

---

**Intergovernmental Group of Experts on Consumer Law and Policy**

4th SESSION

8-9 July 2019

Room XVII, Palais des Nations, Geneva

**Environmental Marketing:  
FTC Green Guides, Cases & Business Guidance and Consumer Education**

**Presentation by Deon Woods Bell  
Federal Trade Commission  
The United States of America**

*This material has been reproduced in the language and form as it was provided. The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.*

---



UNITED NATIONS  

---

UNCTAD

# Environmental Marketing: FTC Green Guides, Cases & Business Guidance and Consumer Education

4th Intergovernmental Group of Experts on  
Consumer Protection Law and Policy

U.S. Federal Trade Commission

Deon Woods Bell

July 9, 2019

Geneva, Switzerland



# Roadmap



# UNCTAD IGE 2018 Agreed Conclusions

2018 Agreed Conclusions adopted by the Intergovernmental Group of Experts on Consumer Protection Law and Policy at its Third Session, . . . focus on the contribution of consumer protection to sustainable consumption in terms of how consumer protection authorities address environmental marketing claims, including consumer education and business guidance.



# OECD & ICPEN - Sustainable Consumption and Environmental Marketing Claims

## Promoting Sustainable Consumption

GOOD PRACTICES IN OECD COUNTRIES

### Environmental Claims Findings and Conclusions of the OECD Committee on Consumer Policy



March 2011

Environmental Claims



## Protecting consumers worldwide

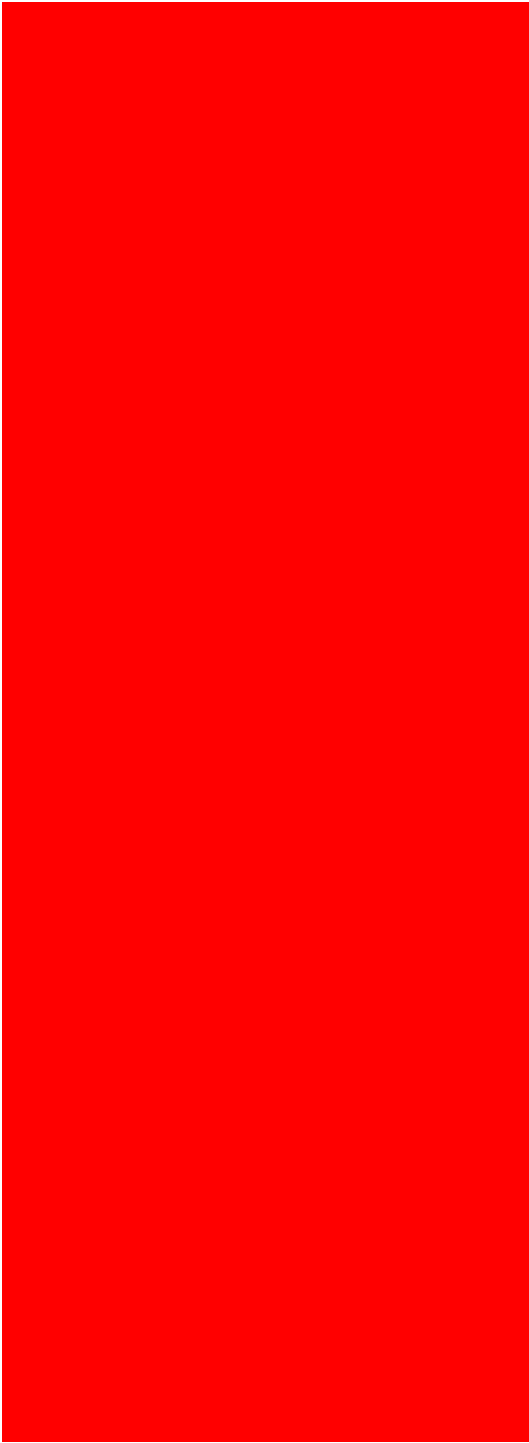


Welcome to the website of the International Consumer Protection and Enforcement Network (ICPEN) – an organisation composed of consumers from over 60 countries.



### REFERENCE DOCUMENT FOR THE DEVELOPMENT OF ENVIRONMENTAL MARKETING CLAIM GUIDES





# **FTC & Preventing Deception in Environmental Marketing Claims**

# FTC Statutory Authority

- FTC Act Section 5 (15 USC § 45): “Unfair or deceptive acts or practices . . . are hereby declared unlawful.”
- Main principles of Section 5:
  - Tell the truth
  - Substantiation for all express and implied claims
  - Competent and reliable scientific evidence





# **Green Guides Overview**







# What are the Green Guides?

- Not a certification program; Not a rule
- Administrative interpretation of Section 5 of FTC Act in the environmental marketing context
- Issued in 1992; Reviewed in 1996, 1998, 2012  
Purpose is to prevent deception (not set environmental policy) based on how consumers understand claims

# Green Guides Example



- Marketers should not make unqualified general environmental benefit claims.
  - “Highly unlikely marketers can substantiate all reasonable interpretations of these claims.”
- Qualifications may be sufficient if they:
  - Are clear and prominent.
  - Limit the claim to a specific benefit(s).
  - Context → no other deceptive implications (trade-offs?)

