the Green Guides.
And they are selling the packaging to the companies.

MR. KOHM: Well, what would you suggest the
FTC's role be in that process?

MR. BELL: Oh, I would think that even a letter
to them from the FTC would be sufficient.

(Laughter.)

MR. BELL: Just asking can you please qualify
how you call this recyclable? Enforcement does not have
to be bringing them to court. Enforcement can be
qualified letters, questions, asking them to substantiate
their claims.
MR. KOHM: Thank you. I will not call on Snehal for this unless I have to.

(Laughter.)

MR. KOHM: This idea of putting things on a website runs counter to some of the ways that we look at things. And in this particular way, we do not know that consumers who shop for any particular good or service are then going to go to the website to get that information or that they will have the information at the point of decision. Does anybody have research or anecdotally have any idea where other than the package might somebody put this information? Because I understand that having a larger label is counter to the whole idea of green packaging. That consumers would have the information at the point of decision. I think for right now we will try and keep it on the panel. Cassie?

MS. PHILLIPS: Well, RFID chips are -- the next evolution is smart labels where you will wave your little wand in front of them and they will talk to you. So, I think that technology is not very far at all away.

MR. CASE: A lot of the consumer surveys that have been done of the hard core eco geeks will say that they frequently are making their purchasing decisions prior to entering the store. So, they are actually doing research on their own, publications, websites, newspaper
articles, et cetera, and deciding before they enter the store what they are going to buy.

MR. KOHM: Well, that may mean that there are some products for which a website is appropriate. I am just thinking that I recently bought a television, and when I went into the store, there is quite a bit of information on a card on the shelf that is underneath the television. So, that may be a fairly large card, but it is one for all the TVs in the store.

MR. CASE: You didn’t read Consumer Reports?

MR. KOHM: I did quite a bit of research online beforehand as well, but that is because I am cheap.

(Laughter.)

MR. KOHM: And I was trying to negotiate with my spouse about how large a TV I could get.

(Laughter.)

MR. KOHM: We will not discuss how that came out.

So, does anybody think there are opportunities like that in a store where some thing is not necessarily on the package, but could the vendor assure that that kind of information was being conveyed in the store?

MR. HANNA: I think what we have seen is a categorization. Whether Home Depot or Wal-Mart, a lot of the retailers, they are starting to use their own
categorization of labels and say, as you walk in the
store, look for these particular labels and then you do
not have to ask that question and you do not have to --
like, Scot, I love you, but we do not have to call the
800 number as we are standing in front of the shelf
waiting for that information.

    But David is right. Most decisions are made in
ten seconds at the point of purchase and I think the way
a lot of retailers have chosen to fill this vacuum is to
provide this categorization of these are our green
products, look for these labels on the shelves and
whatever assurance it is, whether it is empty or whether
it is legitimate, that is the way that a lot of consumers
are making their decisions, whether it is in retailers or
Home Depot stores or even in Starbucks.

    MR. KOHM: What does everybody see as the worst
claims that are out there right now? And you could speak
to particular products or companies, but this also can be
generic.

    MR. BELL: I think recyclability is the worst
claim out there. One, it is very poorly monitored.
People do not understand that it is not just a material
claim, it is a material -- people just think it is PET.
Therefore, since PET is one and a lot of people recycle
soda bottles, they can recycle their clam shells. The
recyclability is related to the form, whether it is a clam shell, whether it is a blister pack, whether it is a folding carton, it is also related to what kind of bling is on it, like in your folding cartons, if it has a hot stamp or it has coatings and all this, and recyclability is related to all these different factors.

So, it is extremely difficult to understand how that claim works. Plus the recycling symbol is on everything. The Mobius loop. It is on everything. Yes, during Earth Day, the Red Sox has it on their sleeve. They had a green Mobius loop on their sleeves with two red socks in the center of it.

MR. KOHM: Well, that is offensive regardless of what they have on their sleeves.

(Laughter.)

MR. BELL: But I do think there needs to be -- I know right now we have, if it is not a substantial majority of the communities, I think we do need this middle ground and I really feel there needs to be this, okay, we have ones that are 60 percent and over, can we have like a 20 to 60 percent group that is limited recyclable, that these guys are trying at least To work with your community to recycle, some kind of limited end there? I think there needs to be this limited bit because it is so hard.
We go and we send 100 packages to 40 different recycling communities for our clients to determine which one is -- it is folding cartons, one has a little extra sign on it or one is a colored toothpaste tube or one has a hot stamp, one has a metalization, just to see if we can come up with that magic 60 percent so they can stamp on it recyclable. If they could have this middle ground, it would alleviate some of that.

