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FEDERAL TRADE COMMISSION

ECO IN THE MARKET - GREEN BUILDING AND TEXTILES

Tuesday, July 15, 2008

9:00 a.m.

Federal Trade Commission
FTC Conference Center
601 New Jersey Avenue, N.W.
Washington, D.C.

FEDERAL TRADE COMMISSION

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1 P R O C E E D I N G S

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3 **WELCOMING REMARKS**

4 MR. KOHM: Good morning, everyone, and welcome
5 to the Federal Trade Commission's Green Guides Building
6 and Textiles Workshop, the third in our series of green
7 marketing workshops.

8 Before we begin, I just have a few
9 announcements for participants and for panelists. One,
10 the microphones both for the panelists and up for the
11 moderator look like they are really high-tech. In fact,
12 they are not.

13 **(Laughter.)**

14 MR. KOHM: So, when you are speaking up here,
15 please lean into the microphone. We want to make sure
16 that everybody in the room and everybody to whom this is
17 being webcast can hear what you have to say.

18 A little bit about time limits. Anybody who
19 has been to our prior workshops knows that we will run a
20 pretty strict ship in terms of time limits. So, all
21 panelists please finish in your allotted time. There
22 will be a timekeeper up front that will let you know
23 where you are in your allotment. It is not that we do
24 not want to hear everything you have to say, but we want
25 to make sure we hear everything that everyone has to say,

1 even at the end of the panel, and that every panel, we
2 guarantee, will have time for questions at the end.

3 If you have questions, please fill out the
4 cards. So everybody can see, these are the cards that
5 were in the packets that you picked up this morning. If
6 you need an extra card, simply hold up your hand and
7 somebody will walk around and provide one. When you are
8 done with your question, just hold up the card. Somebody
9 will collect it. And we will ask questions at the end of
10 the panel.

11 Now, we will not necessarily have time for
12 every question. We will ask as many as we can. However,
13 this is a little different than many of our workshops.
14 This is part of a rule-making, in this case a
15 guide-making proceeding, and the questions will be made
16 part of the guide-making record. So, what we would ask
17 is we would ask you to identify yourself on the card.
18 You are welcome to send up anonymous questions if you
19 would like, but we would really like it if you would
20 identify yourself on the card.

21 If you have additional comments, and we hope
22 that today's activities spur lots of more in-depth
23 comments, the record will be open until August 15th. So,
24 you simply need to go to our website and post a comment
25 on the website and, hopefully, many of you will do that

1 between now and August 15th. When you are doing that,
2 think about a couple of things. We would really like you
3 to tell us what are the trends in the areas that you are
4 commenting on, whether they be building or textiles; what
5 are the problems that you see currently in the industry;
6 and what are the problems you foresee coming in terms of
7 misleading claims and provide some examples. Because
8 that will help us best formulate guidance for the future.

9 Today's event is being webcast. It is
10 simultaneously webcast so lots of people around the
11 country and around the world can watch this. It will
12 also be archived with the transcript. So, if you want to
13 refer to those materials when you are making your more
14 in-depth comments, they will be available on our website
15 usually starting tomorrow.

16 A few comments about security. When you came
17 in this morning, you were screened. Every time you leave
18 the building, you will need to be rescreened to come back
19 in. So if you leave between panels or particularly at
20 lunch when everybody's trying to get back in at the same
21 time, we will start on time, so please leave enough time
22 to go through the screening process.

23 Everybody was provided with name tags. Please
24 wear the name tags at all times when you are inside. And
25 if you see any suspicious behavior, you can report that

1 to the guard desk up front.

2 In case of a fire emergency, there are two ways
3 out of the conference center. Back through the pantry,
4 right behind us, and out on to G street, and out through
5 the main doors and the front of the building. Then we
6 will congregate diagonally across from the building by
7 Georgetown Law School. In case of a SIP emergency, a
8 shelter-in-place where you do not want to go outside,
9 what you want to do is leave the conference center, take
10 the hallway to the left of the guard stand and then
11 follow everybody down into the garage, down -- we do not
12 want to take the elevators, but down the stairs into the
13 garage.

14 A couple comments about cell phones and
15 Blackberries, now is the time for amnesty.

16 **(Laughter.)**

17 MR. KOHM: It is not socially awkward for the
18 next 30 seconds to take out your cell phones and turn
19 them off. If you need to be reached, please put them on
20 vibrate. If you need to take calls, please leave the
21 conference center. Aside from being able to hear you out
22 in the hallway right beyond our room, I am told that that
23 can interfere with the video webcast. So please go out
24 into the main hallway if you need to take calls.

25 Finally, the most important reason that I am up

1 here, particularly for those of you who are going to be
2 here all day, the bathrooms.

3 **(Laughter.)**

4 MR. KOHM: If you leave the conference center
5 and go to the left of the guard station and follow around
6 to the left, both the men's and the women's room are in
7 that direction.

8 Turning to today's opening remarks. In keeping
9 with our pledge to start everything on time, without
10 further ado, I am proud to introduce the Chairman of the
11 Federal Trade Commission, William Kovacic, to open what
12 I am sure will be a productive and interesting day.

13 Chairman?

14 **(Applause.)**

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OPENING REMARKS

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CHAIRMAN KOVACIC: I want to welcome all of you to our program today by putting in context the undertakings that we have launched. This is the third in a series of workshops dealing with green claims and to put in context what we will be doing today into the framework of the agency's larger work in this area.

I have spent most of my professional life over the last 20 years in the academic tower of ivory. And when you look at the typical assessment of public policy, commentators, many of my colleagues over at GW and others tend to identify three weaknesses in the way in which public agencies operate. The first is that they lag behind developments in commerce and in consumer behavior that is relevant to the formation of policy. That our tendency naturally is to look in the rearview mirror and not to have particularly farsighted vision looking ahead through the wind screen at what is coming up, so that we are perpetually in the process of trying to catch up and like Sisyphus never quite able to put the boulder up over the hill.

The second complaint is that many of our policy-making gestures lack nuances. That too often we tend to fall into a habit of using a single tool rather than using a variety of policy responses that would

1 assist us in coming up with good policy outcomes; that
2 having learned a single instrument, we are unable to
3 effectively apply others so that like an artist in a
4 particular field, we can play one composition. But if
5 you discuss to do something else, much less to play
6 another instrument, we are stymied.

7 And the last is that in the archipelago of
8 public policy, we are victims of fragmentation, that in
9 the areas in which we operate, we all inhabit individual
10 islands. And you might think that in a larger community
11 that when you go to visit another island, arms would be
12 extended, there would be welcoming ceremonies, but quite
13 often the inhabitants of each island come out to repel
14 boarders who are arriving instead of welcoming them even
15 if they are part of the same archipelago and nominally
16 part of the same policy-making institutions.

17 I think one of the great stories about the
18 Federal Trade Commission and a reason it is one of the
19 great success stories of public administration in our
20 lifetimes is the way in which it has tried to address
21 each three. Addressing each of these three problems
22 really is manifest in the conduct of this workshop
23 dealing with building and textiles issues associated with
24 green claims.

25 First, dealing with modern trends in the

1 sector. As you know, in many respects, we have a
2 commercial system that is driven significantly by changes
3 in consumer tastes. And owing to the work of media
4 organizations, consumer groups, intermediaries who
5 provide information to consumers in a variety of
6 different conduits, consumers develop a greater awareness
7 and preference for different types of products and
8 services. Green claims, climate change, a whole host of
9 concerns associated with developments that, in many ways,
10 transpired 40 years ago, in the late 1950s and throughout
11 the '60s with the continuing evolution of awareness about
12 the importance of environmental concerns, consumer tastes
13 have changed, changed in ways that have dramatically
14 changed the demand for services and products in the areas
15 in which we are going to be discussing today.

16 The second-related change is that firms respond
17 to these changes in consumer preferences. Notice for
18 those of you in the business community, notice how many
19 of your firms have adapted both qualitatively and
20 quantitatively to changes in consumer tastes, to
21 construct buildings that are more sensitive to
22 environmental concerns, to use clothing raw materials
23 that are made in a manner that imposes fewer demands on
24 the environment.

25 A major reason that we conduct these sessions

1 is to learn about those developments. And in many
2 respects, this is part of a rejuvenation, re-invention of
3 the agency that transpired well over a decade ago
4 throughout the '90s and into this decade. Part of what
5 we realized is that if we are going to remain current, if
6 we are going to stay state-of-the-art concerning these
7 developments, we have to engage in a regular process of
8 public consultation with the whole collection of
9 interested parties -- consumers, business associations,
10 academics, and other commentators who have views who can
11 teach us about what is taking place.

12 That is why Jim's invitation to you to share
13 your views is so important. That is why we commit on a
14 regular basis substantial resources to this type of
15 public consultation. And I think the results of the
16 program today unmistakably will put us in a better
17 position to make judgments about the application of the
18 full range of policy tools we have at our disposal. That
19 is one reason to convene this event.

20 The second is that we have learned, looking at
21 our entire portfolio of tools, that the appropriate
22 policy response in many instances is to use a varied,
23 multiple collection of strategies in dealing with
24 individual phenomena. That was the purpose for creating
25 this agency. My agency is part think-tank, it is part

1 law enforcement body. We like to think of it in many
2 ways as the thinking person's approach to consumer
3 protection and competition policy.

4 Why? In part, we are a law enforcement agency
5 and we are quite willing to use our enforcement powers to
6 ensure the claims relating to green products, green
7 services are indeed truthful. And I think all of you
8 understand the intuition behind that. That is,
9 confidence on the part of consumers about the legitimacy
10 of claims is indispensable to permitting these changes in
11 consumer tastes to really drive adjustments in commercial
12 behavior. And it is equally important for individual
13 entrepreneurs who want to respond to these claims in an
14 honest way to be able to make representations with
15 consumers being confident that those claims are truthful.

16 So, we regard the enforcement process as being
17 an indispensable ingredient in ensuring honesty in the
18 making of these claims. But it is not the only tool that
19 we use. The workshop, the public consultation is part of
20 that process. The guidelines that we will be discussing
21 are a key element to educate both business actors who
22 want clarity and predictability about what they do and
23 for consumers to educate them about what to expect when
24 they hear representations regarding green claims, and to
25 engage in a process of research so that we better

1 understand what consumers are taking away from individual
2 ads.

3 I am sure that in the world that Jim just
4 talked about before where this demonic device.

5 **(Laughter.)**

6 CHAIRMAN KOVACIC: Summons your attention by
7 the minute, I look forward to a day past when this
8 wonderful thing, but this curse, this Blackberry, never
9 summoned you. That there were not messages cascading
10 over you regularly from a computer screen. That phones
11 were attached to walls.

12 **(Laughter.)**

13 CHAIRMAN KOVACIC: That there were miracle
14 devices called fax machines that could come and creep up
15 after you. And, at best, an express courier who is at
16 least two days away from wherever you were. In many
17 ways, that was a happier state of life. But the benefits
18 that come with the information do impose costs. And a
19 key question about which we conduct research, and we are
20 very interested in conducting these proceedings, is how
21 do people actually absorb information that are presented
22 through advertisements?

23 In the downpour of information where consumers,
24 in effect, are standing under a giant waterfall with a
25 teacup every day trying to catch little drips of

1 information and absorb them, how do people understand
2 claims that are being made, how do they perceive them,
3 and how should that guide our approach to formulating
4 policy?

5 So, in many respects, the approach that you see
6 today, and this program is part of it, is a recognition
7 on our part that if we are going to make good policy in
8 this area, we are going to have to use the full portfolio
9 of policy instruments dedicated to us, to be a wise
10 enforcer, to engage in public consultations, to do
11 research, to issue guidelines. This program today is
12 going to inform the use of each of these policy tools.

13 And the third challenge that we are addressing
14 is one of cooperation, how to provide better ferry
15 service and communication in the archipelago. You will
16 notice today that participation in this program engages
17 the energies of our public institutions that are deeply
18 involved in making good policy in this area: our
19 colleagues from the Environmental Protection Agency, from
20 Customs and Border Protection. This is part of a
21 conscious effort on the part of the policy-making
22 community to try to achieve coherent approaches to teach
23 each other, to build relationships that will facilitate a
24 conversation over time that ensures that different public
25 institutions, state institutions, local institutions are

1 working toward the same policy end.

2 And the panels you will see assembled today
3 throughout today are a manifestation of our realization
4 that to achieve good policy results, one of the critical
5 frontiers of better policy-making in the future is better
6 coordination against these individual institutions. And
7 that the collaboration, in many ways, though perhaps not
8 as deep or integrated as it is with the public
9 institutions, is a greater collaboration with academic
10 bodies, think-tanks, the trade associations, the non-
11 government organizations that, in many ways, if we can
12 work with them effectively, if we can tap their
13 knowledge, will put all of us in a better position to
14 achieve better policy results.

