

Environmental Marketing Claims and Textile Claims

James A. Kohm

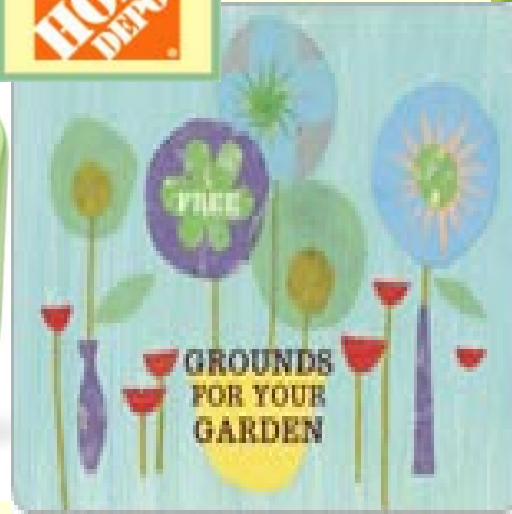
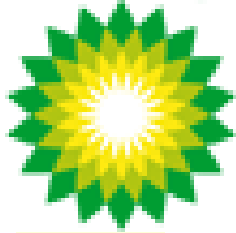
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GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS (GREEN GUIDES)

16 C.F.R. Part 260

www.ftc.gov/energy



2008 Green Program

- FTC regulatory review -Federal Register notices
 - Comments - current Green Guides and new claims (sustainable, renewable, carbon offsets, etc.)
- Workshops/meetings on developing issues
 - First workshop - Carbon offsets and RECs (January 8th)
 - Second workshop – Green Guides and Packaging (April 30th)
 - Third workshop – Building and Textiles (July 15th)



Outline

- FTC Advertising Law
- FTC's Green Guides Generally
- Specific "Green" Claims



FTC Act

- Tell the truth
- Have substantiation



Ad Claims--Two Step Inquiry

1. **Consumer Perception:** What claims does the ad convey to reasonable consumers?
2. **Substantiation:** Does the advertiser have “competent and reliable evidence” to substantiate those claims?



FTC's Green Guides

- Apply to ALL forms of marketing claims
- Business to consumer & business to business claims



General Principles in the Guides

- Use clear & prominent qualifications
- Be specific -- make clear whether claims apply product, package, or a component of either
- Provide clear comparative claims
- Don't overstate product attributes



The Green Guides do not set performance standards or grant eco-labels

- FTC - market-based approach vs.
- European and Asian countries - performance standards & eco-labels

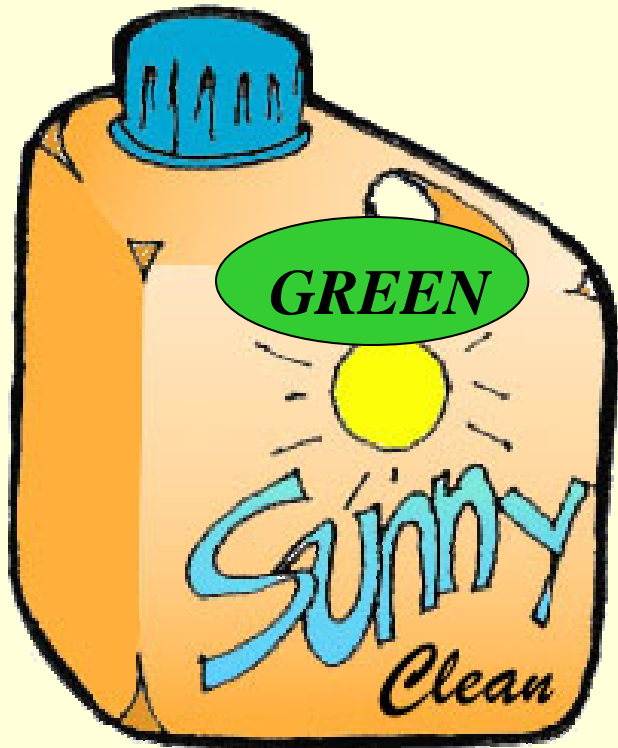


Types of Marketing Claims

- General environmental benefits
- Degradable, biodegradable & photodegradable
- Compostable
- Recycled content
- Recyclable
- Source reduction
- Refillable
- Ozone safe/ozone friendly
- Non-toxic



General Environmental Claims



- “Environmentally friendly,” “Green,” “Eco-Safe”
- May be confusing to consumers
- Substantiate ALL express and implied claims
- Qualify broad claims
 - Identify the specific attribute to which the general claim refers



Environmental Seals and Certificates

- “Earth Smart” seal may imply that product is superior
- Explain basis for award
- Limit superiority claim to attributes that can be substantiated



More on Seals and Certifications

- Independent from advertiser
- Professional expertise in area
- Certification does not insulate advertiser
- Avoid broad claims

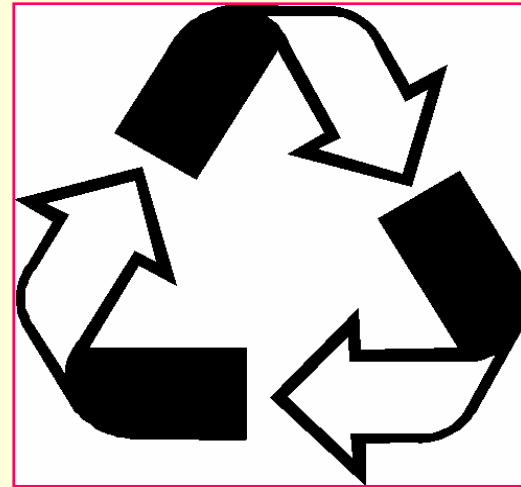


Sun Seal



Symbols

Unqualified symbol
- means recycled
content and
recyclable



Biodegradable



Biodegrade
in reasonable
short time in
customary
disposal



When your babies grow up...
will they still be living in diapers?



Your choice today could make the difference.

A good choice for your baby today.

A better choice for the planet tomorrow.

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Compostable

- Can be composted in home compost pile
- If can only be municipally composted—
qualify limited availability of facilities



Recycled Content

Recovered or
diverted from
the solid
waste stream



Recyclable

Use disclosures to
qualify claims





**Means recycling
facilities EXIST**



Source Reduction

- Refers to reducing the weight, volume, or toxicity
- Qualify amount of source reduction
- Give basis for comparison



Ozone Safe & Ozone Friendly

- Stratospheric (upper atmosphere) ozone level
- Ground-level ozone (smog)
- “NO-CFCs” and “CFC-Free” claims



Non-Toxic

- Non-toxic means product is non-toxic to humans *and* the environment
- If not true, qualify non-toxic claims



Potential Consequences Of Deceptive Practices

- Cease and desist orders
- Refunds for consumers (redress)
- Disgorgement of ill-gotten gains
- Informational remedies – such as corrective advertising, disclosures in future ads or on product labeling



Federal Trade Commission

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