MR. KOHM: Jim?

MR. HANNA: I know this is outside of your purview, but carbon neutral is one of the most offensive claims for me personally and you are really seeing a lot of companies just writing big checks to call themselves carbon neutral and that is defeating the purpose. That is feeding the cynicism in the United States and elsewhere. So, not necessary a solution, but just something I find offensive.

MR. KOHM: Whom do they write the checks to? For what purchase?

MR. HANNA: There are so many vendors out there now selling carbon credits and offsets, pick one. And some of them are very legitimate and valid. Some of them are not.

MR. KOHM: I was not talking about the individual vendors, I was wondering if they were offsets...
or some other --

   MR. HANNA: Sure, it is through offsets.

   MR. KOHM: Cassie.

   MS. PHILLIPS: I might be able to sell you some offsets.

   (Laughter.)

   MS. PHILLIPS: No, but it is an interesting area. I am going to get myself in trouble with the last panel, but in our industry, it is a version of the does not contain X claim is things being free of old growth fiber or fiber from endangered forests or there is a label of ancient forest friendly. None of those claims are capable of substantiation except in the rarest of circumstances. And it is like any X free claim. Those are really annoying, but difficult to challenge.

   MR. KOHM: Can you elaborate a little bit, why wouldn't something that was made from pine that was planted recently qualify for such a claim?

   MS. PHILLIPS: That probably would, but that would assume products are made from the wood from a single forest. Forests are like -- wood products-- well it is a complicated subject. But all of you are probably familiar with grain elevators out in the prairie states. You know that a grain elevator collects grain or wheat or whatever, corn, from all the farmers in the area and then
combines it and then sells it. So, you would know inherently that a cereal company they could not say that they could trace their wheat back to an individual farmer because it went through the grain elevator.

In the wood products business, saw mills and paper mills are just like grain elevators. Everything is combined and mixed around and traded back and forth. So, the idea that you can say anything particular about any particular kind of fiber, unless you are in a region in which that absolutely does not exist, is a claim that just is incredibly hard to substantiate.

MR. KOHM: What do you think the Guides should say about that?

MS. PHILLIPS: I think the Guides had better tackle the subject of traceability in commodities. More and more common you heard people refer to the chain of custody and Kathy Abusow talked about it the way the SFI standard treats it, which is pretty arm's length and to be pretty careful the claims are not interpreted as meaning that you can actually trace the product back to a specific forest.

But there is a lot of misunderstanding, a very high level of misunderstanding out there that that is what that concept means. So, that general subject may need a section of its own.
MR. KOHM: Thank you. Keith?

MR. CHRISTMAN: I think the broad-based environmentally friendly, sustainable, green, those kinds of claims, in spite of the fact that many of them are outlined in the Green Guides now, they are still out there and still being used pretty predominantly and not qualified very much.

MR. KOHM: Okay, next question. What do you see as the most significant trends in green packaging and what challenges do those trends pose for marketers who want to make green claims?

I can call on individuals. That is the power of the pulpit. I can also -- it appears to be more authoritative and stand up on this. I didn't realize I had that.

(Laughter.)

MR. KOHM: For those of us who are lawyers who are used to going before judges, it seems the robes and the height help quite a bit.

Victor, why don’t you start us off. You can warn people in the next green workshop not to be on my panel.

(Laughter.)

MR. BELL: Do you want to repeat the question?

MR. KOHM: Sure. What do you see as the
significant trends that are coming up in green packaging
and what challenges do they pose?

MR. BELL: Well, the big challenges are coming
with some of the major new materials, the PLAs, the other
biodegradable materials. We also see the challenges of
contradiction between them and other laws. The SPI
coding, we are having huge issues with that. We just had
the State of Kentucky just modify their SPI law last week
which affects how -- and we really think there should be
a coordinated effort in those areas. So, we are seeing a
major -- people putting markings on, inconsistency
throughout the state. It is hard enough to have
inconsistencies throughout the world.

We have major international markets, as John in
the last panel said. We try to come up with labeling and
material marking that they can do globally which is
extremely difficult.

