



May 19, 2008

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

Re: Green Packaging Workshop - Comment, Project No. P084200

Dear Sir or Madam:

The Glass Packaging Institute (“GPI”) welcomes the opportunity to submit comments to the Federal Trade Commission (“FTC”) regarding FTC’s Guides for the Use of Environmental Marketing Claims (the “Green Guides” or the “Guides”)<sup>1</sup> in advance of FTC’s public workshop to examine developments in green packaging claims and consumer perception of such claims.<sup>2</sup> GPI appreciates and concurs with the position of the Commission that an update to the Guides is essential to keep regulatory guidance pace with the current usage of environmental marketing claims in today’s marketplace. GPI believes that, in view of the central importance of environmental marketing claims to consumers today, it is imperative that the FTC revise its Green Guides to ensure that any such claims for packaging materials are clear and supported.

## **I. Background**

### **A. Glass Packaging Institute Scope and Activities**

GPI is the trade association representing the North American glass container industry, including 48 member and associate companies. GPI member companies manufacture glass containers for a wide range of applications, including foods, beverages, cosmetics, and a variety of others. GPI’s membership also includes a broad range of materials suppliers and other entities that manufacture or integrate components of glass packaging. Glass containers manufactured for packaging are composed of natural materials, sand, soda ash, limestone, and recycled glass, or cullet. Glass is an excellent packaging material because of its physical properties (strength, insolubility, chemical resistance, formability, and recyclability) and its aesthetic qualities (purity, transparency, form, and color). Because glass is essentially impermeable and inert, glass containers can store food, beverages, chemicals, and other products for many years without

<sup>1</sup> 72 Fed. Reg. 66,091 (Nov. 27, 2007).

<sup>2</sup> 73 Fed. Reg. 11,371 (Mar. 3, 2008).



imparting taste to contents and with no degradation of the contents or the glass itself.

Glass packaging companies represent a \$5.5 billion dollar industry, and employ approximately 18,000 skilled workers in 50 glass manufacturing plants in 23 states. Beverages packaged in glass accounted for 75% of the global glass packaging market and nearly 80% of the domestic glass packaging market in 2006, and are the fastest-growing segment for glass packaging. According to a recent report from Global Industry Analysts, Inc., Europe accounts for about 42% of this demand. The Global Industry Analysts, Inc. report said that glass has a "premium and superior quality packaging material image" for beverages such as wine, beer, and similar drinks, and can be "fully recycled and reused." As an advocate on behalf of the glass industry for standards affecting the industry, GPI serves its members by promoting sound environmental policies, and by facilitating and ensuring the adequate education of packaging professionals concerning those policies.

#### **B. Glass Packaging Industry Commitment to Preserving the Environment**

Glass has long been recognized as the gold standard for sustainable packaging. As a material with a 3,000 year legacy of safe use in contact with food, glass offers an unparalleled environmental packaging profile: glass is endlessly reusable and recyclable, and is the only widely-used food and beverage packaging material deemed by the Food and Drug Administration to be generally-recognized-as-safe ("GRAS").

GPI serves as a principal source of guidance to its members and consumers regarding the environmental benefits of glass and glass recycling programs. Recognizing the steadily increasing preference of consumers for foods and beverages packaged in glass, both because of its profile as sustainable packaging and because of its health implications as the only packaging material that has FDA GRAS status, GPI is committed to building awareness about programs for glass recycling and the accessibility of glass as a natural packaging material.

GPI and its members thus have a significant interest in the Green Guides generally, as well as the specific application of the Guides to the area of green packaging claims.