# FTC Consumer Perception Study

Consumer Perception of “Recycled Content” and “Organic” Claims



Joint Staff Report of the Bureau of Economics and Bureau of Consumer Protection

Federal Trade Commission

A Report on a Study Co-funded by the U.S. Department of Agriculture

Dated August 10, 2016

# Consumer Perception Study Findings

## “Recycled Content”

- Asked consumers whether a “Made with Recycled Content” claim accurately described products made from **pre-consumer material** (i.e. materials that had been diverted from the waste stream) as opposed to post-consumer material
- The portion of consumers who thought the recycled content claim was inaccurate was insignificant
- No additional guidance needed to consumers regarding recycled content

## “Organic”

- Study focused on organic claims made for non-agricultural products such as shampoos, mattresses, or dry cleaning services
- Asked consumers whether organic claims accurately described a product **containing a small percentage of non-organic material** A significant minority of consumers disagreed that the claims were accurate
- Additional guidance needed to convey organic claims non-deceptively

# Renewable Claims



# Renewable Materials & Energy

- Minimize deception → specify source.
- Must qualify if entire product (less incidental components) is not made with renewable materials.
- Must qualify if any significant manufacturing processes are not powered with renewable energy OR energy from fossil fuels is matched by RECs
- Few consumers understand various concepts (i.e. recyclable, made with recycled content, biodegradable) to mean what marketers are trying to convey



*“Made with fast-growing bamboo, which grows at the same rate or faster than we use it!”*

# CERTIFICATIONS



# Certifications/Logos/Seals




- These are considered endorsements.
- Need substantiation.
- General environmental benefit claim.
- Disclose Material Connections
- Clear and prominent qualification:
  - Refers only to specific, limited environmental benefit.

The screenshot shows the FTC website's navigation bar with links for 'ABOUT THE FTC', 'NEWS & EVENTS', 'ENFORCEMENT', 'POLICY', 'TIPS & ADVICE', and 'I WOULD LIKE TO...'. The main content area features the title 'FTC Sends Warning Letters about Green Certification Seals' and a sub-headline 'Goal Is to Ensure Seals Are Informative and Do Not Deceive Consumers'. There are social media share buttons for Facebook, Twitter, and LinkedIn, and language options for 'In English' and 'En Español'. A 'FOR RELEASE' tag is present above the date 'September 14, 2015'. The 'TAGS' section includes 'Bureau of Consumer Protection', 'Consumer Protection', 'Advertising and Marketing', 'Endorsements', and 'Environmental Marketing'. The main text states that the FTC staff has sent warning letters to five providers of environmental certification seals and 28 businesses using those seals. A quote from Jessica Rich, Director of the FTC's Bureau of Consumer Protection, is included. At the bottom, there is a section titled 'Green Certification Examples' with two columns: 'Good Example' and 'Bad Example'. The 'Good Example' shows a green seal with 'xyz' and 'Biodegradable Recyclable Compostable' text. The 'Bad Example' shows a similar seal but with a red background and less clear text.

Home » News & Events » Press Releases » FTC Sends Warning Letters about Green Certification Seals

## FTC Sends Warning Letters about Green Certification Seals

Goal Is to Ensure Seals Are Informative and Do Not Deceive Consumers

SHARE THIS PAGE   

In English  
En Español

**FOR RELEASE**



September 14, 2015

**TAGS:** Bureau of Consumer Protection | Consumer Protection | Advertising and Marketing | Endorsements | Environmental Marketing

The staff of the Federal Trade Commission has sent warning letters to [five providers of environmental certification seals](#) and [28 businesses using those seals](#), alerting them to the agency's concerns that the seals could be considered deceptive and may not comply with the FTC's environmental marketing guidelines.

"Environmental seals and certifications matter to people who want to shop green," said Jessica Rich, Director of the FTC's Bureau of Consumer Protection. "But if the seals' claims are broader than the products' benefits, they can deceive people. We are holding companies accountable for their green claims."

### Green Certification Examples

Good Example	Bad Example
	





**CASES**

# Volkswagen



**Das Emissions**

## The Volkswagen Settlements

- German automaker Volkswagen AG and agreed to settle allegations of cheating emissions tests and deceiving customers.
- Court awarded \$10.03 billion in 2016 for the [Volkswagon 2.0 Liter Settlement](#) and an additional \$1.5 billion in 2017 for the [Volkswagon 3.0L Settlement](#)



# Lights of America

## FTC Returns more than \$14 Million to Consumers Deceived by Misleading Light Bulb Claims

SHARE THIS PAGE



FOR RELEASE

August 27, 2018

**TAGS:** [consumer refunds](#) | [deceptive/misleading conduct](#) | [Bureau of Consumer Protection](#) | [Consumer Protection](#) | [Advertising and Marketing](#) | [Energy Savings](#)

The Federal Trade Commission (FTC) is mailing 499,105 checks totaling more than \$14.4 million to people who bought Lights of America brand LED light bulbs.