15 So, I want to finish by thanking you for
16 engaging in this process. A hopeful message I want you
17 to take as we begin this process is that the very fact of
18 having this type of event, in many respects, I think,
19 shows how public institutions can be innovative, they can
20 be creative, they can mature in ways that achieve better
21 policy outcomes. And to thank all of you again for your
22 willingness to participate in this process.

23 A number of the things that take place today
24 will have immediate results. But, in many ways, this is
25 a contribution to a longer term process where we make the

1 equivalent of capital investments that will be valuable
2 for the policy community, for consumers and for our
3 agency over the long term. And in a city that tends to
4 be very short-sighted in its treatment of fundamentally
5 difficult longer term concerns, I am heartened to have
6 you all here as an act of faith in your own commitment in
7 taking the long run as though it matters and making the
8 contribution to this process. That is public policy on a
9 good day.

10 And I want to welcome you and thank you for
11 being part of this endeavor today and to thank my
12 colleagues for making it possible. Thank you.

13 **(Applause.)**

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1 **SESSION 1: WEAVING GREEN TEXTILE CLAIMS - COTTON,**
2 **ORGANIC COTTON & BAMBOO**

3 MS. FRANKLE: Good morning, everyone. I am
4 Janice Frankle and this is Session 1: Weaving Green
5 Textile Claims - Cotton, Organic Cotton and Bamboo.
6 Although today's green textile discussion focuses on the
7 FTC Green Guides, the FTC also administers several laws
8 pertaining to textile labeling, including the Textile Act
9 and the rules promulgated thereunder.

10 What is important for today's textile
11 discussion is that the law requires you to use the
12 generic fiber name recognized by the FTC to identify
13 fiber content on a label or in advertising. For example,
14 one of the FTC's recognized generic names for regenerated
15 cellulose from bamboo is called rayon. Alternatively,
16 you may use the name recognized by the International
17 Organization for Standardization or IOS.

18 We have a very informative panel for Session 1,
19 and I would like to introduce them now. LaRhea Pepper
20 from Organic Exchange, Patricia O'Leary from Cotton Inc.,
21 Peter Hauser from North Carolina State University, and
22 Janice Gerde from U.S. Customs and Border Protection. We
23 will start with LaRhea.

24 MS. PEPPER: Thank you. It is an honor to be
25 here and a pleasure to be in Washington, D.C. I got to

1 come in last night. So, I was doing the definite mad
2 dash to come here. And first and foremost, I am an
3 organic cotton farmer. So, I am trying to keep a crop
4 growing in West Texas and that is one of the hats I wear.
5 The other thing is I am the Executive Director of the
6 Organic Exchange. We are a nonprofit, and our mission is
7 to catalyze market forces to expand organic fiber
8 agriculture.

9 So, I am just going to talk a little bit today
10 about preserving integrity in a rapidly growing market.
11 I think we have already had a little bit of a taste of
12 sometimes our industries are growing faster than the
13 infrastructure to do that and, so, our role at the
14 Exchange is to connect, convene, to educate, and that is
15 the main thing that we do is education.

16 Just to put organic into context, organic
17 fibers are regulated by the National Organic Program here
18 in the United States by USDA and, so, when you say the
19 word "organic" here in the United States, it is a legal
20 term and it has a definition around that. And, so, there
21 are strict laws that are enforced about what can and
22 cannot be called organic, and it is about a method of
23 production when we talk about organic fibers. So, most
24 people think it is cotton grown or fibers grown without
25 this. It is not organic by default, it is organic by

1 design. It is about a system of agriculture where you
2 are using crop rotation, where you are putting in an
3 ecosystem or a habitat.

4 So, some of the fibers that are now being
5 certified are cotton, hemp and linen. In addition to
6 that, there's organic wool. The livestock are being
7 certified on pastures that meet the organic requirements
8 and the livestock are treated in such a way. So, many of
9 the times right now the fiber components are done within
10 a food system and the focus is on the food and the
11 regulations and, again, the agricultural products that
12 are derived from that and we also are starting to see
13 some organic leather.

14 So, in the United States organic fiber products
15 sales grew by 44 percent, and here are the categories
16 where this growth has been taking place, and these are
17 results from a survey that was done by the Organic Trade
18 Association. So, women's apparel is 43 percent; infant
19 and children clothing are 40 percent; men's is 43 percent
20 with sheets and towels at 38 and child and teen at 52.
21 These are the growth percentages in those different
22 categories. And we are going to have some new results of
23 this at the end of the year and there is significant
24 growth that is still happening in this marketplace.

25 When we look at this globally, organic fiber

1 markets have increased 35 percent from 2001 to 2007 and
2 we are going to increase it significantly again by 2008.
3 When we look at where these numbers are coming from,
4 consumers are driving this market on one end of the
5 spectrum because they are wanting products that -- either
6 they have allergy sensitivities and want organic fiber
7 products for a quality of life issue or they are making a
8 life-style choice that support this type of agriculture.

9 And when my husband and I started farming
10 organic cotton in the early '90s, it was very difficult
11 to find any organic cotton products anywhere. But, now,
12 you are able to find them all over the place. Big
13 department stores, the big box and brand stores,
14 boutiques, catalogs, Internet. Of course, that has
15 changed where we are.

16 We have a lot of designers in Organic Exchange.
17 Our members represent over 80 percent of the fiber
18 production and consumption of organic fiber at this point
19 in time. So, there is more and more companies coming
20 into the marketplace.

21 And here are the top five brands and retailers
22 right now that are using organic fiber. And we have over
23 1,500 brands and retailers that are advertising out
24 there, offering an organic fiber component in their brand
25 or their line.

1 So, let's get into the labeling certification
2 of organic fiber products. This is where, if you can see
3 on one side of the screen, there are all kinds of
4 regulations around what you can and cannot say and
5 sometimes they can be misleading and confusing about what
6 you should say or cannot say on an organic fiber product
7 because the National Organic Program, in its preamble,
8 says here is what you can say about an organic
9 agricultural product and their processing standards cover
10 foods.

11 Where we are in a textile product where it may
12 be more confusing about what you may need to put on that
13 product because unlike a food situation, you know, you
14 are talking about a function. If you did not have
15 something other than organic fiber in this pair of socks
16 they would not stay up. So, there are reasons for
17 different labeling and education and what you put on that
18 claim other than the strict requirements of what you put
19 on a food product.

20 So, what we have done here is that while there
21 have not been legal requirements about what you can and
22 cannot say in an organic fiber product, what we have
23 tried to do is keep with the intent of the National
24 Organic Program and its regulations that are there on how
25 you label food products, as well as be compliant with the

1 Federal Trade Commission and the regulations there on
2 textile products.

3 So, our guidelines, and we talk to our brands
4 and retailers, is that all claims must be true. So, if
5 you say that there is 85 percent organic cotton in this
6 sock, then that is what you need to say and you need to
7 say that the other part is nylon and Spandex. And, so,
8 be careful about what you say. All claims must be true.
9 The wording of the labels cannot be misleading to
10 consumers. The percentages of the fiber content must be
11 given and the organic fiber must be certified by an
12 accepted standard by the National Organic Program. And,
13 so, regardless of where this cotton is grown around the
14 world, it has to be accredited by certification groups
15 that is credited by the National Organic Program if it is
16 going to be sold here in the United States.

17 So, when we look at working with the National
18 Organic Program, some of the guidelines that have come
19 from there that we have worked together that if you want
20 to put -- there are two kinds of claims. One is about
21 the product itself and the other is about the fiber that
22 is in the product. So, if you want to make a claim that
23 says it is 100 percent organic, then 100 percent of the
24 fiber in that content must be organic. You can only use
25 organic processing aids. And the USDA seal may be

1 displayed on the final product only if all operations
2 producing and handling and processing the final -- you
3 know, every step along that way, if you are going to put
4 100 percent organic out there on a product.

5 Now, if you are just going to make an organic
6 claim, then, by weight, a minimum of 95 percent of that
7 fiber or the product must be the organic fiber. And the
8 5 percent of non-organic substances have to be listed in
9 the NOP program as allowable. And they have kind of
10 given me a sign. The other thing -- they are going to
11 hurry me along here, ten minutes and five minutes, we are
12 going to click away on the time.

13 So, the other and the most predominant market
14 claim that is made on organic products at this time is
15 made with organic, which means that the product must, by
16 weight, contain 70 percent of organic fibers and you must
17 identify the specific fibers that are in the product.

18 Grace is going to be talking later on about
19 textile claims and product claims and, again, I just want
20 us to be clear that organic in the product may be about
21 the fiber itself.

22 Then there are voluntary processing claims,
23 GOTS is one of them, but there are a number of different
24 processing claims that are in the global market. And in
25 Europe, there are a number of them. Here in the United

1 States, there are a few of them. But as an industry, we
2 are working to endorse and support one single voluntary
3 organic textile standard and, so, that is called the
4 GOTS. Again, Grace will be going into that in the next
5 panel.

6 For companies that do not want to make a
7 product claim, then the Organic Exchange is supporting
8 two different standards. One is called the OE blended
9 and one is called the OE 100. The OE 100 allows the
10 brands and companies to have verifications on fiber
11 content by a third party to verify that the cotton in
12 this product, for example, is 100 percent organic. That
13 there are no other fibers utilized in this product other
14 than the organic and they are only making a fiber claim.

15 Now, when you talk about a blended claim like,
16 for example, this sweater is going to be a certain
17 percentage tencel and a certain percentage organic
18 cotton. There are a number of reasons to blend.
19 Patagonia is going to be talking about some of their
20 blends with cotton and recycled polyester. So, a lot of
21 times companies are going to blend cotton with other
22 fibers in order to have the functionality of the garment
23 to meet the needs of the consumer.

24 There is another reason to blend and that is to
25 encourage organic cotton production. A lot of companies

1 like Nike are using 3 to 5 percent blends of organic
2 fiber in all their products and they are not making any
3 product claim on that. That claim is coming through in a
4 CSR report or on their website talking about their
5 willingness to support organic fiber agriculture.

6 The other thing that I think is important to
7 recognize is that there is transitional fiber being grown
8 and we are starting to talk about that in the transition
9 to organic.

10 And then who is buying these products? More
11 than that, and I think this is something everybody needs
12 to be aware of, people are asking what is in your
13 product, who made it, where it comes from. So, when we
14 look at labels around what is going on with products,
15 people are caring and want to know how, where, what, and
16 what is going on in their products. Thank you for your
17 time.

18 **(Applause.)**

19 MS. FRANKLE: Thank you very much, LaRhea.
20 Pat?

21 DR. O'LEARY: Good morning, and thank you for
22 the opportunity to talk today. Today, first of all, I
23 would like to start out and give just a small
24 introduction and follow that with what is Cotton's green
25 message, what is the message that we are trying to get

1 across to consumers. And then after that, what do
2 consumers think about the environmental issues, about the
3 environmental claims that are being made? And, finally,
4 I would like to end with just our recommendations of what
5 should be done with the Green Guides.

6 First of all, Cotton is one of three national
7 organizations that represent the cotton industry in the
8 U.S. We are a research and promotion program that is
9 funded through commodity check-off. So, that being so,
10 we operate under the oversight of USDA.

11 In our marketing campaign, we use a push-pull
12 strategy. Therefore, we have two audiences. One, they
13 are the businesses that make and sell cotton products,
14 and the other is the consumer. And in my presentation
15 this morning, my comments will only address the consumer.

16 In the consumer marketing, we have several
17 venues that we put our green message out before our
18 audience. Of course, it is print advertising. We
19 sponsor mall events. And since last fall we have what we
20 call our green fields commercial. This is our green
21 commercial for cotton. And more in the future we will be
22 utilizing the Internet. And the focus of this program is
23 the natural cotton seal. And our green message, it is
24 very simple, really. We are trying to remind the
25 consumer that cotton is natural, that it is a product of

1 Mother Nature, and that cotton is renewable. It is a
2 renewable resource, unlike our competitors. And I might
3 add that our competitors are man-made fibers. And, so,
4 that is where we are trying to differentiate ourselves.

5 Also, farmers that grow cotton do so in a
6 responsible manner. We are growing more cotton on less
7 land with less water, less chemical inputs than we did
8 just 15 years ago. Also, our message is cotton is green
9 and that then goes back to being a product of Mother
10 Nature.