We now have the UK coming out with its own
recyclability guidance documents and have worked
cooperatively with the grocery stores and Tesco and to
all use the same exact recyclability symbol for not
recyclable, mediumly recyclable and very recyclable. So,
they have been doing that. But the trend is all these
complex materials. The packaging industry is so
difficult.
The other thing that is really a problem is that we are getting such new materials that the recycling stream is being polluted in a sense by not what can be accepted, but what can go into that stream without contaminating the stream and how much does it take to contaminate that stream. So, where we had a very clean PET water bottle, bottle program, now you have a lot of the water bottles in dark blue and in red and then, therefore, contaminating and it is okay if there is less than 1 percent, but then if more and more come in, you are contaminating.

We have paper boards, it is okay if we have 1 or 2 percent that have these coatings, but then more and more have these coatings. So, it is not just the fact that it can be taken, does this actually contaminate the stream or lower the value of the recycling.

One of the things we have never talked about is what is your packaging doing to the value of the recycling stream, which is, yeah, okay, I have done a study, yeah, I can sneak this really high laminated thing into my recycling bin because there is only one of them. But I am the only one.

So, one of the things is is as everyone tries to “sneak their stuff in,” pollution is pollution and we are now hurting a lot of our streams.
MR. KOHM: Thank you. Anybody else?

Let's take a couple of questions from the audience. We may be getting question fatigue here at the end of the day, but there is no reason we have to go all the way until 5:00.

What is the best way to communicate that the FTC Green Guides apply business to business and not just business to consumers? Anyone?

MR. CASE: I will jump in here. I think in the packaging realm, the business to business communication is the most critically important. I do not know any consumers, and I am sorry to say this in this crowd, but I do not know any consumers that base their entire purchasing decision on the packaging, what it is made of and whether it is recyclable or not. Most consumers are actually more interested in the environmental preferability of the product inside. So, I think in the packaging sphere that it is really important to emphasize kind of the business to business communication. But that is going to be less true with consumers on the kind of broader product itself.

MR. BELL: Here is a great example. Here is a company that is sending out to all its people a whole bunch of sort of glossy colorers and they are saying, well, these first ten are recyclable and the other ones
are not. And, again, against your trade, any of those
would not be accepted under that.

So, this is business to business. So,
therefore, X company would say, I can use this coating
because I have a certification from this supplier that it
is recyclable. So, business to business is unbelievably
important.

MR. KOHM: Snehal.

MR. DESAI: I think something that we saw over
the course of the last three months which would be
helpful on an ongoing basis, at least to some degree, is
that we had representatives from the FTC participate in
industry events. And I think the importance of that was
is that at least in two different situations, it
communicated the message that these Guides exist and that
they are applicable to their situation. And that is
something that the FTC can do by engaging as opposed to
assuming, going to my point, it is on a website, download
it, educate yourself. In and of itself that is not going
to cut it.

So, a continued dialogue is probably a
reasonable place to go from an FTC point of view in many
venues where this is a topic A regardless of industry
right now.

MR. KOHM: One of the ways that we communicate
with industry, and obviously the FTC Act applies, or
obviously to us it applies and to the courts so far, to
business to business transactions. That Wal-Mart is just
as much of a consumer as I am when they are making
purchases. What can we be doing that we are not doing or
what can we do more of that gets that message across?
Are there places we ought to be speaking or are there
education materials that we ought to be putting out?
What can we do that we are not doing now?

MR. DESAI: If I can just add to that, I think
when your instructions, for example, for this session
were sent, I guess to me personally, the way I read it,
it was very clear. It said, please remember, this is how
do the Guides apply to the consumer. Even when I got the
invite to come here, it was about how does it apply to
the consumer. And your clarification is very important,
which is if the consumer is then to be implied as a
downstream customer, whoever that customer may be,
clarify that. That is a reasonable clarification that
actually makes everyone sit up and notice. Because the
farther you are back in the supply chain, you may just
say somebody else will take care of this.

But if the reality is it is your job to the
next person in line and whomever to understand that you
have to comply as well, I think that is a reasonable
clarification from the FTC.

MR. KOHM: Are you suggesting that the Guides are an appropriate place to make the clarification?

MR. DESAI: I think the Guides do not speak for themselves. I think the FTC can speak for and clarify that. But in the Guide then, make sure it comes through as well.

MR. KOHM: Cassie?