The FTC sued [Lights of America Inc.](#), [Usman Vakil](#), and [Farooq Vakil](#) for violating federal law by overstating the light output and life expectancy of their LED bulbs, and falsely comparing the brightness of their LED bulbs with that of other light bulbs.

A federal court [ordered the defendants to pay \\$21 million](#) to the FTC to provide refunds and banned them from misrepresenting material facts about lighting products. People who bought Lights of America LED light bulbs between 2007 and 2011, and do not receive a check, can apply for a refund at [www.ftc.gov/lights](http://www.ftc.gov/lights). The deadline to apply for a refund is October 26, 2018.

Check recipients are receiving full refunds. The average check amount is \$28.86. Recipients should deposit or cash checks within 60 days, as indicated on the check.

If consumers have questions about the refund program, they should contact the FTC's refund administrator, Analytics Consulting LLC, at 800-419-4695.

To learn more about the FTC's refund program, visit [www.ftc.gov/refunds](http://www.ftc.gov/refunds).

### PRESS RELEASE REFERENCE:

[FTC Shines a Light on Company's Deceptive Claims for its LED Bulbs](#)  
[FTC Action Leads to Court Order Barring Misleading Light Bulb Claims](#)



### Related Cases

[Lights of America, Inc., Usman Vakil, and Farooq Vakil](#)

### Related Refunds

[Lights of America Refunds](#)

### Media Resources

[Protecting Consumers](#)

# Moonlight Slumber

- first-ever case against a company making “organic” product claims
- Baby mattresses labeled “organic”
- substantial majority of the content of these mattresses is non-organic and synthetic
- falsely claimed that testing proved there were no volatile organic compounds (VOCs) from its products, even though Moonlight Slumber did not actually possess such evidence



# Four U.S. National Retailers Mislabel Bamboo



[Products](#) [About](#) [Spa](#) [Do you Bamboo](#) [Contact](#) [Terms of Use/Policies](#)

Claims: Falsely Labeling  
Rayon Textiles as “Bamboo”

Facts: Actually rayon

Businesses Required to pay  
civil penalties totaling \$1.3  
million.

# Nano-UV Disinfectant Devices

- Unsubstantiated Advertising, claiming to wipe out fungus and dangerous bacteria such as E.coli and Salmonella
- Businesses Required to pay settlement judgement of over \$1.3 million
- Over 2,000 refund checks to consumers



# Consumer Education & Business Guidance





## Environmental Marketing

Companies are offering consumers an ever-growing assortment of “green” options. But whether your environmental claims are about the product or the packaging, you’ll need competent and reliable scientific evidence to support what you say. Find out more by consulting the FTC’s revised [Green Guides](#). Have you spotted what you think might be a deceptive claim or practice? [File a complaint](#).

### FEATURED

---



#### [Environmental Claims: Summary of the Green Guides](#)

If your company makes environmental claims in your ads or on your products, you’ll want to know about the FTC’s Green Guides. This summary of the Guides introduces how truth-in-advertising principles apply to green marketing and highlights terms often used in environmental ads.

### GUIDANCE

---

#### [EnergyGuide Labeling: FAQs for Appliance Manufacturers](#)

FAQs to help manufacturers comply with the Appliance Labeling Rule

#### [Environmental Claims: Summary of the Green Guides](#)

If your company makes environmental claims in your ads or on your products, you’ll want to know about the FTC’s Green Guides. This summary of the Guides introduces how truth-in-advertising principles apply to green marketing

### Related Posts

---

NOV 5, 2018

[Do you have a 2012, 2013, or 2014 VW Passat TDI?](#)

JAN 19, 2018

[So You Received a CID: FAQs for Small Businesses](#)

DEC 28, 2017

[2017: The consumer protection year in review](#)

SEP 28, 2017

[FTC says company didn’t have support for “organic” mattress claims](#)

JUL 11, 2017

[Paint settlements suggest caution with broad-brush VOC, safety claims](#)

### Legal Resources on Environmental Marketing

---

[Case \(85\)](#)

[Closing Letter \(12\)](#)

[Press Release \(6\)](#)





# Going Green

Share this page



Want to make choices that are good for the environment (and your wallet) when you shop?

Learn how to question green advertising claims, shop for products that use less energy, and save gas without wasting your money.

## Shopping Green

If environmental impact is a priority when you shop, you'll want to check out these resources.

### Shopping Green

Here's what to know if you want to buy products that are better for the environment.

These comments are mine and don't reflect the official position of the FTC.

# THANKS!



**Deon Woods Bell**

**International Counsel for Consumer  
Protection and Data Privacy**

Office of International Affairs

Federal Trade Commission

[dwoodsbell@ftc.gov](mailto:dwoodsbell@ftc.gov)

- +1 (202) 326-3307