11 Part of what Cotton does is that we follow
12 consumer attitudes. We conduct surveys, usually between
13 2,000 and 3,000 consumers between the age of 13 and 54,
14 and these consumers have the responsibility of making the
15 decision on their cotton purchases. First of all, where
16 do the environmental issues fit in with the overall
17 factors that a consumer considers when he is making a
18 decision on a product? You can see about 50 percent
19 marked environmental friendliness. This is really far
20 below the four main factors that consumers consider.
21 Fit, price, style, and color. This has not changed.
22 These four items have been the most important since we
23 have started doing our research.

24 What about believability? How often do
25 consumers believe the environmental claims or the

1 environmentally friendly claims that they hear?
2 Regardless, even with food, which overall has the highest
3 score in this particular category, always is very low.
4 Sometimes, as you can see, is the highest. And leading
5 to this gap in believability, we believe is the lack of
6 understanding or confusion.

7 An example here is our study that we did in
8 2003 and 2004, when we asked consumers about their
9 perception of organic cotton textiles. These questions
10 were developed jointly with the Organic Trade
11 Association. But as you can see by the high scores
12 there, there is a lot of confusion out there. And there
13 is very little difference between 2003 and 2006. Also,
14 in the 2006 survey, 40 percent of the respondents said
15 that they had no idea what sustainable agriculture or
16 renewable were or what the meaning was.

17 Say the consumer buys a product that he was
18 under the impression was environmentally friendly and he
19 comes to find out it was not. How would they react?
20 Well, 79 percent of the consumers said that they would be
21 bothered, but only 19 percent said that they would take
22 any kind of action and complain.

23 Let's talk about natural fibers versus
24 synthetic. Which is better for the environment? There
25 is still that 22 percent of not sure. But,

1 overwhelmingly, consumers think that natural fibers are
2 better and this is borne out when they were asked about
3 the safety of individual fibers. So, natural fibers,
4 cotton, bamboo, silk and wool were at the top. Synthetic
5 fibers at the bottom.

6 Well, it is not surprising that when consumers
7 were asked how they would describe cotton as being
8 comfortable and soft, after all, that is why we buy
9 cotton, isn't it? But, then again, natural and
10 environmental friendly were also rated very high.

11 In the Green Guides, what would we recommend?
12 We would suggest that the FTC revise the Green Guides to
13 include textiles. There are a multitude of misleading
14 claims in the marketplace as you can see by some of the
15 research, and we have done a lot more than what I have
16 just put up here. There are claims like renewable and
17 sustainable, which we have already heard about. But
18 there are claims like reused, recycled, earth-friendly,
19 environmentally engineered. What does that mean? Pure.
20 Chemical-free. I mean, this is just a few of them.
21 There are a lot of them that are out there that need to
22 be addressed.

23 And developing these examples, we would suggest
24 that for the guidelines that they address the issue, does
25 the claim that is on the package pertain just to the

1 product or is it the product plus the packaging? Does it
2 pertain just to the fiber or does it include the
3 processing of that fiber? Also, how would you put the
4 wording on the package to distinguish among those,
5 whether it is just the fiber or all elements? And that
6 includes the zipper, buttons, and so forth, as well as
7 processing. Also, when a claim is used that says
8 "contains," it definitely needs to be substantiated. How
9 much, what percentage of that product is that
10 environmentally acceptable fiber?

11 And above all, the substantiation of these
12 claims should be science-based. They should take
13 advantage of the peer-reviewed research as well as all of
14 the public data that is available that is maintained by
15 USDA, EPA and USGS. And with that, thank you.

16 **(Applause.)**

17 MS. FRANKLE: Thank you so much, Pat. Peter's
18 next.

19 DR. HAUSER: Good morning. First, I would like
20 to thank the organizers for inviting me to this. Janice
21 asked me to talk about preparing fibers from bamboo, so
22 this will be a bit more technical. There are some
23 references included at the last slide if you wish to go
24 into some more detail.

25 Some of the attributes of bamboo as a raw

1 material is that it does not require much water, it grows
2 quickly, it is naturally regenerative, it will grow over
3 and over again, you can harvest from the top and it
4 continues to grow, and it is claimed to be inherently
5 pest-resistant.

6 However, to convert the bamboo stalk into
7 fiber, you have to separate the fibers out from the rest
8 of the material. And there are two ways to do that. One
9 is a mechanical process, and this is where you actually
10 separate the individual fibers from the bamboo stalk and
11 then make a textile yarn out of it.

12 The second process is a chemical process, and
13 this is really a preparation using regenerated cellulose.
14 So, in this process you actually dissolve the cellulose
15 and you extrude it, coagulate it, wash it and then turn
16 it into a yarn. Very similar to the processes that are
17 used for rayon and lyocell.

18 The thing I like to make mention here is that
19 once the cellulose has been regenerated, it loses some of
20 the properties of what the natural bamboo fiber might
21 have.

22 The mechanical processing of bamboo, it is
23 similar to flax processing which is used to make linen
24 yarns and fabrics. So, I am going to call that natural
25 bamboo fiber in this presentation. The first process is

1 something called retting and that loosens up the internal
2 structure and allows the fibers to be separated later on.
3 There are two ways to do that. One is an enzymatic
4 process. In days past, you would lay out the stalks in
5 the field and let the natural dew and the natural enzymes
6 that are there degrade the material and sometimes it
7 takes as long as several weeks or you put in artificial
8 ponds and then you collect the weakened stalks.

9 A method now which is used, because it is much
10 more time-saving, is the chemical process. You boil the
11 stalks in either a mild acid or alkaline solution to
12 loosen up the fibers from the stalk material.

13 Then we go to something called breaking, and it
14 is just like what it sounds. You actually separate the
15 bundles from the stalk through a mechanical process of
16 crushing the stalks. The material is loosened from the
17 actual fiber. Then you go to something called scutching
18 and that is like your grandmother beating a rug on a
19 clothesline. You actually use mechanical action to knock
20 everything loose except for the fiber that you are trying
21 to keep.

22 Finally, something called hackling, which is
23 where you take these fibers that have about scutched away
24 from all the other extraneous material, you pull it
25 together, align it and then it goes from there into a

1 yarn. Just from what I described, you can tell this is a
2 very labor and time-intensive process and it produces
3 linen-like fabrics which is like, you know, thick and
4 thin slubby yarns. This is, according to the references
5 I found, is probably not used very much now because of
6 the time and labor and the cost in making yarn from this
7 process.

8 A much more common way of making fibers from
9 bamboo raw material is a process very similar to making
10 viscose rayon, and I am going to call this rayon from
11 bamboo. You start out with a sodium hydroxide treatment
12 of the leaves and the stems, the stalks, and you form a
13 material called alkalized cellulose. You then take the
14 chemical, carbon disulfide, which will react with the
15 alkalized cellulose to form sodium xanthate. Additional
16 sodium hydroxide will then dissolve this xanthate. Now,
17 you have this very viscous material, dissolved cellulose.
18 You then extrude this into a sulfuric acid, sodium
19 sulphate, zinc sulphate solution. And, at that point,
20 the dissolved fiber, polymers are coagulated and
21 converted into a fiber.

22 Then you must go through multiple washes to
23 remove all those sulphs, the sodium sulphate, zinc
24 sulphate, the excess sulfuric acid, the carbon disulfide.
25 Everything that was added to it to dissolve it has got to

1 be removed. And from there, you dry it and you can make
2 your fiber. You can see there is significant air and
3 water pollution in the manufacture of rayon from bamboo.
4 It does produce a very nice fiber. It produces soft
5 apparel fabrics. The cellulose that comes from bamboo
6 is a pretty good molecular weight, so you get good
7 mechanical properties. But it should be considered to be
8 a rayon fiber, as the definition that Janice mentioned
9 earlier.

10 Another way to make fibers from bamboo raw
11 material is similar to the lyocell or tencel process. I
12 am going to call this lyocell from bamboo. We use a
13 chemical called N-Methylmorpholine oxide. I am going to
14 call it MNMO for time's sake. And we add that to the
15 bamboo cellulose and the cellulose dissolves and this is
16 the chemical structure of that material. This can then
17 be extruded directly into a water and a dilute solution
18 of MNMO and the fiber forms there. As you dilute the
19 solvent, the fiber forms. You wash the fiber and it
20 removes the solvent.

21 Now, what is special about this is that this
22 solvent can be recovered and be reused, and they claim up
23 to 99 percent recovery. So, if you have a closed system
24 where you are going to collect and reuse this NNMO over
25 and over again, then you have a fairly contained system

1 with less pollution and concerns. And it produces fabric
2 similar to rayon from bamboo, as the nice, soft fibers.

3 Now, let's talk quickly about some properties
4 of bamboo fibers, and I have listed them as natural
5 bamboo, rayon from bamboo and lyocell from bamboo. It is
6 documented that fibers that I call natural bamboo, that
7 is made from the mechanical process, is antimicrobial.
8 There is a material in the bamboo stalk itself that has
9 antimicrobial, antibacterial properties. However, when
10 that stalk and those fibers are dissolved to make rayon
11 from bamboo or lyocell from bamboo, that material is
12 probably lost. I have not been able to find any
13 documented studies in the literature where rayon from
14 bamboo or lyocell from bamboo fibers have been shown to
15 be antimicrobial just by themselves. So, those claims
16 have to be considered carefully.

17 Natural bamboo fiber has a unique and special
18 molecular fiber structure. It has pores, it has a
19 certain arrangement of the fibers and polymer exchange,
20 such as it is high for water absorption and high for
21 breathability. That is, there is a lot of moisture
22 transport that can take place through garments that are
23 made with this. However, once you dissolve the cellulose
24 and you regenerate a fiber, either a rayon or a lyocell
25 type fiber, you are going to lose those pores and lose

1 that breathability unless -- depending on the process
2 that you have. So, I think claims that claim this need
3 to be substantiated by scientific studies. As Pat said,
4 you need to have some good science, peer-reviewed studies
5 in order to document these claims.

6 I have included some references here for those
7 who want to go further into this. Scientific papers,
8 textbooks, as well as some information that was found on
9 the web.

10 **(Applause.)**

11 MS. FRANKLE: Thank you very much, Peter. This
12 is a reminder that the PowerPoint slides will be up on
13 our website, so you can look at the references. They
14 should be up tomorrow.

15 Now, we are going to have Janice speaking.

16 DR. GERDE: Good morning to all of you, and
17 before I begin I, too, would like to thank the workshop
18 organizers and the Federal Trade Commission for the honor
19 of asking us to be participants today and to have us give
20 this presentation to you.

21 Before we start, I do want to say that since
22 Dr. Hauser's given us such a good introduction,
23 especially to the viscose system, I am going to try not
24 to repeat on any of that, but at the same time build on
25 some of the fundamentals that he's already given us.

1 Also before I begin, I want to say a little bit
2 about who we are and what we do. I could spend another
3 10 minutes on this or more, but briefly Laboratories and
4 Scientific Services is the scientific support arm of U.S.
5 Customs and Border Protection. Our legacy organization
6 was U.S. Customs Service under U.S. Treasury. Since
7 March of 2005, we have belonged to the Department of
8 Homeland Security.

9 We are primarily an internal service component.
10 We support our main customers, who are import
11 specialists, agents and other officials who are on the
12 front line dealing with all of the goods and commodities
13 that are imported into the United States. That is a
14 fairly simplistic overview, and if you would like to talk
15 more in-depth, I will be here all day. Please do find
16 me.

17 Having said that, we work to the Harmonized
18 Terror Schedule of the United States which is a legal
19 document. It is a 10-digit system and it is the primary
20 document for classification and assessment of tariffs or
21 duties on goods brought into this country. And I will
22 also be happy to talk about that at length if you would
23 like.

24 Now, to the question at hand. I am focusing
25 primarily on regenerated cellulose rayon by viscose

1 process and whether or not the cellulose involved in this
2 process can be instrumentally or scientifically
3 differentiated depending on what the source of that
4 cellulose is, whether it comes from cotton linters or
5 wood pulp, which is traditional, or, as we have heard
6 already today, whether that cellulose is being derived
7 from bamboo or any other cellulose-bearing plant, which
8 is most plants, actually.

9 I do not want to go into too much chemistry,
10 but just to give you a little bit of a background on
11 this, the individual unit is a glucose forming
12 polysaccharides and they then form what we call polymers
13 or long chain molecule calls, the mer is a repeat and
14 many mers or polymers, that is where we get that word.
15 It is a hydrocarbon containing oxygen, hydrogen and
16 carbon atoms only. Enough chemistry.