### **II. Continuing Need for Green Guides**

#### **A. Benefits to Industry and Consumers**

The Green Guides greatly benefit the packaging industry and consumers by ensuring that truthful and information can be disseminated through marketing of a product. GPI and its members believe that importance of the Green Guides has intensified as the value and use of environmental marketing claims have greatly increased in recent years. GPI strongly supports the FTC's review of the current status of the Green Guides to ensure that necessary changes and updates are made for the Guides to have continued meaning and importance in today's marketplace, and to ensure that claims are not unfair or deceptive under Section 5 of the FTC

Act, 15 U.S.C. 45(a) or those of the States under their similar consumer protection statutes. As discussed in detail below, GPI agrees with the Commission's suggestion that, since the Guides were last revised in 1998, environmental marketing claims at every level of consumer product marketing have increased in both frequency and importance to consumers.<sup>3</sup> Equally, environmental marketing claims such as those considered by the existing Guides, have evolved, in many instances, to include new explicit and implicit claims not used or contemplated at the time of promulgation or the last revision of the Guides a decade ago.

In the context of environmental packaging claims, an area that has undergone significant change through advances in technology and innovation, the increasing need for guidance by the FTC on proper usage and substantiation of claims is particularly apparent, and likely will continue to demand periodic review and updating of the Guides, as well as oversight by the FTC and the States. Although, as the Staff notes, the FTC has not, and does not, intend to develop environmental performance standards or protocols against which environmental marketing claims may be judged, the Commission should provide the necessary guidance to industry to promote its products in a manner that is not misleading to consumers in this area of substantial interest and potential impact. Additionally, by providing specific and comprehensive guidance on how industry may properly communicate with environmentally-conscious consumers, the Guides serve as an opportunity for the Commission to encourage the use of and innovation in communications about environmentally-friendly packaging applications.

## **B. Changing Consumer Population**

Since the first publication of the Green Guides in 1992, and their subsequent revisions in 1996 and 1998, the consumer population that the Commission sought to protect with the issuance of the Guides has become increasingly sophisticated.<sup>4</sup> At the same time, that market of sophisticated consumers has rapidly increased in size. This evolution in the "green" market has understandably resulted in an increased response from industry in marketing, to such an extent that today's consumers are bombarded daily with environmental marketing claims. Where products and packaging touted to be organic or recyclable were once relegated to specialty foods markets and home product stores, large organic food market chains (*e.g.*, Whole Foods and Wild Oats) have become commonplace in most major cities in the country. Large manufacturers and retailers also have focused on being "green" (*e.g.*, Wal-Mart,<sup>5</sup> The Coca-Cola Company,<sup>6</sup>

<sup>3</sup> 72 Fed. Reg. 66,091 (Nov. 27, 2007).

<sup>4</sup> Where marketing practices are directed to a specific consumer or market of consumers, the FTC Policy on Deception indicates that, with respect to determining whether practices are materially misleading, the Commission "examines reasonableness from the perspective of the perspective of that group." *See* FTC Policy on Deception, n. 5 (1983), available at: [www.ftc.gov/bcp/policystmt/ad-decept.htm](http://www.ftc.gov/bcp/policystmt/ad-decept.htm).

<sup>5</sup> *See* Walmart Stores website, "Sustainability" page, available at: <http://walmartstores.com/Sustainability/>.

<sup>6</sup> The Coca-Cola Company has undertaken a wide-spread environmental program including a commitment to "water stewardship, sustainable packaging, and energy & climate protection." *See* The Coca-Cola Company

McDonald's Corporation,<sup>7</sup> Publix,<sup>8</sup> Safeway Inc.,<sup>9</sup> Giant Food, Inc.,<sup>10</sup> and The Home Depot,<sup>11</sup>), now routinely advertising their commitment to the environment through the products that they offer and/or through community outreach programs directed toward environmental improvement.

