Georgia-Pacific

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

RE: Carbon Offset Workshop- Comment
Project No. P 074207

Dear Sir/Madame:

Georgia-Pacific LLC is one of the largest international manufacturers of forest products and chemicals for these products. Our manufacturing facilities consume large quantities of energy and utilize a large proportion of it (58%) from renewable energy sources. These facilities are principally located in the United States and the issues on environmental claims around renewable energy and carbon offsets interest us as they are vital for our business and marketing. Since the initial Green Guides in 1992 and subsequent updates, we have consistently commented on them as evidence of our interest on the subject matter. In the following we will be addressing general comments as well as those specifically solicited in the web-based form. Georgia Pacific LLC has considerable experience in the development of international standards and procedures for GHG inventories for companies, projects (creating offsets) and their validation and verification , as well as conducting our corporate GHG Inventory and company registry of GHG saving projects. We trust our comments on these topics sharing our experience as pertinent will bring the desired information to the FTC in future rulings on the matter.

III- Issues and questions for Discussion at the Workshop

A) Possible Issues for Discussion at the workshop

(1) Trends in marketing carbon offsets and RECs,

It appears as if they will be increasing in supply and questionable in their increase demand as voluntary programs. Workshop may or not confirm this trend. It is not the number but the quality and market credibility of what is being offered that appears increasingly scrutinized since the concept of carbon foot print implies carbon offsets of some sort.. FTC may ask for substantiated data, some metrics or quantification of these transactions could help clarify the answer to the question.

(2) the nature of the commodities in question (i.e., the property rights transferred from seller to buyer through the sale of offsets and RECs),

It is possible to identify two main types of carbon offsets related marketing activities. One is directed to individuals, households, users of certain services, etc. The implicit or explicit claim is that the tools or concepts offered by the seller will properly record reduction in the carbon foot print. In this case a transaction takes place between the seller/provider of the tool and the individual with the questions about the credibility of that tool in providing the proper calculation or factors the proper elements for the individual or household daily activities. In many cases, the tool is provided freely and no further action is envisioned with the savings or offsets. These measures have a value in helping change behaviour in the general public and FTC should keep such in mind not to interfere with a positive and needed voluntary behaviour inducement.

Another related action to the above is a more organized one when companies induce employees with personal and household carbon foot print reduction programs whereby the results of preset calculating software are tabulated by the company and aggregated with the purpose of claiming a certain overall reduction in C footprint. It is plausible to imagine quite a difference in these programs and the quality of the results. . These are in general positive actions based on well-established corporate practices like United Way , etc. that are done without any objections and issues of fraud. But of course, the accountability of these aggregated offsets is yet to be examined. As far as the aggregate numbers are not claimed as offsets for future financial transaction, these practices appear plausible within the culture and support of each company.

Another type in claims of offsets is the specific financial transaction about a given quantity or number of carbon offsets. and its terms would indicate the conditions for transfer of property or other customary commercial, financial information. There is quite a range of these financial transactions, from the airline offering a C neutral flight for certain additional price to more established exchange centers. In the former, it does not appear the buyer gets too much information but assurance is doing something noble. If not clearly informed the buyer of course could demand more information on the matter. These are more organized actions either for “offsets” or RECs and of course the substantiation of the “offsets” is paramount.. “Caveat emptor” still rules, and the FTC must be careful in not disrupting reputable and well-established institutions with unnecessary and disturbing ruling. Trading in C units is essential for the overall cost effective implementation of C reductions and legitimate marketing activities.

(3) product marketing based on offset or REC purchases,

Regarding RECs, in our opinion the product marketer seldom will make a claim of having so much in carbon offsets or RECs . In turn, the market value of the claim resides in stating an attribute such as the product or operation is “carbon neutral” or operated with “green electricity” and hopefully backed it up with the substantiation of purchases of offsets or RECs and the proper keeping of the account ting book. . It is the substantiation on the validity of the RECs or offsets the point in question since they could be or not entirely valid and accurate. Then, C offsets and RECs are the substantiation of the claim not the claim per se for a product marketer. It is subtle differentiation that may help the FTC in its considerations.

(4) consumer perception of carbon offset and REC claims,

We do not know of specific, credible surveys or even market sensing studies on this matter. We consider that both the individual and the corporation buying, and paying, for those offsets would demand proper substantiation. Nevertheless, we could also speculate that the buyer appears in certain cases more interested in “going along” and be internally content of a good action, and not necessarily willing in exploring the soundness of what it is buying. In some circles, it appears there is sort of “peer pressure” to pay for the claim offered and not to investigate deep about the backing evidence.

(5) potential market problems such as double-counting and other forms of fraud,

The following comments will address the cases where there is an explicit financial transaction linked to a certain quantity in offsets or RECs. These types of problems appear very real, intentionally or unintentionally. No central clearing house to keep records of transactions less on the validity of the quantities claimed. Chain of custody procedures are lacking. Certain institutions trade internally thus facilitating the tracking and prevention of double counting. But once outside these types of protection, they are “feathers in the wind”.