17 **(Laughter.)**

18 DR. GERDE: Cellulose is a major component of,
19 as far as I can tell, every plant that there is. There
20 may be some exceptions, but I could not tell you what
21 they are. We know them intimately with perhaps not
22 really even knowing them. Cotton, of course; flax, which
23 gives us linen; jute; kapok and hundreds of other things
24 that may be potentially available for textile or fibrous
25 applications.

1 The cellulose component of plants accounts for
2 probably half, if not slightly more than half, total
3 consumption of textile fibers can be obtained from seed
4 hairs, cotton, plant stems like bamboo, leaves or bark.
5 Some of the things that are being used these days sort of
6 prototyping, things like hibiscus kenaf fiber and bagasse
7 fiber which comes from sugar cane. The cellulose is the
8 raw material for many things besides textiles including
9 paper, cellophane and, of course, other woody
10 applications such as furniture and decorative objects,
11 which we are not going to talk about today. And, of
12 course, rayon.

13 A little bit about bamboo botanically. This
14 will build a bit on what Dr. Hauser told us. It is a
15 grass. The largest grass in the world, in fact, is the
16 giant bamboo. It is a huge family. It is the fastest
17 growing woody plant in the world, so it is very
18 sustainable. It spreads easily. If you have ever tried
19 to eradicate it from your garden, you know what I mean.
20 I remember my dad doing that once years ago. Its growth,
21 though, is dependent, to some extent, on local climate
22 and soil conditions. However, it grows virtually every
23 place in the world except perhaps the North and South
24 Pole. Is really is a ubiquitous plant in some form.

25 Historically, it is of high cultural and

1 economic significance in East and Southeast Asia. I am
2 sure we have all been to lovely oriental Japanese gardens
3 or Chinese gardens, for instance. It is used for
4 building and as a food source. But, increasingly, we are
5 seeing its importance for commercial application. It is
6 easy to grow. Once it is growing, it is fast in its
7 growth. It renews itself quickly. Needs very little
8 attention and has broad market application.

9 But having said that, and again, as Dr. Hauser
10 pointed out, we need to stop and consider what is the
11 difference between the botanical entity which may convey
12 beneficial properties, such as the antimicrobial
13 properties, and what can convey with the cellulose from
14 the bamboo once it has gone through commercial
15 processing, and that is part of the question.

16 Research into cellulose from bamboo with
17 comparison to other kinds of cellulose is not new. So
18 far, I have found research reports dating to the early
19 1930s, using various instrumental approaches. And the
20 upshot for the studies that we have seen so far is that
21 once the cellulose is simply cellulose, the source cannot
22 be differentiated.

23 Both the FTC and our document, the Harmonized
24 Tariff Schedule of the United States define rayon. The
25 FTC is defined in rules and regulations under the Textile

1 Fiber Products Identification Act, which is 16 CFR Part
2 303, and that is a document that we do use in conjunction
3 with our work in the CBP laboratories. I think the first
4 line essentially is worth repeating. It is a
5 manufactured fiber composed of regenerated cellulose and
6 then it goes on to be more specific about certain
7 chemical aspects.

8 The tariff defines man-made fibers, in general,
9 as an overarching term in several chapters that pertain
10 to textile goods brought into this country. Man-made
11 provides for both staple fibers, short fibers and
12 filaments, the longer sort, that are organic and gained
13 by manufacturing. It particularly speaks to regenerated
14 cellulose and it talks about both cuprammonium rayon,
15 which we are not talking about today, and the viscose
16 process, which is the focus of this presentation.

17 The tariff and the FTC documents, by the way,
18 are available online as PDF files and they can be
19 searched by keyword. I will say that I have done a
20 keyword search with respect to the word "bamboo." It
21 does not appear in either document in the context of
22 textiles. It does appear in the tariff, but in a
23 different context.

24 The tariff further defines synthetic and
25 artificial under man-made. Synthetic would pertain to

1 fibers that we know, such as polyester or nylon, that
2 come from petroleum precursor and the artificial would be
3 the generated or viscose rayon and its family as we are
4 talking about today.

5 Rayon is provided for in four chapters of the
6 tariff, man-made filaments, man-made staple as a
7 component or the entire portion of various sorts of non-
8 wovens, including waddings and felts and industrial
9 textiles or textiles that have coatings, impregnations,
10 or are laminated and so on.

11 Early commercialization, as far as we have been
12 able to determine to date, dates to 1947 in the
13 post-World War II environment and was undertaken by an
14 Indian company, Travancore, which is still in business,
15 by the way. Whether or not they are still using
16 cellulose by bamboo, we have not been able to determine
17 yet. We are working on it. The implication is that
18 there were post-war restrictions on the use of cotton
19 linters and wood pulp. So, they were turning to bamboo
20 as a possible source for their fiber production.

21 Now, where are we today with this? We have
22 talked about labeling a little bit today already. I have
23 been on the lookout for samples for a project I am doing
24 on this subject anyway. And this spring in Montgomery
25 County, Maryland, where I live, I walked into a craft

1 store for knitters and bought this off the shelf
2 commercially. On the back, the label says "100 percent
3 bamboo." We regularly use an instrument called a Fourier
4 transform infrared spectrometer to identify man-made
5 fibers. This is typical in all of our laboratories.
6 When I subjected a sample of this particular yarn to the
7 FTIR, this is what I got.

8 If you look to the left of the spectrum, you
9 will see at that lower broad peak, you will see a red and
10 a blue line. The red is the sample from that skein of
11 yarn I just showed you. The blue is a laboratory match
12 with high confidence for viscose rayon domestically
13 produced, that is in this country when we still produced
14 viscose rayon, and there were at least seven other of 20
15 matches that were nearly as good as this one. So, that
16 leaves us with our question, where do we go from here.
17 That is always the question.

18 First, how do we differentiate what green
19 attributes might convey from a botanical entity that
20 undergoes essentially radical transformation by some sort
21 of chemical processing? How do we characterize those by
22 developing methods -- as we have mentioned earlier we
23 need to have methods that can be subjected to peer
24 review, that can be repeated, be replicated and will
25 stand up to legal scrutiny. And what instrumental

1 approaches do we use to do that?

2 I would like to thank, in particular, Korin
3 Ewing, Janice Frankle and Elsie Kappler, who have been
4 guiding me through this process with FTC since spring,
5 and my own colleagues in LSS, our Executive Director, Mr.
6 Ira Reese, my Laboratory Director at Springfield
7 Laboratory, Renee Stevens, who I think is hiding
8 somewhere in the back of the room, all of my staff,
9 colleagues at Springfield Lab and my field lab colleagues
10 around the U.S. And a special thank you to Gail Hamill
11 who is -- is Gail here from our -- hi, Gail -- from our
12 office of rulings and regulations. Gail is the -- I am
13 going to have to look at this now to say it right -- is
14 the Chief for Tariff Classification and Marketing Branch
15 in our Office of International Trade. Thank you all very
16 much.

17 **(Applause.)**

18 DR. GERDE: Oh, we are on the web, too.

19 MS. FRANKLE: Thank you very much, Janice, and
20 thank you to all the panelists. And now we are going to
21 have some time for questions. So, if you have questions,
22 hold up your question cards and they will be collected.
23 If you need a question card, hold up your hand and we
24 will give you a question card.

25 I want to start this off with a follow-up to

1 Janice. Janice, how and when does Customs decide to test
2 an imported product?

3 DR. GERDE: Well, as I mentioned, LSS, the Lab
4 System, is an internal service component and our front
5 line customers in-house are import specialists primarily.
6 And this is going to be sort of the simplistic
7 explanation because there are obviously all kinds of
8 exceptions to every rule. An import specialist who will
9 be at the point of opening a cargo van, we have all seen
10 the vans stacked up, if we have been around a major port
11 of industry, sea, land or airport. They will open them
12 and a whole series of circumstances could come into play,
13 from very objective in that we have other colleagues in
14 Customs who are essentially trade intelligence
15 specialists, if you will. And they regularly monitor the
16 dynamics of trade into and out of this country, but we
17 are just talking about into right now.

18 They may actually have already directed a
19 particular port to open certain cargo vans and to do
20 routine inspections, inspections for cause, and that
21 cause could be all kinds of things. It could be as
22 simple as an import specialist having a lot of experience
23 with their commodity group and, frankly, something just
24 does not seem right with respect to the documentation
25 that they have already seen and what they are seeing when

1 that van is opened. So, there is a whole host of
2 possibilities. And then if they decide to pull a sample
3 then it goes to their service area laboratory.

4 MS. FRANKLE: Thank you very much for
5 explaining that. This is a question for all the
6 panelists and we will just go down the line and we will
7 start with LaRhea. As we all know, the marketplace is
8 abundant with green claims for textile products. Should
9 the Green Guides be revised? This is really the heart of
10 this whole workshop. Should they be revised to address
11 green textile claims and, if so, what kind of guidance
12 would be helpful? And if you have any specific examples,
13 we would appreciate those, too. So, we will start with
14 LaRhea.

15 MS. PEPPER: Thank you. Certainly, I think you
16 are taking the first steps to having these types of
17 hearings and it is important that the Green Guides be
18 modified to reflect what is happening there in industry.

19 Speaking from an organic perspective, I think
20 we need to be able to make sure that provisions are made
21 for accurate labeling around all types of products that
22 are out there, whether it be making a product claim or a
23 fiber claim and especially around the years of change,
24 the transitional years.

25 MS. FRANKLE: Thank you.

1 DR. O'LEARY: I do not know that I have much to
2 add than what I gave in my presentation but yes, a
3 resounding yes. The green claims do need to be addressed
4 in the Green Guides because as you can see by the data
5 that I presented, there is a lot of misunderstanding,
6 misleading information that needs to be clarified.

7 MS. FRANKLE: Peter.

8 DR. HAUSER: I would agree with my fellow
9 panelists that the guides need to include more
10 information on the specific textile products.

11 MS. FRANKLE: Janice?

12 DR. GERDE: Obviously, I agree with what has
13 been said already and I think in terms of terminology,
14 focus definitions and objective foundation so that we,
15 who work in the scientific mode, have something that we
16 can pin our findings to. So, objectivity and good,
17 strong definitions I think would be my comment.

18 MS. FRANKLE: Thank you. This is a question
19 for LaRhea. You spoke about the criteria for making
20 organic cotton claims and we have talked about claims for
21 bamboo. Can bamboo that has gone through this viscose
22 process, but which has been grown organically, be labeled
23 organic? And, if so, what kind of qualifications should
24 be made in order to make sure consumers understand this
25 product?

1 MS. PEPPER: Well, the conversations around
2 bamboo are something we are having in our industry as
3 well. So, since it is an agricultural product you could
4 certainly make a fiber-only claim to say that the fiber
5 in this product was grown organically and, certainly, if
6 it were grown organically, it would address a lot of the
7 issues around crop rotations, sustainable harvesting and
8 different things like that. So, it is an agricultural
9 product, but conceptually yes, the fiber could be
10 certified to be grown organically.

11 I do not see that it could ever make -- there
12 is just no way it would ever be able to make a product
13 claim because of the type of processing that is required.
14 Unless you go to that totally mechanical part that Peter
15 was talking about where it is just that natural process.
16 So, again, if you made a product claim, it would have to
17 be not only the production but the processing.

18 MS. FRANKLE: Thank you. Pat, in your
19 presentation, you talked about Cotton, Inc's green
20 marketing messages. How does Cotton, Inc. respond to
21 claims that it takes a lot of pesticides and insecticides
22 to grow cotton and thus non-organic cotton is a green
23 product?

24 DR. O'LEARY: Well, if we were talking about
25 25, 30 years ago I would agree, we did use a lot of

1 pesticides in growing cotton. But we have come a long
2 way since then. The latest USDA data shows that it is
3 less than a tenth of an ounce per pound of cotton
4 produced -- and that is an average over the whole
5 country.

6 I might add that the majority of that is
7 used -- they are herbicides. And these are herbicides
8 that are being used to allow the grower to use
9 conservation tillage, and conservation tillage is an
10 important tool to preserve the soil, to improve the
11 quality, to prevent erosion.

12 The pesticides that we are using today are much
13 more target-specific than they were 25 years ago. So,
14 they kill primarily, not always, the insects that they
15 are intended to.

16 Also, pesticides are heavily, heavily regulated
17 in the U.S. EPA has rules and regulations that state
18 when and where and how much pesticides can be used. And
19 cotton, if you did not know it, is regulated as a food
20 crop. So, we have the same tolerances that are allowed
21 for the foods that we eat.