Because consumers now seek out, and are known to rely heavily on, environmental marketing claims that some marketers unfortunately have recognized a great opportunity for consumer deception. The term "green washing," coined by environmental activists, describes the act of deceiving or misleading consumers through deceptive and unsupported environmental marketing.<sup>12</sup>

### C. Overview of GPI's Comments

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corporate website, "Corporate Responsibility – Environment" page, available at: <http://www.thecoca-cola.com/citizenship/environment.html>. The World of Coca Cola Museum, which is expected to attract over 1 million visitors per year, was recognized by the U.S. Green Building Council for Environmental Sustainability. See "Environmentally Friendly Design Earns New World of Coca-Cola "Green" Status," Reuters, Mar. 5, 2008, available at: <http://www.reuters.com/article/pressRelease/idUS156274+05-Mar-2008+BW20080305>.

<sup>7</sup> See McDonald's Corporation website, "Environment" page, available at: <http://www.mcdonalds.com/usa/good/environment.html>.

<sup>8</sup> In September 2007, Publix opened a separate chain of stores featuring its GreenWise Market line. See Publix website, "Publix GreenWise Market Products," available at: <http://www.publix.com/wellness/greenwise/products/Home.do>.

<sup>9</sup> Safeway Inc. introduced "O Organic," a popular line of generic organic products, in 2006, and has continued expanding its organic product line. See Matt Andrejczak, "Safeway to Expand its Organic Sales," MarketWatch, Dec. 13, 2007, available at: <http://www.marketwatch.com/news/story/safeway-expand-organic-food-sales/story.aspx?guid=%7B6FEA631B-AB3B-48F3-B467-74CFC0CFF044%7D>.

<sup>10</sup> Giant Food, Inc., the largest supermarket chain in the Washington, D.C. region, introduced its "Nature's Promise" line in 2004. See Giant Food, Inc., website, available at: [http://www.giantfood.com/brands/natures\\_promise.htm](http://www.giantfood.com/brands/natures_promise.htm); see also Michael Barbaro, "Giant Food To Roll Out Its Organic Product Line," The Washington Post, Sept. 30, 2004, available at: <http://www.washingtonpost.com/wp-dyn/articles/A60793-2004Sep29.html>.

<sup>11</sup> Home Depot's "Eco Options" line purports to assist consumers in "identify[ing] products that have a lower impact on the environment and make environmental choices." See Home Depot website, "Eco Options" homepage, available at: <http://www6.homedepot.com/ecooptions/>. [http://money.cnn.com/2008/04/14/news/companies/coca\\_cola.fortune/?postversion=2008041708](http://money.cnn.com/2008/04/14/news/companies/coca_cola.fortune/?postversion=2008041708)

<sup>12</sup> See, e.g., Keith Johnson, "Greenwashing or Green Business?," The Wall Street Journal, Environmental Capital Blog, Jan. 30, 2008, available at: <http://blogs.wsj.com/environmentalcapital/2008/01/30/greenwashing-or-green-business/>; TerraChoice Environmental Marketing Inc., "The Six Sins of Greenwashing" (Nov. 2007), available at: [http://www.terrachoice.com/files/6\\_sins.pdf](http://www.terrachoice.com/files/6_sins.pdf); Joshua Karliner, "A Brief History of Greenwash" CorpWatch, Mar. 22, 2001, available at: <http://www.corpwatch.org/article.php?id=243>.

In view of the central importance of environmental marketing claims to consumers today, it is imperative that the FTC revise its Green Guides to ensure that any such claims for packaging materials are both clear and supported.

In particular, GPI believes it important that the Commission ensure that the updates to the Green Guides adequately address and reflect the changing uses of the terms “recyclable,” “sustainable,” “renewable,” “degradable,” and “refillable,” and of health claims referring to the absence of harmful chemicals, such as “free from,” “does not contain,” and “no.” In addition, GPI believes that it is imperative for the Commission to re-examine the use of logos and design elements related to recycling and recycling initiatives, such as the Mobius Loop and the Society of Plastics Industry (“SPI”) resin identification codes (“RIC”). GPI respectfully submits the following specific comments and supportive materials regarding environmental marketing issues of particular concern to the glass packaging industry.

