

17 February 2023

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Attorney

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Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, DC 20580.

Ref: **Green Guides Review, Matter No. P954501**
“Guides for the Use of Environmental Marketing Claims;” Docket No. 2022-27558

Dear Hampton Newsome and Julia Solomon Ensor,

The TIC Council Americas is pleased to provide comment on “Guides for the Use of Environmental Marketing Claims;” Docket No. 2022-27558. Third party conformity assessment bodies play a critical role in confirming the accuracy of claims and we look forward to working with the FTC as they consider revisions to the Green Guides.

The independent third-party testing, inspection, and certification (“TIC”) industry, worth \$240billion globally, plays a critical role in confirming that products, systems, and services meet U.S. regulatory and industry requirements and that claims by industry can be verified and are substantiated by traceable data. The TIC industry supports programs such as the Energy Star program, consumer safety programs, and OSHA NRTL program.

In support of the FTC and the development of revised **Guides for the Use of Environmental Marketing Claims**, the TIC Council Americas kindly provides the attached feedback.

TIC Council is a global association representing over 100 international independent third-party testing, inspection, certification, and verification organizations. Testing, Inspection and Certification (TIC) companies cater to a diverse range of industry sectors and a variety of standards and legislation. The industry represents an estimated one million employees across the world with annual sales of approximately USD 200 billion.

We thank the Federal Trade Commission for considering our comments and look forward to continuing to engage on this critical topic. Should you have any questions, please don’t hesitate to contact Karin Athanas at +1 240 762 8069 / kathanas@tic-council.org.

Sincerely,



Hanane Taidi
Director General
TIC Council



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Ref: “Guides for the Use of Environmental Marketing Claims;” Docket No. 2022-27558

GENERAL ISSUES

1. Is there a continuing need for the Green Guides?

Response:

There is a continuing need for the Guides as “greenwashing” is an ongoing challenge. Greenwashing creates confusion in the marketplace, creates additional costs for consumers, and negatively impacts the environment. Setting minimum standards for making marketing claims forces companies to examine claims they are making before potentially misstating the benefits of a product.

2. What modifications should the Commission make to the Guides to reduce the costs imposed on consumers?

Response:

We support the goals and objectives of the 2012 Green Guides to combat greenwashing. As the FTC considers updates to the original proposal, we support revisions that ensure the Guides offer a holistic solution to combating greenwashing.

3. What modifications should be made to the Guides to increase their benefits to businesses and how would these modifications affect the consumer?

Response:

If consistent meaning and definition is established for the use of related environmental marketing terms, consumers can receive consistent education and information about the meaning of the terms. When the Green Guides apply terms in a way that diverges from international and national standards there is a greater potential for confusion and limited opportunity to provide education on the meaning of the terms. This divergence can confuse consumers and undermine the goals of the Guides.

SPECIFIC CLAIMS

1. Compostable, 16 CFR 260.7

Response:

This should be updated to reflect the “substantial majority in the market it is being sold in.”

2. Degradable, 16 CFR 260.8

Response:

Remove or ban as degradable is not very specific and is not necessarily an environmental benefit. Perhaps a solution is to reframe as “biodegradable” and to add the same requirements as for compostable (i.e. scientific evidence, environmental conditions a time frame of less than one year, and a threshold of > 90 percent, ecotoxicity evaluation of residual).

Additionally, prohibiting oxo-/oxo-bio-/photo-degradable claims for plastics is advisable as those plastics have proven not to biodegrade. Instead, they lead to pollution with micro plastic particles. Micro plastic particles have been banned in the European Union since 2019, so it would make sense to harmonize rules in both the United States and Europe. Alternatively,

When considering alternative timeframes for product decomposition, a separate timeline for liquid products should be considered (i.e. < 3-6 months).

3. Ozone-Safe/Ozone-Friendly, 16 CFR 260.11

Response:

The Commission should remove or revise the examples given that it references ozone-depleting chemicals that the EPA now bans. Alternatively, the Guides could note ozone reduction for certain electronic devices.

4. Recyclable, 16 CFR 260.12

Response:

FTC’s proposed revisions clarify the requirements around making recyclable and recycled content claims. The proposed approach is helpful, but the FTC should have a list of select materials it is referencing as this will depend on material properties and composition and the availability of recycling facilities.

5. Recycled Content, 16 CFR 260.13: The Guides state marketers may make “recycled content claims only for materials recovered or otherwise diverted from the solid waste stream. Do the current Guides provide sufficient guidance for “recycled content” claims?

Response:

It is recommended that the FTC add applicability of different chain of custody models and ban “Book and Claim,” as the missing physical linkage between materials and specific characteristics may be misleading clients and customer.

It would also be useful to include more details regarding pre-consumer recycled content depending on the material type, as well as change the language to add materials recovered in nature, including the ocean. We encourage the FTC to include examples within the Guides to further clarify the meaning of these terms for purposes of aiding consistent compliance.

6. Recycled Content, 16 CFR 260.13 : The Guides suggest marketers can substantiate “recycled content” claims using per-product or annual weighted average calculation methods. Should the Guides be revised to provide guidance on making “recycled content” claims based on alternative methods, e.g. mass balance calculations, certificates?

Response:

It is recommended that the Guides include information regarding the used chain of custody model, especially for mass balance, with respect to average and minimum claims.

It is also recommended that the Guides ban “Book and Claim,” as the missing physical linkage between material and specific characteristics (recycled content) may mislead clients and customers.

7. Recycled Content, 16 CFR 260.13: What changes, if any, should the Commission make to its guidance on pre-consumer or post-industrial recycled content claims? How do consumers interpret such claims?

Response:

It is recommended that the FTC define who is the end consumer (i.e., is it only for B2C or does B2B count?).

8. Sustainable

Response:

It is recommended that the FTC define first parameters for standards for sustainability to better be able to validate what is sustainable. It is also worth considering products that contribute to circularity, such as mechanically recycled plastics.