22 MS. FRANKLE: Thank you very much. And, Pat,
23 this is a question from the audience.

24 MS. O'LEARY: Okay.

25 MS. FRANKLE: You mentioned that consumers

1 generally believe natural fibers are better for the
2 environment than synthetics. Are all natural fibers
3 actually better than synthetic fibers on a life cycle
4 basis?

5 DR. O'LEARY: I would say no. The fibers like
6 cotton -- compare cotton say to silk or wool. Cotton, of
7 course, being a plant takes sunlight and directly
8 converts that into the fiber. Well, with silk and wool,
9 that energy has to go through an animal. So, whether it
10 is the silk worm or the sheep, you still -- the process
11 is less efficient and it does require more resources and
12 a greater impact on the environment.

13 MS. FRANKLE: Thank you. This is a question
14 for Dr. Hauser, Peter. How does making natural fibers
15 from bamboo differ from making them from wood or is it
16 similar?

17 DR. HAUSER: Well, if you are go in to make the
18 process to make rayon or lyocell from bamboo, it
19 basically is the same process. You use the same
20 chemistry. Cellulose is cellulose.

21 MS. FRANKLE: Okay, thanks. And when you
22 discussed the process of bamboo fibers, you questioned
23 whether rayon or lyocell from bamboo retained bamboo's
24 natural antimicrobial properties. In those lines, what
25 kind of testing would one need to conduct to substantiate

1 a claim that rayon or lyocell from bamboo maintains
2 bamboo's natural antimicrobial properties?

3 DR. HAUSER: I would like to see a peer-
4 reviewed scientific study using accepted tests where the
5 article in question has gone through that test method
6 where it actually will show whether it does actually have
7 those benefits. But, again, it would need to be a well-
8 run, scientific, peer-reviewed study.

9 MS. FRANKLE: Thank you. Janice, this is a
10 question from the audience. If it were up to you, how
11 should the yarn you found in the arts/crafts store have
12 been labeled to avoid misleading the consumer?

13 DR. GERDE: I believe that the accepted
14 terminology currently, and this is not a U.S. Customs and
15 Border Protection area, but in my reading, I find the
16 term 100 percent rayon from bamboo. But I think that
17 brings up the question, then, traditionally, with a rayon
18 product, why haven't we labeled them 100 percent rayon
19 from cotton linters or 100 percent rayon from wood pulp?

20 The question is, why do we need to qualify the
21 rayon? Because what rayon is is the cellulose component
22 of a plant that has gone through a chemical dissolution
23 and regeneration, and that then becomes rayon. So, what
24 is the impetus behind adding that from whatever, bamboo
25 or whatever?

1 MS. FRANKLE: Thank you. And this is another
2 question from the audience for the whole panel. It says
3 no one in this panel mentioned coatings applied to
4 textiles. Those coatings, say, to make them
5 wrinkle-free. How should these affect environmental
6 claims or what effect do they have on the environmental
7 claims that are being made? LaRhea?

8 MS. PEPPER: Well, depending upon what it is,
9 if it is a natural beeswax to make it rain-proof, it
10 depends on what the coating is as to where it will fit
11 into whether you can only make a fiber claim back to this
12 product is made with this, or if it can fit into the
13 processing, if the finish fits into a process that is
14 organically approved. Then you could possibly make a
15 product claim as well. So, it would depend upon what
16 that coating is.

17 DR. O'LEARY: Again, as LaRhea said, it depends
18 upon what the claim is. First of all, if it is a claim
19 specifically for the fiber, there should not be any
20 problem. But, again, it needs to be differentiated on
21 the packaging. You cannot make claims that are not for
22 the whole product that is not true.

23 DR. HAUSER: If you refer to that GOTS standard
24 that LaRhea mentioned earlier, if the coating is composed
25 of those types of materials I would think you would be

1 safe in using those claims. Otherwise, as Pat said, you
2 would need to differentiate.

3 MS. FRANKLE: Janice, do you have a comment?

4 DR. GERDE: I would tend to agree with what has
5 already been said and the question of coated, laminated,
6 impregnated textiles is very specific. In one of my
7 slides, in fact, I mentioned there is a particular
8 chapter in the tariff that covers those along with
9 textiles intended for industrial use.

10 When we do our analysis, for any given sample
11 that comes to the door of any of our labs, it very much
12 comes to a case-by-case basis. There are instances where
13 a laminate could actually be peeled off of the textile
14 substrate and perhaps the textile is not affected at all.
15 But in other cases where you have an impregnation where
16 something is actually working its way into the small
17 voids between fibers and yarns, then you might have an
18 entirely different situation. But you would have to look
19 at it through instrumental and analytical processes.

20 MS. FRANKLE: Thank you. And this is a
21 question for Pat or anyone else dealing with cotton
22 garments. This is from the audience. Cotton garments
23 require a higher wash temperature and longer drying times
24 as compared to most synthetics. So, how can one
25 substantiate the green claim for cotton during consumer

1 use?

2 DR. O'LEARY: That is a good one. That all
3 gets back to the life cycle analysis of the fiber. And
4 it depends on what the claim is. You know, if you are
5 claiming just for the production of the fiber or whether
6 you are -- of the whole footprint. So, that is part of
7 the reason we need to have these claims addressed in the
8 Green Guides, so that it is clear what the claim is
9 that's being made.

10 MS. FRANKLE: Thank you. This is a question
11 for the whole panel. What is the best way to communicate
12 that the FTC's Green Guides apply to business-to-business
13 transactions and not just business-to-consumer
14 transactions and what should the FTC do more of to get
15 the Green Guides message out to businesses making these
16 green textiles kinds of claims. LaRhea, you want to
17 start us off.

18 MS. PEPPER: Sure. I always think education is
19 the key. So, let people know it is out there and network
20 with the trade associations and different groups that are
21 interfacing with the brands and retailers out there to
22 say would you make sure this gets shared and, of course,
23 have educational seminars that you host as well to do
24 that firsthand training yourself, train the trainers.

25 MS. FRANKLE: Thank you.

1 DR. O'LEARY: Well, adding to what LaRhea said,
2 I think, too, it needs to be made obvious, more obvious,
3 that the guides do apply to business-to-business as well
4 as business-to-consumer, because I think the general
5 perception out there is that it only applies to the
6 latter.

7 And there is something I might add, too. I
8 cannot speak to everyone, but when Cotton talks
9 business-to-business, we talk on a completely different
10 level as when we talk to the consumer. It is a level
11 that is a lot more technical and we use a lot more data
12 to back up the claims that we are making, and also some
13 of the responsibility falls upon that business to be
14 responsible for knowing the source, all along the
15 sourcing chain, where the products are coming from.

16 MS. FRANKLE: Thank you very much. We are
17 running out of time. Peter, Janice, any quick comments?

18 DR. HAUSER: I think that if you focused on the
19 retailers and explained to them that they needed to be
20 sure of their sources, as Pat said. And who is the one
21 who is ultimately going to be held responsible, I think
22 is going to be the retailer because they are the ones who
23 are selling it to the consumer. So, they need to be
24 aware of what is available to them.

25 MS. FRANKLE: Thanks, Janice?

1 DR. GERDE: Basically, I agree with the
2 panelists and to say it is a little bit outside the
3 purview of what we do and who we are. But, certainly, if
4 our domestic retailers are talking to their overseas
5 sourcers, that would be the best way of communicating and
6 reiteration.

7 MS. FRANKLE: Well, thank you all so much. We
8 have learned so many new things and we appreciate it.

9 **(Applause.)**

10 MS. FRANKLE: We are going to take a real short
11 break and we are going to resume at 10:40. So, thank
12 you.

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1 **SESSION 2: TYING UP LOOSE ENDS - SUBSTANTIATING GREEN**
2 **TEXTILE CLAIMS AND THE NEED FOR FTC GUIDANCE**

3 MS. KAPPLER: Good morning, my name is Elsie
4 Kappler and I would like to welcome you to our second
5 session, Tying up Loose Ends - Substantiating Green
6 Textile Claims and the Need for FTC Guidance. Our
7 panelists this morning are Grace Gershuny of the Organic
8 Trade Association, Todd Copeland of Patagonia, Kathleen
9 Huddy from The Good Housekeeping Research Institute and
10 Pat Slaven from Consumer Reports. Without further ado, I
11 would like to introduce Grace Gershuny.

12 MS. GERSHUNY: Thank you, Elsie. And I was
13 wondering if there was some conspiracy about the organic
14 people always starting. But let me just say a couple of
15 words. I am representing the Organic Trade Association
16 as a consultant. I have been working on the textile
17 standards and, in particular, the GOTS standards for, oh,
18 about three or four years representing OTA on the
19 Technical Committee of the GOTS, the Global Organic
20 Textile Standard. Sometimes people call me the GOTS
21 queen.

22 I do other things for OTA, but it seems as
23 though just from my own observations that all of that
24 increasing interest in organic textiles is really taking
25 off rapidly and I could actually spend probably a

1 full-time job just doing this kind of textile work. So,
2 it is definitely on the rise. And the complexity of the
3 textile labeling issues are multiplied by the complexity
4 of the organic labeling issues, so I wanted to make that
5 point. LaRhea made some great points about labeling
6 claims and I am going to go a little farther with that
7 today.

8 Exhibit A is this t-shirt that I bought in the
9 Burlington, Vermont, airport snack bar on my way here.
10 It is a good company. It is a company that does a good
11 job and is a member of OTA, so I cannot say anything bad
12 about them. And it says 100 percent certified organic
13 cotton t-shirt. Green T. It says "This garment is made"
14 -- on the hang tag, "This garment is made with 100
15 percent certified organic grown cotton without the use of
16 pesticides, herbicides or artificial dyes." Who uses
17 artificial dyes to grow cotton, I don't know.

18 **(Laughter.)**

19 MS. GERSHUNY: So, even the people who are
20 getting it right do not always get it right.

21 The global organic textile standard was
22 developed -- and you can go to the website to get all of
23 the background information on them -- to define
24 requirements that ensure the organic status of textiles
25 from harvesting of the raw materials to environmentally

1 and socially responsible manufacturing up to labeling.
2 It was also intended to harmonize existing standards.
3 There were several international organizations, such as
4 Soil Association, such as Crav in Scandinavia, I never
5 remember which country they were from, and Scall which is
6 now Control Union, which had their own organic textile
7 processing standards. So, those were all harmonized
8 essentially and incorporated under GOTS.

9 The Organic Trade Association also had
10 developed its own organic textile processing standards
11 under the American Organic Standards. That has all been
12 now subsumed under GOTS.

13 Just a little Organic 101. The idea of organic
14 standards is a process claim, it is not a product claim.
15 So, that is significantly different from things that can
16 be tested in a laboratory to be determined to be organic.
17 You cannot do that. What you need to do is to have an
18 independent verification of what that process was through
19 an auditing procedure. And there is a great deal of
20 misunderstanding, although many people perceive, rightly
21 so in my opinion, organic products to be more healthful,
22 more environmentally friendly and all of those good
23 things, that they are not making any of those claims
24 inherently by putting an organic label. It is about how
25 the product was produced.

1 So, the processing standards reflect all of
2 these different aspects, including how the raw fiber was
3 produced, which must comply with the country of marketing
4 regulations. So, if a product is being marketed here, it
5 must be produced in accordance with the National Organic
6 Program. As LaRhea mentioned, FTC does allow the word
7 "organic" to modify the fiber content on a label. And
8 there are a number of other reasons why the GOTS label is
9 different but similar to the National Organic Program.

10 GOTS is a voluntary standard. Again, it is not
11 subject to government regulations. It does require NOP
12 certification for U.S. market products. It has similar
13 label grades as LaRhea pointed out. I do not know if it
14 would be possible to be any 100 percent organic products
15 since it would have to be made only with organic
16 agricultural products as processing aids which would be
17 difficult. Very few textile processing substances are
18 permitted under the National Organic Program, and that is
19 one of the key reasons why the National Organic Program
20 does not address process textile products. It only
21 addresses raw fibers.

22 GOTS also addresses environmental and social
23 criteria such as labor conditions, which are not
24 addressed under the National Organic Program. GOTS
25 labeling rules mirror the National Organic Program as

1 LaRhea mentioned. The problem is that the food products
2 talk about what can be put on the principal display panel
3 of a food product. What is a principal display panel of
4 a fiber product? I do not know. The care and content
5 label may be likened to the ingredient panel, which is
6 fine, but when you put a made with organic label on a
7 food product, on the principal display panel, consumers
8 assume that it is processed according to the rules that
9 are required under the National Organic Program.