MS. PHILLIPS: The most effective thing you can do is to create the demand pull for the business to business communication. If you go to the retail customer, consumer facing companies and emphasize and educate them about the Green Guides and then make sure they understand that they are accountable for the claims, the claims they are passing through from their suppliers, and they get it, then they will turn around to their suppliers and demand that we make accurate claims for them.

Right now, I find myself educating my customers about the Green Guides to tell them why our claims are relatively conservative and then I have them turn around and make claims that I cannot support because they do not understand the law. But we will respond to a demand pull.

MR. KOHM: David?
MR. DUNCAN: I just want to build on those points. I think the important thing is the Green Guides need to reflect, because if what you are talking about is the communication between ourselves and the consumer in all the different communications we have with the consumer about the particular product they are going to buy, really that is just one point in time that is reflecting all the way -- you are trying to make guidance on claims which reflect all the way back up the supply chain in terms of how all the materials got to the pack in the first place. But then, also, what is going to happen to it when it gets to the waste streams and recycling and the like.

So, you need to make sure that it is consistent across the full value chain that the communication is consistent and is actually driving the behaviors they want people to take. Because a lot of what we are talking about, again, I was surprised to see how low the amount of recycle is, that it is sort of stuck at 40 percent. I mean, again, one of the real objectives has to be that we are going to get more consumer use and recycling. That has got to be one of the objectives. It is not just about communication, it is about changing behavior and taking more of this material out of landfill and getting it into recycle.
MR. KOHM: Joe.

MR. CATTANEO: Hey, I am still here. So many other people have been kind of stealing the thunder of a few of us. Coming from an industry representing a supplier industry and a product manufacturer industry, I believe that the FTC, with the revisions of these guidelines, can really help us in communicating better to our respective audiences. We have to work with our product manufacturers who we supply to from the glass container companies, but we also have vertically integrated product manufacturers who also make glass. I am just using that as an example.

These FTC guidelines, it is come up every now and then, but nobody knows where they are or they really do not follow that when they are developing an ad campaign, a promotion campaign or whether even they are going to point of sale.

So, I think now this is the time. I mean, these are -- you are coming out with new guidelines, there is going to be revisions. I think these revisions are going to be really for the good of our industry. And that some of the industries cannot continue to just say whatever they want without some repercussions. As Victor mentioned, have some enforcement in that area.

If we are from a mature industry, earlier this
morning, it was talked about steel is totally recyclable, so you do not have to talk about it in the FTC guidelines. Bull, baloney. Glass is totally recyclable. We are a mature packing substrate that have been around for centuries and we are totally recyclable, totally renewable to a degree or reusable, but we are not out there touting that. It is there. But our society now has been -- we have been brought into all these new materials that come out there and they are trying to compete and we agree, compete. That is terrific.

But I think we should have guidelines with definitions that we can go to to explain this so that you cannot do it willy-nilly the way it is out there now. Because I will tell you, we can commend Wal-Mart or complain about Wal-Mart, but they brought that out. It came to our product manufacturers. Product manufacturers went down the supply chain and, so, we are all here, aren't we? We really care about this.

But I think the FTC, being the government, can always help us. It is your turn to help us out here because I think it is very important. We want to work also -- Victor talked about this before and we have, too -- work more internationally, guidelines are international. The standards should be more international. We cannot pretend like it is just in
America and no place else, it is a global economy and we sell products and we import products. Sorry, I got on a tirade there.

MR. KOHM: Well, Joe, let me follow up on one of the things said. You said people are not using the guideline when they are setting their marketing campaigns.

MR. CATTANEO: I do not think they pay attention to it. I think they just go out and put out there what sounds good. I was in advertising for ten years and I know how that works.

MR. KOHM: Well, let me ask you, do you think that is because they do not know that the guidelines exist?

MR. CATTANEO: Exactly.

MR. KOHM: As opposed to thinking they are irrelevant or that --

MR. CATTANEO: No, they are not irrelevant. I think that they are very relevant. To be honest, I was not really aware to the degree it does define things and now it can define even more what is out in the marketplace.

MR. KOHM: Thank you. Victor?

MR. BELL: Simple question. You asked how we can make sure this is relevant to B to B. Right now, I
have talked a lot about -- this does not affect me. I am 
not selling it to a consumer, so I do not have to do 
this. In your guidance where you have example questions 
and examples of this, if you had a few examples of X 
company selling a product to another company for a 
packaging material for this and claims, that would be 
considered deceptive. So, if you just changed and added 
a couple of those questions, to use the example of the 
consumer being another business, you would definitely 
prove that the guides are for those people.

