

Businesses Weigh Impact of New FTC Green Marketing Rules

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Scot Case received 14 voice mails within three hours after the [Federal Trade Commission](#) (FTC) published a draft of its [revised green marketing guidelines](#) last week. Except for one, all of the phone calls came from retailers or retail suppliers wanting to know what the updated Green Guides meant for their businesses.

"I think an awful lot of people and legal departments are now reading those 200 pages," said Case, the former executive director of Canada's [EcoLogo Program](#) who now works as director of market development at [UL Environment](#).

The FTC released the draft of proposed revisions to the [Green Guides](#) Wednesday to much anticipation in the business community, which now finds itself digesting the Green Guides to determine what impact, if any, the guidance will have on their marketing practices.

"I'm very glad they released them finally because we've been waiting for a long time. It's been in process for 1.5 years," said Yalmaz Siddiqui, [Office Depot's](#) Environmental Strategy Advisor. "In certain areas they do provide the sort of clarity we need as businesses on how to legitimately make an environmental claim."

Siddiqui on Friday hadn't yet read the full text but said it would get a complete examination from Office Depot's legal team, as is done with all advertising campaigns. "(The) legal (department) works hand in hand with environmental (team) to evaluate claims we're making in any marketing vehicle, such as packaging, website or catalog."

Over the last four to five years, Siddiqui said, Office Depot has worked diligently to track underlying environmental attributes of its products and convince suppliers to stop using the phrase "environmentally friendly."

"We don't believe anything is environmentally friendly because everything has an environmental impact," Siddiqui said.



Impacts on Marketing Practices

Clorox views the revised guidelines as an additional reference point but doesn't anticipate major changes to its marketing practices, said David Kargas, spokesman for its Green Works product line. The launch of the company's Green Works line made headlines in 2008, in part due to its use of the Sierra Club logo.

"We have a wide variety of people who are helping to review and disseminate this information to our team, including government affairs, global product stewardship, our eco office and marketing," Kargas said. "We'll be working as a team to ensure that our messaging stays in compliance with these new Green Guides."

Method Spokeswoman Rachel Rosenblum won't be surprised to see some companies scale back communication around green practices such as carbon reduction because they can't back up the claims. "Of course we'd love to see this spur many of them into action to put some real muscle behind their claims and start living up to them," she said.

The proposed guides won't change how Method markets itself because it tries to adhere to a transparency standard higher than what the FTC requires.

"For example, we clearly and extensively define the term 'natural' on our website," Rosenblum said. "And if even one functional ingredient in one of our products is not natural or naturally derived, we will not make that claim on package."

The company doesn't anticipate submitting comments to the FTC. Office Depot, meanwhile, previously submitted comments as part of the [Green Products Roundtable](#), a group of roughly 35 companies and

stakeholders that submitted a letter to the FTC. "I can see some of the language reflected in the summary," Siddiqui said, adding that the company will likely submit additional comments through the group.

Unanswered

Questions

There are a few areas Siddiqui said he'd like to see additional clarification, such as the definition for what can be considered a renewable material. The draft FTC guidelines also recommend disclosure if the emissions reductions associated with carbon offsets will take longer than two years, as is the case with various types of offsets, such as forestry projects.

TerraChoice's Scot Case also has an unanswered question: Who is the typical consumer for a green marketing claim?

The Green Guides were designed to help companies align their environmental claims with consumer expectations, but Case wonders how the FTC can define what a typical green consumer is.

"I would argue that green consumers would have a different interpretation of claims than the average consumer," Case said.

He predicts a significant amount of research into consumer perception will take place, which could "revive a new cottage industry." Case sees some welcoming the clarity the guidelines offer, while others may be upset that the guidelines don't go far enough to prevent misrepresentation.

Credible ecolabels with tough standards could get a boost, while it will likely become more difficult for label proliferation. "The FTC is helping minimize fake labels but it's up to rest of the green market to make sure there are enough tough standards," Case

said.

[Brooks Beard](#), a San Francisco-based attorney with the law firm Morrison and Foerster, said the updated Green Guides could impact pending green marketing consumer class action lawsuits, such as one involving [SC Johnson and its self-made Greenlist label](#). The bottom line for companies, he said, is they need to make environmental claims precise, such as focusing specifically on packaging or the manufacturing process.

"From a company perspective, it's important that companies develop the legal and technical expertise in this area to ensure their claims are specific, appropriately qualified and appropriately supported in advance with competent and reliable evidence," Beard said.

David Mallen, assistant director for legal affairs in the U.S. [Better Business Bureau's National Advertising Division](#), believes the revised guidelines are an indication of where FTC enforcement could take place, as well as a resource for companies that are new to the game or are unsure about how to make green marketing claims.

"I think it's a significant development because it's a very useful tool for industry, but ultimately, it's not a panacea," Mallen said. "It's still going to be incumbent on marketers and companies to hold themselves and each other to high standards of truth and accuracy."