



The F.T.C. Proposes New Guidance on “Green” Claims

The U.S. Federal Trade Commission, which regulates aspects of advertising and deceptive claims, has requested comments on newly proposed changes to its “Green Book.” The Green Book is a guide published by the FTC describing the FTC’s position on various types of claims that products and services are environmentally friendly. Although the Green Book does not have the force of law, it dictates the FTC’s policy in terms of enforcement. It is intended to address the widespread use of vague and non-standardized claims that goods and services are environmentally friendly. The new guidance could have a profound effect on many green claims currently in the marketplace.

The proposed guidance covers both general green claims and specific types of common claims. The new guidance states that marketers should not make general and unqualified claims about environmental benefits, as they are difficult to verify; the guidance recommends setting out clear qualifications as to how the goods or services are environmentally friendly. Likewise, the use of certifications of general environmental friendliness is discouraged, and the use of particularized certifications is recommended instead. The new guidance clearly states that third-party certifications do not eliminate the duty of the marketer to substantiate the claims behind the certification. The guidance provides standards for particular claims that products are degradable, compostable, non-reactive with regard to ozone, recyclable, free of a given substance, made with renewable materials, made with renewable energy, and mitigated by the use of carbon offsets.

Any entity that provides environmentally friendly goods and services is encouraged to read the new proposal in its entirety (available at <http://www.ftc.gov/os/fedreg/2010/october/101006greenguidesfrn.pdf>) and provide comments to the FTC. Comments are being accepted until December 10, 2010, and may be submitted via the worldwide web at <https://ftcpublishcommentworks.com/ftc/revisedgreenguides>; or via paper mail to:

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex J)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Any submitted comments will be considered public, unless filed electronically and marked “confidential.”

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