MR. KOHM: That is a very interesting point. 
We would appreciate anybody who wants to provide those 
types of examples that they think would be most 
illustrative. That sounds like a very good idea.

MR. CATTANEO: I think the other thing to go 
with that or build on that is claims in things just 
beyond the package itself. If you are on internet, 
claims being made on the internet and other places that 
they are out there. Or on your booths, your trade shows et cetera.

MR. BELL: Without a doubt.

MR. KOHM: Scot.

MR. CASE: I think one area that you can focus 
some attention on, too, is maybe even partnering with 
U.S. EPA’s Environmentally Preferable Purchasing Program,
which has done a lot of outreach to the purchasing community, the Institute for Supply Management the National Association of State Purchasing Officials, there is a bunch of these. But teaching the purchasing officials how to see through some of these potentially misleading environmental claims. Because if you are getting pull from the purchasing community, that is a great way of getting feedback into the marketing side of the equation.

MR. KOHM: I have a couple of longer questions. Scot and others seem to be suggesting that a single attribute claim, such as recyclable or 25 percent recycled material, convey a general environmentally superior claim such that marketers should not be able to make it unless they can demonstrate, through life cycle analysis, that it is. Do consumers interpret such claims in this manner, are there any surveys or studies that show this?

Scot, you seem to be on the hook.

MR. CASE: That is fine. I think there is quite a bit of anecdotal evidence at this point. I have not actually seen any what I would consider really solid scientific surveys that kind of, beyond a reasonable doubt, prove it. But we are in the process of initiating such a survey. So, it will be interesting to see the
results.

    MR. KOHM: Do you have any sense of when that
survey may be completed and whether you would share it
with us?

    MR. CASE: We are still looking for the
funding, so it would be really nice if the FTC had some.

    (Laughter.)

    MR. CASE: We are hoping actually to have that
by the fall.

    MR. KOHM: Anybody else want to comment? Jim?
And, hopefully, just tell Scot he does not know what he
is talking about.

    MR. HANNA: Scot always know what is he is
talking about. I would not dismiss single attribute
claims wholeheartedly. I think that single attribute
claims allow us to make valued judgments about what is
important to our companies and what is important to the
consumers we serve. For coffee, for instance, the
attribute of how fairly that coffee is traded is a very
important factor for our consumers. So, that is an
attribute we choose to discuss at length with our
consumers.

    It does not address all the other attributes of
sourcing coffee, the transportation energy and all those
issues which also have environmental impact and also have
social impact. But the importance of single factors to
the value of specific companies and what they choose to
focus on is also key.

MR. CASE: I want to support what Starbucks has
done because I think Starbucks and Wal-Mart and others
are beginning to position these kind of single attribute
claims in a very important context, which is along the
lines of this is one important consideration or this is
an important consideration. And you have been very, very
careful to distance yourself from the notion that all you
need to know is it is recyclable, do not even worry about
anything else. I think that is the point when it kind of
crosses into a potential sin of the hidden trade-off.

So, I think you guys should be commended for
actually kind of educating the consumer and saying this
is one of the important aspects.

MR. HANNA: Coffee is on me.

(Laughter.)

MR. HANNA: Wednesday. Free coffee Wednesday.

(Laughter.)

MR. KOHM: David.

MR. DUNCAN: I certainly would not want to say
that Scot does not know what he is talking about, but I
would really urge him to think very carefully about how
he does the testing in terms of looking at those areas
because there is a famous scientific principle that if actually making the measurement interferes with the system sufficiently that you do not necessarily get the result you expect. I think in this space doing that research is actually very, very difficult.

MR. CASE: If that is an invitation or a volunteering to help us build the study, I mean, that is exactly what we are in the process of doing is trying to find an objective way of evaluating this stuff that does not influence the outcome in any way. So, if you have thoughts on that, I am more than willing to listen.

MR. KOHM: In light of the fact that the FTC does not set standards, which we do not, and guidance is limited by the extent of the law, ISO does set standards. Should the FTC recommend ISO standards as part of their Green Guides effectively or should ISO be a safe harbor within the Guides? Victor, go ahead.

MR. BELL: Yes. The answer is yes. You can use ISO as a standard especially for the compostable standards. I think it can be a safe harbor. I would say either in that case. Now that we do have standards, where there is a lack of standards obviously we have to have self-certification, but where there is recognized national standards, we should definitely be using them.