### **III. Terms Currently Used in the Green Guides**

#### **A. Recyclable**

As the trade association representing a packaging material that is 100% recyclable, GPI is profoundly interested in ensuring that uses of the term “recyclable” in environmental marketing claims are truthful, and are fully understood by the consumers being targeted. The modern environmental movement of the 1960s and 1970s, culminating in the first Earth Day in 1970, ushered in the current period of awareness and interest in recycling. Since that time, as the movement has increased in popularity and become more mainstream, expanding to a larger subset of consumers, recycling has steadily increased.<sup>13</sup>

The current Green Guides state that “[a]n environmental marketing claim should not be presented in a manner that overstates the environmental attribute or benefit, expressly or by implication,” and provides the following example of an inappropriate use of the term recyclable:

A trash bag is labeled “recyclable” without qualification. Because trash bags will ordinarily not be separated out from other trash at the landfill or incinerator for recycling, they are highly unlikely to be used again for any purpose. Even if the bag is technically capable of being recycled, the claim is deceptive since it asserts an environmental benefit where no significant or meaningful benefit exists.<sup>14</sup>

<sup>13</sup> See Environmental Protection Agency website, “Recycling” page, available at: <http://www.epa.gov/msw/recycle.htm>.

<sup>14</sup> See 16 C.F.R. § 260.6(c), Example 2.

Further, the Commission provides several examples regarding appropriate qualifying language for proper use of the term recyclable, indicating, for example, that an

unqualified claim [of recyclability] is likely to convey to reasonable consumers that all of both the product and its packaging that remain after normal use of the product, except for minor, incidental components, can be recycled. Unless each such message can be substantiated, the claim should be qualified to indicate what portions are recyclable.<sup>15</sup>

Unfortunately, despite the guidance of the Commission and the increased awareness about and interest in the ability of products to be recycled, consumers continue to misunderstand and/or be misled by environmental marketing claims associated with recycling.

In a poll conducted in April 2008 by Opinion Research Corporation, of 1,000 respondents, 77% of people believed that **over 50%** of a product claiming to be recyclable must be able to be returned to its original use in order for the claim to be accurate. Similarly, 54% of people understood the term “recyclable” to mean that a product could be reprocessed into its original use an **unlimited number of times** (as, for example, a recyclable bottle can be recycled and made into a new recyclable bottle).

Regrettably, the majority of food and beverage packaging products on the market today that claim to be recyclable do not meet these consumer-defined requirements. Multi-layer aluminum and plastic-coated paperboard packaging products often claim their recyclability, for example, but recycling facilities rarely exist in the U.S. for such products. Consumers clearly do not fully understand the intended meaning and limited extent of the current environmental claim usage of “recyclable” as it is used by many marketers to food and beverage packaging. Thus, although the existing examples are helpful, and should be retained, GPI believes that additional guidance from the Commission is needed.

GPI also endorses the view of the Commission that claims regarding “recycled content” must be appropriately qualified “to avoid consumer deception about the amount, by weight, of recycled content in the finished product or package.”<sup>16</sup> GPI believes that both “recycled content” and “recyclable” claims must continue to be qualified by the amount of the product that has been, or can be, recycled.

- *SPI RIC Codes and Mobius Loop Constitute a Recognized Claim of Recyclability*

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<sup>15</sup> See 16 C.F.R. § 260.7(d), Example 1.

<sup>16</sup> 16 C.F.R. § 260.7(e).

The FTC states in the current Green Guides that if an SPI code is “placed on an inconspicuous location on the container (e.g., embedded in the bottom of the container) it would not constitute a claim of recyclability.”<sup>17</sup> This conclusion is now outdated. Since the last update to the Green Guides in 1998, knowledgeable consumers have relied on the SPI code as a marker of recyclability and, indeed, now believe the SPI code to be an indication that the packaging can be recycled regardless of the consumer’s geographic location or the code referenced in the packaging itself. This concern has been expressed by many other commenters in this proceeding previously.<sup>18</sup> In order for the Green Guides to continue to offer meaningful guidance to industry and ensure that consumers are not misled or confused by packaging, the FTC must update and revise the Green Guides to (i) clarify that SPI codes are an environmental marketing claim, and (ii) ensure that these claims of recyclability are properly modified with truthful statements to reflect the actual potential for the products featuring SPI codes to be recycled.

