



August 14, 2008

Federal Trade Commission/Office of the Secretary
600 Pennsylvania Avenue, N.W.
Room H-135 (Annex B)
Washington, DC 20580

Re: Green Building and Textiles Workshop – Comment, Project No. P084203

Tetra Pak Inc. (“Tetra Pak”) is pleased to submit these comments on the Federal Trade Commission (“FTC” or “Commission”) Guides for the Use of Environmental Marketing Claims (“Green Guides”), pursuant to the Announcement of Public Workshop and Request for Public Comment published in the *Federal Register* on June 10, 2008, 72 *Fed. Reg.* 32662. Tetra Pak has been following with interest both the Workshops and the comments filed on the Green Guides to date. Our views on the Green Guides and action that the FTC should consider in updating the Guides are closely aligned with those of others who have weighed in on carbon offsets and renewable energy certificates, packaging, and textiles and building products.

In particular, Tetra Pak believes that the FTC should reconsider the “substantial majority” standard for recyclability claims, and supports reconsideration of “safe harbor” disclosures on the availability of recycling facilities. We believe that additional guidance on “natural” and “renewable” claims may be helpful. We also agree that the Commission should take a close look at disclosure and substantiation requirements for “sustainable” claims in advertising, without treading on corporate free speech rights to discuss corporate commitments and initiatives generally.

Tetra Pak is a multinational food processing equipment and packaging company. Headquartered in Lausanne, Switzerland, the Company employs more than 20,000 people in over 150 countries. Tetra Pak works for and with its customers to provide processing and packaging solutions. In addition to its commitment to making food safe and available, Tetra Pak is committed to promoting environmental sustainability and reducing its carbon footprint. Tetra Pak submits these comments for the Commission’s consideration.

Comments

Our comments focus on three important areas: “recyclable” claims, “natural” and “renewable” claims, and reaffirming that broad general claims must be substantiated by a comprehensive assessment of the environmental impacts of the product or package.

Recyclable Claims

The FTC Guides specify that an unqualified claim of “recyclable” can be made only if a product (or package) is recyclable to a “substantial majority of consumers or communities.” Much confusion has existed about how to define a “substantial majority.” EPA’s website indicates that there are 8,660 curbside collection programs available in communities nationwide in 2006. Tetra Pak submits that given the extent of actual availability of curbside collection facilities in the U.S., the FTC should substitute the internationally-recognized “reasonable proportion” standard under ISO 14021 for its “substantial majority” test. At a minimum, the FTC must clarify the “substantial majority” standard in its Guides to reflect current availability of recycling facilities.

Tetra Pak supports more positive safe harbor disclosures regarding the availability of recycling facilities in advertising (including on packaging). During the Commission’s Green Packaging Claims Workshop on April 30, 2008, Sara Hartwell with the Environmental Protection Agency Office of Solid Waste expressed her view that a statement that a product may not be recyclable serves as a *disincentive* for people to recycle. The Green Guides use an example of a bottle for which collection sites are not available to a “substantial majority” of consumers, although they are available to a “significant percentage” of communities. The Green Guides suggest using qualifiers such as “This bottle may not be recyclable in your area,” or “Recycling programs for this bottle may not exist in this area.” Tetra Pak agrees with Ms. Hartwell that this “safe harbor” qualifier is not likely to provide any incentive for consumers to check to see if and where the item might be recycled. She advocated for a more positive disclosure, such as “Check with your local government to see if recycling facilities exist.” We agree that this as well as other positive disclosures would be more useful and informative to consumers.

Under the ISO “reasonable proportion” standard, products collected at curbside in, say, thirty percent (30%) of communities with curbside collection programs, should qualify for the more positive “Check to see if this product/package is recyclable in your area” or, as Ms. Hartwell suggested, “Check with your local government to see if recycling facilities exist.” We believe that more positive disclosures will prompt more consumers to check on the availability of recycling facilities, work with local governments to expand collection infrastructures, and to actually recycle. This is especially important for relatively new products or packages that are recycled in a growing number of communities, but are not yet recycled in a “substantial majority” of communities.

Put another way, the inability to make more positive disclosures may well inhibit interest in actual recycling and thus create a barrier to expanding recycling efforts to include newer products or materials. Conversely, if facilities are available to a reasonable proportion of consumers, a claim that the product, material or package is “Recyclable,” coupled with an added disclosure such as “Check with your local government to see if recycling facilities exist,” and possibly adding a

website or other reference where consumers can check on the extent of available recycling, would encourage consumers to recycle such products or materials where facilities are indeed available.

“Natural,” “Renewable” and Similar Claims

The most recent workshop on textiles and building products included discussion on claims like “natural” and “renewable.” It is likely that use of these terms in context will be well understood to be claims that the product or package is made from a natural or renewable resource, but it may be useful to clarify this point by including guidance. There is no reason to believe, for example, that a claim such as “Made from trees (or bamboo), a natural and renewable resource,” is deceptive or misleading to consumers where the product is made entirely or almost entirely of paper produced using these natural materials.


Sustainable and Other General Claims

Tetra Pak also agrees with commenters that “sustainable” claims in advertising should be subject to the obligations of disclosure and substantiation described in the Green Guides. There may be less need to revise the Guides than to remind advertisers about the need to have robust support for broad environmental claims based on a comprehensive review of the environmental attributes of the advertised product or package.

Not every mention of “sustainability,” or discussion efforts to reduce the carbon footprint of a company, its products or activities, should be subject to the Green Guides. Many companies can and do describe “sustainability” initiatives and activities to reduce energy usage or impact on global warming. Claims about carbon emissions and global warming contributions in particular are of growing importance in the marketplace. Tetra Pak is committed to reducing its carbon footprint; the company’s goal is to reduce CO2 emissions by 10% by 2010. As these types of claims become more prevalent and generate more interest, it is especially important for the FTC to provide further guidance in this area. Corporate communications about commitments to the environment, CO2 reductions, sustainable production, and the like, are obviously different from traditional advertising claims on packaging or in advertising and should be outside the scope of application of the Guides. General claims of sustainability in advertising, however, should be supported by sound life cycle analyses, life cycle inventories or similar broad assessments of environmental impacts.

Conclusion

Tetra Pak appreciates the opportunity to submit comments in this proceeding, and it generally supports the positions of other interested parties who have already submitted comments on the Green Guides. Tetra Pak strongly supports changing the standard for an unqualified



recycling claim, and in particular considering adopting the ISO Standard 14021 “reasonable proportion” test. At a minimum we urge the FTC to authorize more positive and empowering disclosures for products that may be recyclable to less than a “substantial majority” of consumers or communities. The company also agrees with others who advocate for disclosure and substantiation requirements for “sustainable” claims in advertising, but urges the FTC to respect commercial free speech rights in corporate communications about corporate commitments to and activities related to sustainability, carbon reduction initiatives, and similar initiatives to reduce and manage environmental impacts.

Respectfully submitted,

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