MR. KOHM: Anybody else?
MR. CASE: Obviously, I am a huge fan of standards, but it is interesting, it is important for folks to know that not all standards are created equal. There is the recent list -- a recent website came up with a list of 283 different environmental standards. When you actually kind of go through and try to identify which ones are legitimate and which ones might be less so, it can be very challenging for consumers.

So, there seems to be kind of three key questions that consumers should be asking any time they are confronted with an environmental standard. One, to actually see a copy of the standard. You would be surprised at how many environmental standards out there are the figment of someone's imagination and when you actually ask for a copy, they cannot even produce it. So, one, ask for a copy of the standard.

Two, find out how the standard was developed. There are a lot of, I am going to assume, well-intentioned manufacturers that are developing their own standard, and this funny thing happens when a manufacturer develops a standard, their products tend to meet it. So, ask for a copy of the standard, ask for how the standard was developed.

Then the third aspect is how people are proving they meet the standard. It is perfectly acceptable to
have a self-registration program, that those programs out
there exist and they are doing well. But there are also
kind of varying degrees of certification from a
self-verification all the way to independent third party
certification on site which is what say Eco Logo, Green
Seal and a couple of others are doing.

MR. KOHM: Jim?

MR. HANNA: I am sure after this conference,
FTC will go back and figure out whether or not to develop
standards. But in the interim take advantage and pull
the triggers that you have within your framework. What I
would like to see is rather than saying company X is your
case studies, name names. That would really help drive
behavior change among those corporations.

I mean, as a retail company, I hate to see my
company's name on the CPSE website, but that helps drive
change, and the way we supply our materials that helps
create a lot more due diligence, and the way we source
materials and I think you have that ability currently to
do that. So, pull the triggers you have.

MR. KOHM: I think that goes along with -- it
may have been Victor who commented that warning letters
or something of that type that are public may be
effective in this area.

MR. BELL: Exactly.
MR. KOHM: Well, that is the end of our audience questions and I have come to the end of my questions. I just want to give all our panelists one more shot. If there is something that they would like to put on the record, tell us or tell each other, this is the last chance.

MR. CATTANEO: I thought we had until May 19th.

(Laughter.)

MR. KOHM: If you are on the panel, it is just --

MR. CATTANEO: Oh, excuse me.

MR. CASE: Some of us can talk until then.

(Laughter.)

MR. KOHM: Is there anything that you heard sitting here all day that you would like to comment on, that you were itching to as you sat in the audience listening to other people? David?

MR. DUNCAN: There was just one small point, which I could not resist, James, which is we have to be really careful about the language in terms of how you define things. I think it is very easy to misunderstand. Because I came here, I was invited to a green roundtable discussion. Now, the table certainly is green, but it is not round. So, the language is important.

(Laughter.)
MR. KOHM: Well, that is not the only deception today because we said that we would start everything on time and end everything on time. We are going to give you a little time at the end because we are not going to end exactly on time.

I am just want to conclude with some very brief remarks. The Chairman this morning spoke about how we go about our work. And there is two broad models of creating guidance and rule making.

The first, this is not technical nomenclature. The first is three smart guys in a room. What the FTC did some time ago is you would put three smart lawyers in a room, or some number that we could afford, they would come up with guidance and then that guidance would be chiseled by the Commission on tablets and set forth. That is not a particularly good model of rule making.

As you can tell from this day, we are not the experts, there are many experts who grapple with these issues every single day. And I think the much better model is the model that we have done today, where there is interaction, where we learn from the people who really know what is going on, and I really want to thank all our panelists for all their preparation today, for all their contribution.

I also want to remind everybody once again that
the record is still open. We are very interested in
hearing from everybody. And that you can comment on our
website, you can take a look and review both the
transcript and the video, the webcast archive of this
event in preparation for your comments.

And thank you all for being here all day. It
was really a great event from our perspective and it is
you all who participated both from the audience and from
the table that made it so. Thank you very much.

(Applause.)

(Whereupon, at 4:47 p.m., the workshop was
concluded.)
CERTIFICATION OF REPORTER

MATTER NUMBER: P954501

CASE TITLE: ENVIRONMENTAL MARKETING GUIDES REVIEW

DATE: APRIL 30, 2008

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

DATED: MAY 16, 2008

ROBIN BOGGESS

CERTIFICATION OF PROOFREADER

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

ELIZABETH M. FARRELL