The workshop provided a glimpse of an ever-growing economy long in promises and short in substantiation. or claims .

(6) third-party certification and other standard setting programs,

For offsets, when to be validated by third-party certifiers, ISO 14064.2 appears a most recent and complete international standard flexible enough for large and small C offset projects. RECs appear easier to certify but again the prevention of double- counting or double –selling is not assured by any 3rd-party certification. There is need for an infrastructure for voluntary programs, but its value, in view of the dynamics about mandatory programs, may be questionable unless there are adequate controls. Third-party certification may not be necessary or feasible for all offsets actions but even a self- certification could be based on this standard and accordingly, properly substantiated.

(7) the issue of ``additionality'' for carbon offsets projects and its relationship to potential consumer deception,

“Additionality” is a very conflicting and debated term in its concept and application. As it has been said in other circumstances, there is only one step between being unnecessary and to be a total deterrent. Trading on environmental emissions like SO_2, is an American initiative started with the acid rain program and SO_2. This is the only domestically and globally recognized and substantiated successful program in this area. Additionality is not a term used at all in this program neither in the practice. The acid rain program and the trading involved also has passed the test of time!

A recent and very pertinent environmental standard covering measurement of GHG reduction projects, etc., ISO 14064.2:2006, does not define “additionality” but rather for public claims on offsets, it requires a description of the baseline scenario and demonstration that the project GHG emissions reductions or removal enhancements are additional to what would have happened in the absence of the project

We mention this fact to stress that defining “additionality” is not strictly necessary but rather that FTC will serve well the cause of the environment and the lower cost or reduction or enhancement by removals by ruling on the requirement mentioned above.

Were the FTC of the opinion that it needs clarifying or advancing a definition of “additionality” then,we submit it should be based on the concept of “baseline scenario”. We submit FTC could define “additionality” as “A demonstration (substantiation) that the project GHG emissions reductions or removal enhancements are additional to what would have happened in the absence of the project as described and documented in the baseline scenario”

We consider that according to the magnitude of the offset, in some cases, a third-party certification conducted by registered 3rd party certifiers and according with ISO 14064.3 on ISO 14064.2, or another reputable standard for project accountability (if it does exist) , would ensure largely the authenticity of the offset. In other cases, self-certifications according to the referenced standard, and proper evidence available for examination, should be sufficient. We do not see the role of FTC to go beyond the clarification in the above based on the principle of proper substantiation. .

<u>(8) the use of RECs as a basis for carbon offset claims,</u>
We do not understand the question since C offsets could or not include projects based on changes to renewable energy and consequent reduction of the fossil energy C. Again, we believe that the public claim of a product marketer is not on the number or quantity of offsets but what their acquisition and claim translate into desirable properties of the product marketed. It is true that a seller of C offsets, in offering them for sale, is making a claim and these are subtle differences in marketers: marketers for the offsets and marketers of products with the quality aspects the purchase of offsets may confer on those products.

A carbon offset in which fossil C energy is replaced by renewable energy could give rise to a REC. It is always in that <u>direction we see the flow of C tons; from offsets to RECs and not in the other direction.</u>

<u>(9) the state of substantiation for offsets and REC claims,</u>

We do not have information on the state of substantiation of these claims neither do we know of any valid reference

<u>(10) the need for additional FTC guidance in these areas.</u>

FTC must be very careful if this proposal is made a rule because the dynamics of the market and technology. It could disrupt valid and credible programs and not avoid any fraudulent activity. In the above and in the following, we have offered, when possible, concrete advice.

B) <u>Questions regarding consumer protection aspects of carbon offsets and REC</u>

<u>(1) What express claims are sellers making for carbon offsets and RECs? What claims, if any, are implied by that advertising? How do consumers interpret these claims? Please provide any supporting evidence. What evidence constitutes a reasonable basis to support these claims? What challenges do offset and REC sellers face in substantiating their claims? Is there evidence that any claims in the current marketplace are unsubstantiated or otherwise deceptive?</u>

We do not have substantive comments to offer in these questions

<u>(2) What express claims are companies making for their products and services based on their purchase of carbon offsets or RECs (e.g., ``our product is made with renewable energy'')? What claims, if any, are implied by that advertising? How do consumers interpret these claims? Please provide any supporting evidence. What evidence constitutes a reasonable basis to support these claims? Is there evidence that any claims in the current marketplace are unsubstantiated or otherwise deceptive?</u>

Guidance on voluntary programs involving carbon offsets or RECs is very complicated since the product or company claims are usually on the implication that the carbon offsets or RECs were purchased to cancel out GHG emissions associated with the manufacturing of a product or its life cycle. In fact, they would address claims about "carbon neutral" or "green electricity" or "zero carbon footprint" (or invisible foot print?) either for the company or the product or service. Thus we submit that the guidance should be primarily on the environmental claim with the necessary information and evidence as the secondary requirement. Accordingly, if a claim like "carbon neutral" or "green electricity" is made it could be accompanied by an e-mail or web site address of the marketer offering pertinent information or substantiation. Then, the information provided in the link address, could consist of these or similar elements; a) the type of evidence backing-up the claim, the net emissions v. offsets c) origin of the offsets; purchased own company projects

(3) When consumers purchase carbon offsets or RECs, what property rights do they acquire?