### **B. Degradable and Compostable**

The terms “degradable” and “compostable” continue to be important claims in environmental marketing, especially in the context of the increased use of new terms that incorporate the concept of degradability, including, for instance, “sustainable.” In response to the Commission’s request for comment on whether further guidance is necessary with respect to the substantiation necessary to support degradable claims, GPI believes that further guidance from the Commission is needed regarding timeframes in which materials must break down in order properly to support degradability claims.

In addition to the level of substantiation currently required by the Guides (*i.e.*, “competent and reliable evidence that the entire product or package will completely break down and return to nature... within a reasonably short period of time after customary disposal”<sup>19</sup>), in view of the development in food and beverage packaging materials since the last revision of the Guides, it is important that the Commission provide additional clarification regarding what constitutes a “reasonably short period of time.” Such clarification likely could be best provided in the context of the specific packaging product (*e.g.*, plastic films must degrade within six months in order for marketers of the films to claim, without further qualification, that the product is degradable; plastic bottles must degrade within one year in order for marketers of the bottles or products contained therein to claim, without qualifying language, that the product is degradable). The Commission’s development of more detailed guidance as to a reasonable timeframe for full decomposition of products claiming, without limitation, to be degradable is necessary in order for such claims to be truthful and not misleading to consumers.

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<sup>17</sup> 16 C.F.R. § 260.7(d).

<sup>18</sup> See *eg.* American Beverage Association Comments to the Green Guides Regulatory Review (Feb. 11, 2008); National Recycling Coalition, Inc. Comments to the Green Guides Regulatory Review (Feb. 7, 2008).

<sup>19</sup> See 16 C.F.R. § 260.7(b).

Similarly, it is necessary for the Commission to provide additional guidance on the use of the term “compostable” in environmental marketing. The Guides currently provide that

A claim that a product or package is compostable should be substantiated by competent and reliable scientific evidence that all the materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device.<sup>20</sup>

In addition to the same concerns about specifying the time necessary for a product to be considered compostable, as noted above concerning the term degradable, GPI believes it important for the Commission to provide guidance as to the safety aspects inherent in composting certain materials. Many consumers who compost their waste products do so either on their own property, or through neighborhood composting programs. Thus, as noted in the Guides,<sup>21</sup> packaging and other materials claiming to be able to be composted must ensure that the products yield safe composting material. GPI believes that the Commission must consider this issue particularly in the context of the various safety concerns surrounding plastic packaging materials.<sup>22</sup> Consequently, the Commission should set out in its revision of the Green Guides specific limitations on the use of the “compostable” claim where certain packaging materials may not be safely composted, or where the safety of composting the materials is unknown.

### C. Refillable

GPI believes the Commission’s current guidance concerning proper uses of the environmental marketing claim “refillable” remains useful, and that requiring the qualification of refillable claims unless “a system is provided for: (1) the collection and return of the package for refill; or (2) the later refill of the package by consumers with product subsequently sold in another

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<sup>20</sup> 16 C.F.R. § 260.7(c).

<sup>21</sup> See 16 C.F.R. § 260.7(c), Example 2 (“A lawn and leaf bag is labeled as ‘Compostable in California Municipal Yard Trimmings Composting Facilities.’ The bag contains toxic ingredients that are released into the compost material as the bag breaks down. The claim is deceptive if the presence of these toxic ingredients prevents the compost from being usable.”).