10 If you make a made with organic cotton claim on
11 a textile product, it does not necessarily mean that, and
12 there's a lot of confusion, and many people who are
13 familiar with food products will assume that that means
14 that it is processed according to the National Organic
15 Program rules. So, that is something that needs to be
16 clarified.

17 I am going to go right to the question of --
18 these are examples from the Oregon Till Certified Organic
19 Company Certifier, which does do GOTS certification now.
20 This is relatively recent. This is an example of a
21 correct label. We now have just released last month in
22 Italy a global organic textile standard logo which will
23 be allowed to be used under a licensing agreement. And
24 one of the things that we have requested is that the
25 National Organic Program consult with the FTC. So, when

1 those folks from the other islands in the archipelago
2 come over and talk to you about organic labeling claims,
3 do not shoot, they are your friends.

4 Let's see, there is a real possibility about
5 consumer confusion on a textile product that is labeled
6 organic. That we need to have a little bit of agreement,
7 a mutual discussion about how to regulate that. For now,
8 GOTS is the safe harbor, the voluntary claim that can be
9 substantiated by third-party verification, transparency,
10 accountability. I think the Green Guides definitely need
11 to address not only textile labels but process claims in
12 general and the use of third-party verification systems,
13 such as certification, such as organic certification as a
14 means of substantiating those claims. It is not
15 necessarily a scientific testing method, but it is a well
16 recognized means of substantiating a claim. Thank you.

17 MS. KAPPLER: Thank you, Grace.

18 **(Applause.)**

19 MS. KAPPLER: Todd?

20 MR. COPELAND: Thank you to the FTC and to
21 Janice for inviting me here to speak today. I am going
22 to talk about the company I work for, Patagonia, the
23 green textiles that we use and the way we market them.
24 We are a retailer and an apparel brand in the outdoor
25 market.

1 Patagonia has been involved in environmental
2 action since we started. As a climbing company in the
3 '60s, through a transition of climbing pitons, which are
4 metal bolts you nail into a rock face, something where
5 you can actually stick something in a crack in the rock
6 and then pull it out when you are done to leave the rock
7 the same as it was after you are done climbing.

8 We also did some action in our community, in
9 Ventura, to stop over-development of the Ventura
10 coastline, and that evolved into donating some of our
11 profits to non-government environmental organizations.
12 And it was spun off as this One Percent for the Planet,
13 which is an independent non-profit organization that now
14 has over 800 companies as members.

15 In the early '90s, we started looking at our
16 own products and tried to make them more environmentally
17 friendly, and this is when we got involved in organic
18 cotton. We got involved in recycled polyester, and this
19 is what we call e-fibers, which is the green textiles
20 that I am going to talk about mostly.

21 In 2005, we launched a common threads recycling
22 program which is we are trying to take responsibility for
23 our products at the end of their life cycle and be able
24 to recycle garments to garments and sell them back to the
25 market. And, most recently, we have embarked on this

1 Footprint Chronicles, which is a mini website where we
2 show the entire manufacturing process of some of our
3 products, delve into the specifics of those and try to
4 measure the environmental impact of our product.

5 So, our e-fibers. This is a not a
6 comprehensive list, but the most appropriate list I could
7 put up here, so including organic cotton, hemp,
8 chlorine-free wool, recycled polyester, recycled nylon
9 and tencel, which is not officially on our list yet but
10 being added right now. We have been using it for a long
11 time, but I think it is about time it got added to our
12 list here.

13 So, if we have a product that, by weight, is
14 more than 33 percent of one of these fibers, we label it
15 in the store and in the catalog with a green E. That
16 shows that it is made from environmentally friendly
17 fibers and we usually have some more kind of explanation
18 in the store and on the website and in the catalog to
19 explain what it is.

20 So, what do I mean by more environmentally
21 friendly? Well, we focus on cotton, wool, synthetics and
22 regenerated solvent spun fibers and try to concentrate on
23 what is the environmental impact of that product. So, I
24 will mention, too, that you can see it is not all
25 naturals here. We have naturals, we have synthetics, we

1 have everything and we are trying to focus on the
2 environmental impact as opposed to just saying natural is
3 good and synthetic is bad or vice versa.

4 So, for cotton I think the big issue was we
5 wanted to eliminate the synthetic pesticides, synthetic
6 fertilizers and the defoliants that were being used in
7 industrial cotton. So, we started to embrace organic
8 cotton. By the same token, we could use hemp for certain
9 applications. I do not think it is appropriate for all,
10 but hemp has a natural fiber not being processed through
11 a chemical process similar to the natural bamboo that was
12 talked about earlier. It could be used in the same
13 application.

14 In wool, I think the main issue was chlorine in
15 the processing of shrink-proof. So, we used different
16 technologies such as ozone and plasma treatment to try to
17 avoid the chlorine load and the wastewater from wool
18 shrink-proofing called chlorine-free wool. In
19 synthetics, we really wanted to get away from using
20 petroleum as a raw material for synthetics, so we started
21 using recycled polyester like the PET water bottles and
22 soda bottles and, more recently, recycled nylon to offset
23 that petroleum input.

24 When we talk about solvent spun, we talk about
25 regenerated fibers, we really have gone towards the

1 tencel process which was explained a little earlier, too.
2 It is a lyocell fiber. Tencel is the brand name from
3 Lenzing, where instead of using carbon disulfide, which
4 is a toxic solvent used for rayon processing, that it
5 uses a non-toxic solvent and in that process is almost
6 100 percent recycled and reused.

7 So, for some questions like why isn't bamboo on
8 there, why isn't PLA on there, and if I have time I will
9 hit it. Otherwise, I need somebody to ask me a question
10 later.

11 **(Laughter.)**

12 MR. COPELAND: So, I wanted to make sure I
13 overview textile processing because I think it is really
14 important to remember that we start with a raw material
15 from petroleum or from a plant or from an animal and then
16 we make a fiber and then we spin a yarn and then we have
17 to knit or weave a fabric and you have to color it and we
18 have to cut and sew it and assemble the garment. So, I
19 think there is a lot of opportunity for environmental
20 improvement in this entire process, and we need to think
21 about, when we make environmental claims, what is
22 significant. I just thought I would put this up here to
23 give it a little bit of context.

24 So, I have talked mainly about how we address
25 the fibers, but we also are addressing the processing

1 more recently and we are using this global industry
2 textile standard called bluesign. They are mainly
3 focusing on dyeing and finishing, including the chemicals
4 that are used, trying to use less chemicals, safer
5 chemicals, measuring and reducing air pollution and water
6 pollution, focusing on the worker safety as well as
7 consumer safety and reducing the water and energy
8 consumption used to be more efficient.

9 At the end of life, like I mentioned earlier,
10 we are focusing on the Common Threads Program trying to
11 increase the amount of garments that we can take back and
12 recycle into new garments.

13 Finally, I want to mention the Footprint
14 Chronicles. This is where we are kind of learning out
15 loud online, chasing our own supply chain back. We have
16 10 products on the website right now and plan to add five
17 products each season. We are tracking the energy, the
18 CO2, and the waste for each of these supply chains and we
19 show little videos or slide shows of each step. So, what
20 we are doing is traceability and transparency, and I
21 think without having knowledge of where your product
22 comes from and how it is made, it is impossible to make
23 accurate environmental claims about a textile product.
24 So, this is where we are at right now.

25 That is the end of my slide show, so I get to

1 go back and answer my own questions, right? Awesome.

2 What about bamboo? Well, it has been well
3 answered today.

4 **(Laughter.)**

5 MR. COPELAND: We do not use bamboo because
6 when we went to the processing factories, we found out
7 that a regular rayon processing factory is using a lot of
8 waste products from the pulp and paper industry to make
9 rayon anyway. So, substituting that raw material for
10 bamboo, it does not really give you an environmental
11 story. The problem or the environmental issue with rayon
12 processing is the solvent. So, if we can change that
13 solvent, like I said, with a tencel process that we see
14 where we can change the solvent and make it non-toxic,
15 recycle the solvent, then I think then we have a good
16 environmental story.

17 Why not PLA? Polylactic acid. This is a made
18 from corn type of product that we really, really
19 seriously looked into the benefits of and were pretty
20 much ready to launch it until we kind of got to thinking
21 that it was not so much of a good idea because we were
22 doing a good job of reducing petroleum as a raw material
23 for synthetics, but what we kind of substituted that with
24 was an agricultural system that we did not think was very
25 sustainable.

1 So, this is back to the kind of questioning
2 whether something natural or something agricultural is
3 inherently environmentally friendly. And I think what we
4 decided was, is that since it was coming from our mono-
5 cropped corn culture, a lot of it was using synthetic
6 fertilizers, synthetic pesticides. We just did not think
7 that this was a sustainable way to make a fiber.

8 And there was also a GMO component which we did
9 not want to support the genetically modified organisms,
10 which is a personal choice from our company. But I think
11 there is a lot more that could be done to make a
12 sustainable agricultural type of system that could feed
13 into a really sustainable type of PLA project. But for
14 right now, we are kind of staying away from it.

15 I will try to make some kind of closing
16 comments and I think it is that since 1996 all of our
17 cotton is organic. We would like to be able to label it
18 that way as organic even if it is in a blend. I have a
19 shirt on today that is a cotton polyester blend. So, I
20 want to label the fact that all the cotton in here is
21 organic even though it is not a 100 percent organic
22 shirt. We would like to do the same thing for recycled
23 polyester, recycled nylon, things like that because we
24 want people to know what they are buying so they can
25 actually support these types of things if they think it

1 is important. We will continue to try to find the best
2 materials and market them in the best way and make the
3 best product. Thank you.

4 **(Applause.)**

5 MS. KAPPLER: Thanks, Todd. Next, we have
6 Kathleen Huddy.

7 MS. HUDDY: I am afraid I am still in the mid-
8 20th century. I do not have a PowerPoint. So you have
9 to stare at my name.

10 The Good Housekeeping Research Institute has
11 been around for over 100 years. What we do is we clarify
12 consumer confusion on product claims. We also look at
13 new products and try to identify and clarify those for
14 the consumer. We do this via a magazine that is read by
15 24 million readers. Of course, mostly women. Plus, we
16 are also very strong in our website and on television
17 with mass media. Good Morning, America and the Today
18 Show are two of the shows that we are on regularly. So,
19 we have a broad reach to the consumer explaining about
20 products and their claims.

21 How do we do this? Well, we do it through lab
22 and consumer testing using industry and government
23 standards, AATCC, ASTM and CFR standards. Plus, we also
24 create new test methodologies for a product where a
25 standard may not currently exist and we like to point out

1 how some manufacturers like to wriggle through loopholes
2 in existing standards. That is one of our most favorite
3 things to do.

4 This occurred most clearly with the FTC on
5 thread counts in bedding. That started, we noticed, in
6 2000. We saw that people were making outrageous claims
7 on bedding products. Of course, we brought them in and
8 started looking at them and testing them against the
9 standard, noticed what was happening with the standard,
10 what the manufacturers were doing. We did not really see
11 a change until we wrote about it again in 2003. We
12 started to see a change when the FTC released a letter in
13 August 2005 stating that this was, in fact, a violation
14 of Section 5 of the FTC Act and that counting the plies
15 within a thread was not an accurate thread count and it
16 was an inflation of thread count.

17 So, we wrote about that again in 2006 and we
18 are still seeing some, but there is very few. So, as you
19 can see, it takes time sometimes with product claims to
20 get the manufacturers and the consumers to understand
21 what the changes are and what they should be saying.

22 We are in retail stores constantly looking at
23 merchandise and the claims that a product has. When
24 investigating suspicious claims, we look at government
25 regulations first for guidance.

1 With the advent of the green movement, the GHRI
2 has definitely noticed the proliferation of green wash
3 claims and products and are concerned by the consumers'
4 perceptions of what they really mean. For example, most
5 of us in the industry know what labeling an organic
6 garment really means and we have all talked about that
7 before. But what does the consumer think? Well,
8 unfortunately, they think that that means that the
9 product has been made environmentally, in an
10 environmentally sound manner from start to finish. They
11 do not know or they do not understand that it is just
12 that the cotton was grown organically.

13 Our readers have told us that they are
14 receptive to green products as long as they perform and
15 do not cost much more, especially in this time and era.
16 They also find green claims confusing and suspicious.
17 They are very suspicious of the claims.

18 Most consumers do not know that Section 5 of
19 the FTC Act protects them. It has broad governance, but
20 it is very, very broad and it is very hard for the
21 manufacturers to follow. Clear, tight guidance on what
22 can and cannot be said from the FTC is imperative. Proof
23 of substantiation is needed for all claims from ultra
24 absorbent to antifungal to very vague ones as eco
25 sensitive, good for the environment, and my favorite,

1 beneficial to those with allergies and sensitive skin.
2 If you have that claim, you better have this much data
3 behind it to tell me that you have really researched it
4 and you can prove it.

