



FTC's Green Guides

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Outline

- FTC Advertising Law Intro
- FTC Green Guides
- Carbon Offsets and REC Claims

Disclaimer –The views expressed in this presentation are my own and do not necessarily reflect those of the Commission, or of any individual Commissioner.

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FTC protects consumers by ...

... combating telemarketing fraud, Internet scams, deceptive advertising, and other harmful business practices.



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FTC Act

- Tell the truth
- Have substantiation



Section 5 -- "**unfair or deceptive acts or practices** in or affecting commerce are declared unlawful" (15 U.S.C. Sec. 45(a)(1)).

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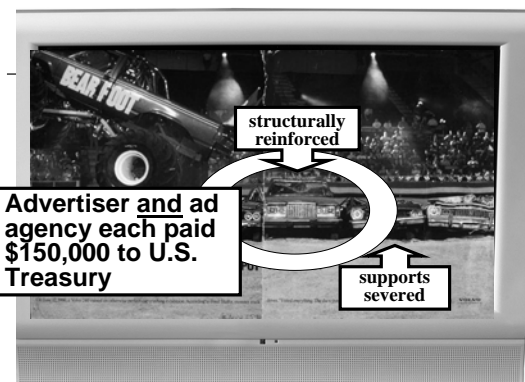
Deceptive Practices:

- Likely to mislead reasonable consumers
- Material to their decision to buy or use the product

Unfair Practices:

- Causes substantial consumer injury
- Not reasonably avoidable by consumers
- Not outweighed by the benefits to consumers or competition

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Ad Claims--Two Step Inquiry

1. What claims — express *and* implied — does my ad convey to reasonable consumers?
2. Do I have “competent and reliable evidence” — which, depending on the claim, may require *scientific* evidence — to support each of those claims?

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Look at claims from the point of view of reasonable consumers.

“For each 100 watt bulb you replace with a LumaGreen Energy Frugal light, you’ll save \$28 a year on your electric bill.”

Not all light bulbs are the same. Unlike incandescents, compact fluorescents, and LED bulbs, LumaGreen Energy Frugal lights can help save the earth. Replace your current 100 watt bulbs with LumaGreen Energy Frugal lights and bathe your home in the natural glow of the sun.

While you’re saving the earth, you’ll save money, too. For each 100 watt bulb you replace with a LumaGreen Energy Frugal light, you’ll save \$28 a year on your electric bill. And at only \$2.99 each, LumaGreen Energy Frugal lights are a bright idea.

LumaGreen Energy Frugal Light 100W

LumaGreen. Do your part to save the earth.

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Substantiate all claims – express *and* implied.

“Replace your current 100 watt bulbs with LumaGreen Energy Frugal lights and bathe your home in the natural glow of the sun.”

Not all light bulbs are the same. Unlike incandescents, compact fluorescents, and LED bulbs, LumaGreen Energy Frugal lights can help save the earth. Replace your current 100 watt bulbs with LumaGreen Energy Frugal lights and bathe your home in the natural glow of the sun.

While you’re saving the earth, you’ll save money, too. For each 100 watt bulb you replace with a LumaGreen Energy Frugal light, you’ll save \$28 a year on your electric bill. And at only \$2.99 each, LumaGreen Energy Frugal lights are a bright idea.

LumaGreen Energy Frugal Light 100W

LumaGreen. Do your part to save the earth.

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Advertisers must qualify claims carefully.

DANGER WASHINGTONIUM

Not all light bulbs are the same. Unlike incandescents, compact fluorescents, and LED bulbs, LumaGreen Energy Frugal lights can help save the earth. Replace your current 100 watt bulbs with LumaGreen Energy Frugal lights and bathe your home in the natural glow of the sun.

While you’re saving the earth, you’ll save money, too. For each 100 watt bulb you replace with a LumaGreen Energy Frugal light, you’ll save \$28 a year on your electric bill. And at only \$2.99 each, LumaGreen Energy Frugal lights are a bright idea.

LumaGreen Energy Frugal Light 100W

LumaGreen. Do your part to save the earth.

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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

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FTC Rules and Guides also help consumers ...

- Green guides
- Octane labeling for gasoline
- Cigarette labeling
- Used car labeling
- Residential insulation
- Energy labeling for alternative fueled vehicles, and ...
- Labeling for appliances, lighting, and plumbing.

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Green Guides

Guides for the Use of Environmental Marketing Claims (16 C.F.R. Part 260)

"Our packages are made from 100% recycled content."

"Our petroleum-based plastic bags will compost."

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2008 Green Guides Review

- FTC regulatory review – 2008
 - Comments - current Green Guides
 - Comments - new claims (sustainable, renewable, carbon offsets, etc.)

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Green Guide Workshops

- Carbon offsets and RECs (1/8/08)
- Green Packaging (4/30/08)
- Green Buildings and Textiles (7/15/08)



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FTC's Green Guides

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

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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

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Green Guides Do Not Set Performance Standards or Provide Certification

- Guides do not contain prescriptive requirements
- Instead, they contain general guideposts - examples of deceptive and non-deceptive claims

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Types of Marketing Claims

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

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General Environmental Claims

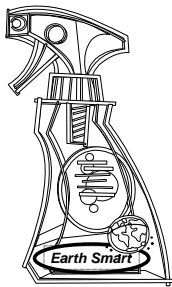


- ❑ Such as "Environmentally friendly," "Green," "Eco-Safe"
- ❑ May be confusing to consumers
- ❑ Substantiate ALL express and implied claims
- ❑ Qualify broad claims - Identify the specific attribute to which the general claim refers

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Environmental Seals and Symbols

- ❑ "Earth Smart" seal may imply that product is superior
- ❑ Explain basis for award
- ❑ Limit superiority claim to attributes that can be substantiated
- ❑ Symbols may need qualification in some cases



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Third Party Certifications

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



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RECs and Offsets



*"carbon neutral"
"carbon footprint"
"renewable energy"
"carbon offset"*



"Buy an airline ticket online, and you're increasingly likely to see this pitch: Add a payment of a few dollars, and finance save-the-Earth activities to offset environmental damage caused by your trip."

- USA TODAY

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RECs and Offsets

- ❑ Same general advertising rules apply
- ❑ Includes claims for products themselves and claims for other products ("Our coffee is made with renewable energy")
- ❑ Consumer interpretation of claims important

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FTC's Role

- ❑ Protects consumers from deception in offset and REC marketplace
- ❑ DOES NOT set standards or otherwise develop environmental regulations for the offset and REC sellers

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Potential Consumer Protection Questions for Offsets and RECs

- ❑ Do consumers understand what they are buying?
- ❑ What express or implied claims are being made?
- ❑ Is there adequate substantiation for those claims?
- ❑ Is there fraud in the marketplace?

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Potential Consumer Protection Issues

"But for all the good feelings that bubble up for travelers . . . , there's nagging controversy about their effectiveness and the accountability of some of the enterprises taking money." - USA TODAY

- ❑ Double Counting: By sellers and buyers
- ❑ Undercounting: By product marketers
- ❑ Substantiation: Complex tracking may be required

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FTC Workshop

- ❑ Workshop held in January
- ❑ Focused on carbon offsets and RECs
- ❑ Focused on consumer protection issues
- ❑ Explored need for additional FTC guidance for these markets

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Issues Raised at Workshop & Comments

- ❑ Consumer Interpretation
- ❑ Double Counting
- ❑ Additionality
- ❑ Consumer Education

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Recent Developments

- ❑ Proliferation of Voluntary Standards
- ❑ New Industry Association
- ❑ California Legislation

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For Additional Information

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