FTC Environmental Marketing Guides

Impact of Sustainability on Marketing

Institute for Sustainable Enterprise
Fairleigh Dickinson University

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FTC Act

• Tell the truth

• Have substantiation
Ask:

• What claims does my ad convey to reasonable consumers?

• Do I have competent and reliable evidence to back up the claims?
FTC’s Green Guides

• Apply to all forms of marketing claims

• Apply to business to consumer and business to business claims

• Don’t set performance standards or eco-labels
General Guide Principles

• Consumer perception of claims controls
• Use specific claims
• Don’t overstate product attributes
• Use clear & prominent qualifications
Types of Marketing Claims

- General environmental benefits
- Degradable and biodegradable
- Compostable
- Recyclable
- Recycled content
General Environmental Claims

- General claims may be confusing
- Identify specific “green” attributes
Biodegradable

Difficult for products to biodegrade in a landfill
FTC Alleged Unsubstantiated Biodegradable Claim
“Bamboo Fiber” Textiles

• Actually are rayon
• Do not retain natural attributes of the bamboo plant such as anti-microbial properties
Seals & 3rd Party Certifications

Seals
• May imply superiority
• May need to qualify claim
• Explain basis for award

Certifications
• Independent, with expertise
• Certification does not insulate advertiser
• Avoid broad claims
Green Guides Review

• Federal Register Notices
  – Seeking comments on the Guides & new green claims

• Public Meetings on Emerging Issues
  – Carbon Offsets and RECs
  – Green Packaging Claims
  – Green Buildings and Textiles

• Consumer Research
More Information

Green Guides
16 C.F.R. Part 260

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Leonard L. Gordon serves as the Director of the Northeast Regional Office of the Federal Trade Commission, where he supervises the investigation and litigation of both consumer protection and antitrust matters. Mr. Gordon joined the FTC in 2005 as a senior attorney, and, since joining the agency, he has led numerous antitrust and consumer protection investigations. Most recently, Mr. Gordon led the successful trial team in the *Daniel Chapter One* matter, in which a cease and desist order was obtained against the peddling of phony cancer cures.

Mr. Gordon became the Assistant Director of the Northeast Regional Office in August 2007 and the Director in March 2008. He regularly speaks to legal, business and consumer groups on both antitrust and consumer protection topics. Mr. Gordon joined the FTC after 17 years as an associate and then a partner with the firm now known as DLA Piper, where his practice focused on antitrust, business tort and general business litigation and counseling. Mr. Gordon graduated from the George Washington University Law School with honors in 1988.