5 Besides us and Pat from Consumer Reports, there
6 are other groups that are out there trying to make sure
7 that the consumer knows what they are getting and that it
8 is truthful besides the government standards. There are
9 ways to prove your claims through ASTM and A Squared
10 standards, plus there are independent certifications such
11 as bluesign, GOTS and Okatech (phonetic), that is a
12 European standard, one actually that the consumer is
13 starting to understand.

14 So, just remember that when you are about to
15 make a claim, there are people like us, Pat and I, that
16 are out there looking and making sure that it is truthful
17 for the consumer. Thanks.

18 **(Applause.)**

19 MS. KAPPLER: Thanks, Kathleen. Pat?

20 MS. SLAVEN: Good morning, I am Pat Slaven from
21 Consumer Reports magazine and I would like to thank
22 Janice and the FTC for bringing us here to talk about
23 textiles, especially textile labeling.

24 My talk is bamboo by rayon. Recently, we had
25 the opportunity to test bamboo toweling in 2006. This is

1 part of a project where we tested 27 different models of
2 bath towels. Five models among that 27 had big claims
3 that they were made from bamboo. They were bamboo
4 towels. Only one of those five models had sewn-on
5 labeling that actually correctly stated the fiber
6 content, that it was rayon from bamboo. Land's End had
7 a correctly labeled, sewn-on fiber content and here is
8 the label which states 60 percent cotton, 40 percent
9 rayon from bamboo. This was the exception.

10 We have four other towels in this project that
11 incorrectly stated bamboo as part of the fiber content.
12 The towel in question here, you may not be able to read
13 it, says 100 percent natural element, 70 percent cotton,
14 30 percent bamboo. That is not correct.

15 We are seeing a lot of hype with bamboo. The
16 five bamboo towels in the project were all a blend of
17 cotton and rayon ranging from about 50 percent cotton and
18 50 percent rayon to 70 percent cotton and 30 percent
19 rayon. This is really a stretch when you are touting
20 bamboo on the labeling in a very large font.

21 Often, we are seeing additional indications
22 hyping bamboo, such as the border of the towels would be
23 festooned with weavings indicative of bamboo and the
24 nodes on bamboo. One of the cases in point were towels
25 from Target. The Target towels, again, had bamboo in

1 large font and the tag, here is a copy of the tag, in
2 large font, it states bamboo. In very small font, it
3 states 50 percent bamboo, 50 percent cotton. And the
4 claims are especially interesting, some of these claims,
5 especially the antimicrobial, as some of our previous
6 panelists have stated, is not, in any way, substantiated
7 by rayon made from bamboo. This claim is substantiated
8 from true bamboo fibers but not from the bamboo. And
9 this was a few years ago.

10 We wanted to verify the claims because we are
11 Consumer Reports. We stuck the fibers under a microscope
12 and sure enough there were the striations typical of
13 rayon. We contacted the manufacturers and they all did
14 fess up and said, yeah, it is bamboo. Well, actually,
15 no, it is rayon from bamboo. So, at least they were
16 honest enough.

17 But what it comes down to for Consumer Reports
18 is what does the consumer get? You are seeing bamboo
19 rayon and cotton blend towels from major manufacturers,
20 Land's End, Lenox Platinum Collection, CB2 Bamboo, the
21 Bombay Company Estate. All of these towels cost well in
22 excess of \$20. The Target bamboo towel was the one
23 bargain of the bunch. It cost \$8. It quickly
24 disappeared from the shelves. In fact, it disappeared so
25 quickly that it was not available for Consumers prior to

1 publication, we had to pull it from our report. Regular
2 cotton bath towels on average cost substantially less.

3 Well, you are hearing us talk quite a bit about
4 some of the fallacies of rayon made from bamboo. But
5 what is the good stuff? We did have our sensory plant
6 panelists evaluate these bath towels and they are indeed
7 softer than most regular cotton bath towels. Not all
8 regular cotton bath towels, but most. But the bad stuff,
9 we did not see any superior products. Nothing was
10 clearly superior. In the case of the bath towels, the
11 rayon-cotton blends did indeed have a softer hand, but
12 similar to other bath towels, and including much less
13 expensive bath towels, they shrank, they pilled. Many of
14 them termed into bon-bons, that is when the border
15 shrinks up and you get that characteristic wrapped candy
16 shape.

17 The other thing that may have been corrected in
18 the industry, but at the time of publication, there were
19 no deeper intense colors. Everything was essentially a
20 pastel, as shown on my first slide with the stack of
21 bamboo rayon towels.

22 We are seeing a lot of claims that bamboo is
23 renewable. Well, I beg to ask is it renewable or is it a
24 weed? Bamboo is indeed a fast-growing source of
25 cellulose. The producers, for very good reasons, are

1 quite cagey about the actual process, as several of my
2 colleagues have discussed, and it makes it very difficult
3 for the consumer to look at a claim or look at a hang tag
4 or look at a sewn-in label and assess its eco-friendly
5 claims.

6 But we do have one part of the claim that is
7 easy to substantiate. Bamboo is indeed renewable. Do
8 note some people consider bamboo to be a weed. In fact,
9 just ask the facilities manager at Consumer Reports.

10 **(Laughter.)**

11 MS. SLAVEN: This is our facility manager,
12 Victor Frederico. And he is not on a tropical vacation
13 in an island. This is in the back 40, this is in the
14 back lot at Consumer Reports in Yonkers, New York. We
15 are north of New York City. The site that Consumer
16 Reports is on is an old Boyce Thompson agricultural
17 facility. And Vic and his staff, to this day, spend
18 quite a bit of time containing the bamboo grove. It has
19 a nasty tendency to pop up amongst our parking lot. In
20 fact, I live a few blocks away and there's a little bit
21 of it growing in front of my house that I have to whack
22 back. Again, Yonkers.

23 A number of my colleagues have talked at length
24 about rayon manufacturing. It is hardly benign. It
25 includes pulp, sodium hydroxide, sulphuric acid,

1 disulfide, lots of water, lots of power. I could go on
2 at length. It is really the topic of a Textile 101
3 lecture, it may be a full course. But we will spare you
4 this.

5 So, the question is, is this green washing? A
6 number of the previous panelists have pulled up the FTC
7 definition of rayon. Nowhere in it do we define what
8 types of cellulose go into the manufacture of rayon. It
9 is not like lyocell that is a clearly defined different
10 process that does have some advantages. Rayon can be
11 made from pretty much any sort of cellulose. We have had
12 a number of discussions on cotton linters, wood pulp. I
13 went to UC-Davis. One of my colleagues was working on
14 extracting cellulose from rice and turning it, too, into
15 rayon. There was a problem with silica in the
16 processing, which, again, is beyond the scope of this
17 discussion.

18 So, in conclusion, the consumer is being led to
19 believe that she is purchasing a green superior product.
20 What the consumer is indeed purchasing is a cotton-rayon
21 blend bath towel. She is paying a premium price for the
22 honor and the privilege. And what does she get? She is
23 getting an ordinary bath towel that, at best, is a bit
24 softer than 100 percent cotton. We would like to see
25 better labeling.

1 Well, while stating that something is made from
2 bamboo rather than rayon is misleading, this is not
3 necessarily a hazard to life and limb as say an
4 automotive rollover standard is, but it affects the
5 consumer's pocketbook. As long as consumers are spending
6 more money for something with these claims, we should be
7 seeing better labeling and we should be seeing better
8 superior products.

9 Thank you very much for allowing us to present,
10 and at Consumer Reports we are really honored to see that
11 the Federal Government is taking an interest in labeling.

12 **(Applause.)**

13 MS. KAPPLER: Thanks to all our panelists.
14 Let's move on to questions. We have some from the
15 audience and I have some for you as well.

16 This is for all the panelists. What is your
17 understanding of consumers' interpretation of a textile
18 label that says "made with organic cotton"? Does this
19 interpretation go beyond the way the cotton is grown, for
20 example, to the production of a finished product? If
21 yes, what kind of guidance would be helpful for the Green
22 Guides to provide?

23 MS. GERSHUNY: Well, I probably address some of
24 that by saying that if a consumer is familiar with the
25 food labeling requirements for organic, they might assume

1 that something that says "made with organic cotton" is
2 also complying with the processing standards under the
3 National Organic Program, which would not be the case.
4 So, in order to address that, I think that there needs to
5 be a very clear statement both from the National Organic
6 Program and from FTC that any content claims on fiber in
7 a product about -- organic content claims about a product
8 are only about the fiber content and not about how the
9 product is processed unless it is certified under a
10 scheme such as GOTS.

11 MS. KAPPLER: Thanks. Todd?

12 MR. COPELAND: Sure. I agree that some
13 customers will be confused by that. I think not all of
14 them and I think it is a learning curve and we need to be
15 clear. And I think I agree with the fact that looking at
16 the difference between a pure agricultural product and a
17 processed product, in the case of a textile a very
18 processed product, that we need to be specific about this
19 is regarding just the fiber or we are talking about the
20 entire processed product. And I think for me it would be
21 two separate things, organic for the fiber and a GOTS
22 certification or a bluesign certification or some kind of
23 certification for the processing part.

24 MS. HUDDY: I have already stated in my speech
25 that we think that the consumer thinks that the

1 perception is the finished -- from the beginning to the
2 end of the product, that the whole thing is sustainable
3 and environmentally friendly. So, I think that besides
4 fiber identification, that there also needs to be other
5 clear identifications as to where the product stops being
6 environmentally friendly or continues to be
7 environmentally friendly such as the independent
8 certifications.

9 MS. SLAVEN: Consumer Reports, like Good
10 Housekeeping, has been trying to do some education, and
11 the consumer, the perception, again, is that the entire
12 product is organic where, at best, it is how the fiber
13 was grown. It has nothing to do with the processing. We
14 published an article about sheets a few years back and a
15 little bit in the towel story where we tried to educate
16 the consumer, but there is not a lot you can do with one
17 or two lines in an article and it really comes back to
18 labeling.

19 MS. KAPPLER: This a question for Todd. Todd,
20 you alluded to the challenges of non-deceptively
21 communicating green textile claims that go merely beyond
22 making fiber claims. Along those lines, what should the
23 Green Guides say to provide marketers with guidance when
24 they make green textile claims?

25 MR. COPELAND: Beyond the fiber, I think it

1 needs to be related or limited to some kind of
2 third-party certification. It is pretty difficult to
3 make a reference to natural dye or uses less energy or
4 something like that and really have some objective
5 support for that as a brand. I think you need some kind
6 of third-party support independent verification behind
7 that.

8 MS. KAPPLER: You mentioned the issue of
9 bamboo and the perception at Patagonia that it was not a
10 trade-off that was worth it, as I understand it, because
11 the rayon was also being manufactured using refuse from
12 wood plants and cotton fibers. Is there some way that
13 the Green Guides could communicate that issue of a
14 trade-off?

15 MR. COPELAND: I think in that case it was the
16 case of one factory. I think that is the standard
17 process. But I just think that the big issue of using
18 bamboo for rayon processing, we were not even addressing
19 the right problem. I think that was the point of me
20 making that comment. So, it is important to say that it
21 is rayon. If you want to go beyond that and say, okay,
22 it is rayon from something, then that is fine, whatever
23 that is, and then maybe the FTC decides whether you say
24 that or not. But I think definitely you have to say at
25 least what the fiber type is.

1 MS. KAPPLER: This is a question for Kathleen
2 and Pat. You talked about the observations of your
3 companies regarding green textile claims. What are the
4 most egregious claims that you all have noticed, and
5 along those same lines, what textile claims seem to be
6 causing consumers the most confusion.

7 MS. HUDDY: Well, the latest bit of bamboo that
8 we saw had, I would say, probably six or seven claims.
9 One being the -- a bunch being the ones that I stated
10 before. Antifungal, antimicrobial, beneficial to those
11 with sensitive skins and allergies, just claims that we
12 really question whether there is substantiation for them.

13 MS. SLAVEN: Similar to Kathleen, we are seeing
14 the claims that are on par with a creative writing degree
15 out of Harvard.