<sup>22</sup> See e.g. “National Toxicology Program Brief on Bisphenol A (CAS No. 80-05-7)” Apr. 14, 2008, at 32, (Noting that the current exposures of infants to bisphenol A are “possibly” high enough to cause concern; references laboratory animal testing resulting in adverse effects on development, as well as association of bisphenol A exposure with adverse effects in mammary gland development and early onset of puberty.), available at: [http://cerhr.niehs.nih.gov/chemicals/bisphenol/BPADraftBriefVF\\_04\\_14\\_08.pdf](http://cerhr.niehs.nih.gov/chemicals/bisphenol/BPADraftBriefVF_04_14_08.pdf).



package” continues to be appropriate.<sup>23</sup>

#### **IV. Proposed Additions to the Terms Covered by the Green Guides**

##### **A. Sustainable**

“Sustainable” is a term that has broad application to the materials incorporated into the specific product being described, the process by which the product is made, and the use of the product. Precisely due to the far-reaching implications of the term “sustainable” and its appeal in the context of product marketing, GPI believes that it is imperative for the Commission to provide meaningful guidance to industry concerning proper usage of, and adequate substantiation for, this term, in view of its increasing use and importance to consumers. GPI recognizes that the broad reach of the term makes it impossible, as a practical matter, to adopt a definition of the term “sustainable” that would be suitable for every conceivable environmental marketing context.

GPI urges the Commission, however, to incorporate into the Green Guides a definition of the term “sustainable” in the three contexts in which it can be used, namely: (1) as it may relate to the product’s material, (2) its manufacture, or (3) its subsequent applications. In each context, the FTC should additionally provide guidance as to what would constitute adequate substantiation of the term’s use. GPI urges that the following definition be adopted with respect to sustainable packaging:

Packaging that adds economic and social value to a product;  
minimizes the use of materials and energy; is recyclable or  
compostable, and is non-toxic to humans and ecosystems.

##### **• *Life Cycle Assessment Issues and Related Terms***

The Commission should also provide guidance on the proper use of sustainability claims in light of current approaches on appropriate measurements for sustainability. Life cycle assessment (“LCA”) studies, such as those set out in ISO 14044, “Environmental Management Standards for Lifecycle Assessment,” provide a framework for assessing the full range of environmental damages and relative benefits attributable to a given product, incorporating consideration of all phases of the life cycle of the subject product, including production, manufacture, distribution, use, and disposal, as well as transportation and other aspects necessary to consider as elements of how the product is manufactured, used, and disposed of (or re-used). The terms “downcycle” (the recycling of a material into a material or product of lesser quality) and “cradle-to-cradle” (where components of a product can be recycled or reused with no loss of quality and any biological nutrients composted or consumed) are regularly used to describe the outcome of a

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<sup>23</sup> 16 C.F.R. § 260.7(g).

life cycle assessment.<sup>24</sup>

GPI believes that reference to, and incorporation of, these terms and forms of calculable measurement of a product's sustainability are essential for the Commission to include to ensure that the Green Guides provide meaningful guidance on substantiation of sustainability claims. GPI also suggests that the Commission continue to expressly state, and include appropriate examples of, the need for any life cycle assessment supporting an environmental packaging claim to meet the FTC's usual standard for scientifically-supported claims, which requires that marketers

...possess and rely upon a reasonable basis substantiating the claim. A reasonable basis consists of competent and reliable evidence...[which] will often require competent and reliable scientific evidence, defined as tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.<sup>25</sup>

By maintaining this standard in the Green guides, as applicable, for sustainability or other claims purportedly supported by LCAs, the Commission can help to ensure that only properly conducted LCAs are used in support of environmental packaging claims, and that such LCAs support the specific claims made.

## **B. Renewable**

GPI also encourages the Commission to provide guidance to the packaging industry regarding the use of the claim "renewable" in product marketing. As discussed above, glass represents an example of fully renewable source of packaging material, whether it is refilled or recycled; glass does not lose quality or performance through repeated processing, and can be reprocessed an unlimited number of times without depleting non-renewable resources or containing toxic materials that cause degradation to other resources or potential harm to consumers.