It would depend on the terms of the transaction. In paying a few more dollars in the air fare to neutralize the C emissions of the flight leg, the traveler appears to have bought the right of some satisfaction, to talk about it and apparently nothing else more. No evidence or information about the offset is offered, and certainly nothing about transferring such to another passenger,

(4) When consumers purchase carbon offsets or RECs, what do they think they are buying? Please provide any supporting evidence.

The example above of the paying traveler could summarize a perception about his/her motivation. There are not, to our knowledge, credible studies on this subject.

(5) What impact do consumers believe their carbon offset purchases will have on the future quantities of greenhouse gas(s)es in the atmosphere? Please provide any supporting evidence.

Very difficult to answer for us without any supporting evidence. Need for more specific public opinion polls and sensing

(6) Do consumers understand that some activities supported by carbon offset programs do not result in immediate carbon emission reductions? If so, when do consumers expect such offset programs will have an impact? Please provide any supporting evidence.

Probably very few in our opinion. We a re talking about the "nuts and bolts" of these types of projects on which there is controversy even among experts.

(7) What is the relationship between the concept of ``additionality'' in carbon offset markets and the FTC's standard for deception under the FTC Act?

Could be nil if the projects are conducted and quantified according with recognized international standards and 3rd-pary certified as suggested above

(8) Please identify state laws that specifically address consumer protection issues in the carbon offset and REC markets. Please explain how the laws address these issues and whether they are effective.

Our research on same is not sufficient completed to offer comments on this matter.

(9) Please identify third-party and self-regulatory programs that address consumer protection issues in the carbon offset and REC markets. Please explain how the programs address these issues and whether they are effective.

We are in no position to offer any comments on this matter.

Sincerely,

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05 May 2004

British Advertising Standards Authority asked to investigate "carbon-neutral" claims

Today, SinksWatch asked the British Advertising Standards Authority to investigate claims made by UK-based Phone Co-Op Ltd., which advertises "Climate Neutral phone calls" in the April 2004 issue of The Ecologist magazine. SinksWatch believes the advert is misleading and distracts public attention away from attempts to address the root causes of climate change.

In the advert, the Phone Co-OP states that "for every £10 you spend on calls we will offset 100kg of CO2 through our partnership with Climate Care". The Climate Care website (www.climatecare.org) reveals that this is to be accomplished amongst others through tree planting in Uganda. Whilst forests play an important role in climate regulation, SinksWatch argues that these carbon storehouses cannot be traded to justify continued fossil fuel use: There's a difference between planting trees, which benefits the climate, and planting trees as part of a programme sanctioning more fossil fuel burning, which does not. **It's the difference between green action and greenwash.**

In the complaint, SinksWatch argues that "the possibility of verifiably quantifying the extent to which tree planting can compensate for CO2 released in the burning of fossil fuels has never been established, due to uncertainty and scientific ignorance (see, e.g., Nilsson, S. et al., "Full Carbon Account for Russia", Interim Report IR-00-021, IIASA, Laxenburg, Austria, 22 August 2000, p. 115, http://www.iiasa.ac.at). The possibility of verifiably quantifying the degree to which energy efficiency or hydropower projects are an improvement over business as usual, and thus entitled to claim they "offset" fossil fuel burning, is also fiercely contested (see, e.g., the current debates over "additionality" in the UN expert and business communities: http://www.cdmwatch.org and http://www.cdm.unfccc.int/methodologies).

Yet the "Climate Neutral" claim logically entails that such quantification is possible and verifiable: Climate Care states that "you can offset" the "z tonnes of carbon dioxide" you produce "by investing in Climate Care projects" (http://www.climatecare.org/individuals/view.cfm?content_id=47EB0CA5-CBED-4AD8-AE95ADDAB124F9FD). Nor are the current controversies over such claims in the expert literature anywhere communicated by the advertisement. Hence it is misleading according to the terms of CAP Code 7.1 and 49.3."

Watch this space for updates on the ASA complaint

SinksWacth is an initiative to track and scrutinize carbon sink projects related to the Kyoto Protocol. The focus of ***SinksWatch*** will be on tree plantation sinks projects, particularly in areas where land tenure and land use rights are in dispute. The initiative, created by the World Rainforest Movement, is hosted by FERN.