In order for packaging manufacturers to properly claim that their products are renewable, GPI believes the Commission must require that they possess adequate substantiation regarding the source of the packaging material and/or the extent to which the mechanism by which the packaging is made renders the entire package renewable. Similar to the concern regarding the term "sustainable," discussed above, the FTC should require that use of the term renewable as an

<sup>24</sup> See William McDonough and Michael Braungart, *Cradle to Cradle: Remaking the Way We Make Things* (2002).

<sup>25</sup> See 16 C.F.R. § 260.5 of the current Green Guides.

environmental marketing claim be able to be properly substantiated. As with the term sustainable, because the term renewable refers to a component or part of a product's life cycle, the FTC should incorporate in the Guides that an adequate and well-designed LCA would be an acceptable means by which renewability claims can be substantiated, under the standards for claims and reliable scientific evidence set out above.

### **C. Packaging-related Health Claims**

Of increasing importance to consumers are environmental marketing claims regarding the positive health effects, or absence of negative health effects, conferred by the natural or non-toxic nature of the materials used to make packaging and/or processes by which the packaging is made. The Guides currently provide guidance for the use of claims such as "does not contain" in the context of environmental marketing.<sup>26</sup> However, such examples in the Guides are currently limited to the presence of ozone-depleting substances,<sup>27</sup> a claim that is no longer of significant relevance given changes in packaging components. GPI urges the Commission to include in its revision of the Guides more current and detailed guidance regarding health claims inherent in the packaging industry's use of the terms "free" and "no" in the environmental marketing context (e.g., "Contains no bisphenol A.").

As a result of the increased level of consumer awareness about a variety of packaging materials and potential safety concerns associated with some types of packaging products, consumers have begun to seek out products that are free of potentially harmful components. Because of the increased reliance of consumers on "free" and "no" claims concerning packaging materials, the Commission must ensure that marketers using those claims do so appropriately and in a manner that does not imply a greater health benefit than is able to be substantiated. While this position is consistent with the view currently endorsed by the Commission's Green Guides,<sup>28</sup> it is important for the Commission to revisit and refine the Guides in this regard in view of the wide range of new chemicals being introduced into packaging materials. For example, the Commission should address situations where, even though a statement indicating the absence of one purportedly harmful material or chemical is truthful, the product nonetheless contains other materials or chemicals that may be considered to be potentially harmful (e.g., where bisphenol A has been removed from a plastics packaging product, but the product still contains phthalates).

### **V. Conclusion**

GPI and its members strongly support the FTC's commitment to review and update the Green Guides, and appreciates the opportunity that the Commission has extended to provide comments

<sup>26</sup> See 16 C.F.R. § 260.7(h), Example 2.

<sup>27</sup> See 16 C.F.R. § 260.7(h) ("Ozone safe and ozone friendly.")

<sup>28</sup> See 16 C.F.R. § 260.6(c) ("An environmental marketing claim should not be presented in a manner that overstates the environmental attribute or benefit, expressly or by implication.")

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concerning its review and potential changes. GPI recognizes that the Commission is well positioned to update and refine the Green Guides in a manner that not only protects and reflects the sophistication of today's environmentally-conscious consumer, but provides enhanced, more meaningful, guidance to industry regarding the use of environmental marketing claims. GPI believes that it is imperative that environmental packaging claims be both clear and supported, to avoid consumer deception. GPI welcomes any questions that the Commission Staff may have regarding these comments.

Sincerely,

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Joseph J. Cattaneo  
President  
Glass Packaging Institute

Of Counsel:

Stephen Paul Mahinka, Esq.  
Alexis Reisin Miller, Esq.  
Morgan, Lewis & Bockius LLP  
Washington, D.C.