16 **(Laughter.)**

17 MS. HUDDY: Yeah, yeah.

18 MS. SLAVEN: And it is misleading to the
19 consumers. Consumers are reasonably intelligent.
20 However, when you are getting bombarded with hype in
21 20-point font, it is hard to dig into the label. It is
22 hard to do your own documentation. So, we are seeing the
23 most egregious stuff with bamboo. We have seen a little
24 bit with the organic cottons. Actually, some of the
25 better stuff that we saw a few years back were the soda

1 pop bottle fleece that Patagonia made. It was something
2 that we tested about 10 years ago and it was actually
3 nice to see something that was a good consumer product.

4 MS. HUDDY: That was telling the truth.

5 MS. SLAVEN: Yeah, it was like whoa.

6 MS. HUDDY: It happens every once in a while.

7 MS. SLAVEN: It should not be so rare.

8 MS. HUDDY: Not often, but it happens every
9 once in a while.

10 MS. KAPPLER: Let me raise this question with
11 the entire panel. If a fiber product must have fire or
12 flame retardancy for the consumer item, how does that
13 impact any kind of green claim? Can you even make a
14 green claim for these kinds of products?

15 MS. HUDDY: I do not think you can make a green
16 claim.

17 MS. SLAVEN: Well, a few years ago we saw some
18 items that were treated with Borax and I guess that would
19 be the stretch.

20 MS. HUDDY: Yeah, they are chemicals. I mean,
21 they have been proven to be not harmful -- some of them,
22 some of them have been proven not to be harmful to
23 humans, but they are still chemicals. So, I do not think
24 there is a green claim that can be made on them. I have
25 not seen that yet. I have seen FR cotton, but I have not

1 seen FR cotton with a green claim yet.

2 MS. SLAVEN: No, I have not seen that either.
3 Although we did get -- actually, a trade association that
4 I worked with a number of years ago, we got asked how to
5 do an organic treatment with flame retardancy, and the
6 closest thing we could come up with was dipping something
7 in Borax which is really a push. But we have not seen
8 that as a claim. But everything is chemicals including
9 what we are breathing.

10 MS. GERSHUNY: The GOTS standards do permit
11 treatment with flame retardant chemicals where that is
12 required by law. So, that would be an exception. And if
13 people are familiar with the standards, they will know
14 that if it is a certain kind of product, then they can
15 still put a GOTS label on it even though it is treated
16 with fire retardant chemicals. I think that there may be
17 some GOTS approved chemicals that are used for fire
18 retardant, but that is beyond my scope of expertise.
19 Maybe Sam Moore knows. No? Okay.

20 MS. KAPPLER: Here is a question for Todd. Is
21 Patagonia differentiating between post-industrial and
22 post-consumer recycled content? What about routinely
23 collected waste, is this called recycled?

24 MR. COPELAND: That is a really good question.
25 Currently, we are not explaining differences between

1 post-industrial and post-consumer recycled content. I
2 think they are both pretty important and I think that you
3 can make a claim for both of them being environmentally
4 friendly, and I think as long as we are checking our
5 sources of recycled material, we are pretty confident
6 that we are doing the right thing in most cases.

7 MS. KAPPLER: A question for the panel. Some
8 organic advocates claim that products produced
9 organically are more environmentally friendly than
10 conventional fibers. How can one reconcile the fact that
11 there are often lower yields, more soil losses, more
12 water pollution and, ultimately more loss of wildlife
13 habitat in organic methods?

14 MS. GERSHUNY: How much time do I have for
15 that?

16 **(Laughter.)**

17 MS. GERSHUNY: I think that the environmental
18 benefits of organic production are well documented and
19 the claims that those methods are not environmentally
20 beneficial are promulgated by people who are trying to
21 promote not more industrial, chemical and genetically
22 modified organisms, and I think that the reams of data
23 that are out there will certainly refute that argument.
24 I do not think I can go into all of the documentation at
25 this point, but certainly there is lots of it.

1 MS. KAPPLER: Any examples?

2 MS. GERSHUNY: Any examples? I do not think I
3 can give any citations at this point. I was not prepared
4 for that question here. But you could go to the OTA
5 website, www.ota.org, and with links to research and
6 documentation about those claims. I am sure you will
7 find the information there.

8 MS. KAPPLER: Anyone else?

9 MS. HUDDY: Well, we cannot really answer that
10 question because we deal with the end product that the
11 consumer is purchasing at the store.

12 MS. SLAVEN: And Consumer Reports really cannot
13 add anything to that either.

14 MR. COPELAND: I am a retailer, not a farmer,
15 but I can say that I support organic agriculture. And I
16 think any claims that say that it is more environmentally
17 harmful than industrial agriculture than somebody has
18 done a lot of work to try and get those numbers together
19 to prove a point and I do not have the numbers to refute
20 it, sorry.

21 MS. KAPPLER: Here is a question for Kathleen
22 and Pat. Is it possible to adequately qualify a
23 "renewable sustainable source claim" for textiles made
24 from bamboo? If so, how would a marketer qualify a
25 claims so that the claim does not imply that it is

1 manufactured in some sort of environmentally friendly
2 way?

3 MS. SLAVEN: I think it would require a very
4 large label. And other than one of the certifying
5 bodies, that would be an awful lot of words to put on a
6 label.

7 MS. HUDDY: I do not think there is any way to
8 do that that I know of.

9 MS. KAPPLER: Well, along those lines, so many
10 of these justifications and qualifications make for a
11 label that is the size of a gas station bathroom key.

12 MS. HUDDY: I have seen them that long,
13 especially if they are going to different countries. It
14 is ridiculous.

15 MS. KAPPLER: Is some sort of reference to
16 third-party certification the answer to that? Or is
17 there some way to try to summarize in a few short words
18 what is true?

19 MS. HUDDY: Well, you can use an independent
20 lab, using ASTM and A Squared standards, which is
21 perfectly justifiable. And then you can also use the
22 independent certifications, which the consumers are
23 starting to understand. They are starting to see
24 Okatech, they are starting to see it in catalogs, they
25 understand it. It is easy for them to understand. And

1 they are already starting to see bluesign and that also
2 is very easy for them to understand.

3 MS. SLAVEN: Even some of the simple stuff,
4 some of the simpler tags that we saw where it said rayon
5 from bamboo, a little bit of education provides a lot.
6 As Dr. Gerde said earlier, we do not say rayon from
7 cotton linters, rayon from wood pulp. However, that is
8 one modification that may make it clearer for the
9 consumer.

10 MS. GERSHUNY: I would just say that the word
11 "organic" is now legally defined and that it is not
12 something that fits on a bumper sticker either. But any
13 consumer can find the standards and know just what that
14 means. As a matter of fact, the standards do call for
15 practices that eliminate the danger, the threat of soil
16 or water pollution, for example. In any practices, every
17 practice has to be shown to minimize any threat to soil
18 or water.

19 MS. KAPPLER: Let me just return to the issue
20 of product labeling because you all talked about the fact
21 that consumers are starting to understand these
22 third-party certifications and there is information on
23 websites and catalogs that provide them with more
24 information about this. But what about the point of sale
25 and the label? Is it really adequate for a consumer to

1 have a reference to a third-party certification on a
2 label without some further explanation of what that
3 certification connotes or conveys?

4 MR. COPELAND: Can I shoot? I think, in some
5 cases, you could have a book attached to your garment and
6 some people want that. Some people want to sit in the
7 store and they want all that data. But a lot of people
8 don't. Trying not to give all that information and
9 totally overwhelm somebody is kind of a balancing act I
10 think. So, a lot of what we do is try to make it as
11 simple as possible on the garment, but we reference a lot
12 of stuff to our website. With the case of an organic or
13 a third-party certification, you kind of reference out
14 another company's website. People can do all the
15 research they want to at home.

16 MS. SLAVEN: With the care labeling effort that
17 took place a few years back, coming up with universal
18 codes, and there was a lot of consumer education
19 involved, letting consumers know this was a symbol for
20 wash, a symbol for dry. That would be one suggestion, to
21 try to find a way of simplifying it, codifying it and
22 doing consumer education.

23 MS KAPPLER: Here is a question for the panel.
24 What about regenerated proteins such as soy and milk
25 fiber, should marketers be able to claim that products

1 made from these fibers are green? If not, why not?

2 MS. HUDDY: Well, again, it is the processing
3 from the product, you know, from the beginning of the
4 product to the end of the product. We have looked at milk
5 t-shirts and soy t-shirts. Some of the claims have been
6 fairly impossible to substantiate. You know, it makes
7 your skin softer if you wear a milk t-shirt. You know,
8 prove that to me. That would be hard to prove.

9 And, again, it is the processing. I think it
10 is fascinating that they were able to make it out of a
11 milk protein and that is a great thing, but again,
12 listing all those product claims and not being able to
13 substantiate them is a problem.

14 MS. SLAVEN: I have not seen any of these items
15 in my lab yet.

16 MR. COPELAND: I think these fibers are like
17 the protein version of bamboo rayon kind of. Where they
18 are talking about that it is made from soy or milk, but
19 not talking about the fact that it is a regenerated
20 process that uses chemical solvents and other chemicals
21 to actually congeal it back out. And I think that is the
22 environmental issue, not whether you are using soy or
23 milk or something.

24 But I think it is being promoted as a natural
25 product, renewable product source or whatever, and I

1 think that is another case where we should focus on what
2 is the fiber, and if we can label it -- I think Azlon is
3 the general word for regenerated protein fiber. If we
4 could say it's Azlon, that would be a little more clear,
5 it's like saying rayon instead of bamboo.

6 MS. KAPPLER: One challenge we have had is it
7 appears that a lot of manufacturers and retailers and
8 marketers are not familiar with our Green Guides.

9 MS. HUDDY: Yeah, they are not.

10 MS. KAPPLER: What can the FTC do to better
11 disseminate this information?

12 MS. HUDDY: Get a list of them all and send it
13 to them and tell them they will be fined unless they
14 follow it.

15 **(Laughter.)**

16 MS. HUDDY: I am sorry, but, I mean, that is
17 what you have to do. Every manufacturer in the garment
18 industry -- not every, God bless me, is going to try
19 this. Let's see, how long can I get away with this
20 before they come after me? How many products can I sell,
21 how much of a profit margin can I have before I get
22 caught? It has been going on since I was a buyer in
23 1987.

24 MS. SLAVEN: It comes back to carrot and the
25 stick. One is encouraging them to do better labeling

1 like your Threading Your Way Guide. And then that is the
2 carrot. And then the stick is enforcement. And I
3 realize that that is a real tough one.

4 MS. GERSHUNY: I would suggest, I mean, there
5 are lots and lots of conferences and trade shows for
6 green products and the Organic Trade Association's annual
7 conference, All Things Organic, which it would be very
8 helpful to have that information for people who
9 manufacture those kinds of products.

10 MS. KAPPLER: Thank you. That is all we have.
11 Now, we are going to move on to a lunch break and we will
12 be out until 1:00. Just to remind everyone that you will
13 need to allow some additional time to get back into the
14 building, so do work that into your schedule. Thanks to
15 all our panelists.

16 **(Applause.)**

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1 **SESSION 3: SHADES OF GREEN - OVERVIEW OF GREEN CLAIMS**
2 **FOR BUILDING PRODUCTS**

3 MR. FRISBY: Good afternoon, everyone. My name
4 is Robert Frisby. I will be monitoring our third
5 session.

6 Before we get to that, I want to make a few
7 brief announcements for people who did not attend this
8 morning's session. The restrooms in this building are
9 located across the lobby behind the elevators near the
10 guard desk. Also, we ask you to please turn off your
11 cell phones or put them on vibrate, and if you want to
12 make calls, we would prefer that you do so out in the
13 lobby or outside the building.

14 Also, we are going to be posting the
15 PowerPoints that you are seeing today on our webpage very
16 soon and we will also be posting a transcript of the
17 proceedings and the archived webcast very soon as well.

18 We are going to be following our presentations
19 with a question-and-answer session. If you have a
20 question, please write it down on one of the index cards
21 that you may have seen back there. If you need a card,
22 there are folks walking around with them and we will try
23 to pose whatever questions we can at the end of the
24 session.

25 And with that, let me introduce our third panel

1 of the day. The third panel is on Shades of Green -
2 Overview of Green Claims for Building Products. We have
3 Kirsten Ritchie, who is Director of Sustainable Design at
4 Gensler. We have Corey Brinkema, President of FSCUS, the
5 National Initiative of the Forest Stewardship Council.
6 We have Rick Cantrell, Vice President and Chief Operating
7 Officer of the Sustainable Forestry Initiative. Steve
8 Sides, Vice President of Environmental Health and
9 International Affairs at the National Paint and Coatings
10 Association. And, finally, we have Frank Hurd, Vice
11 President and Chief Operating Officer of the Carpet and
12 Rug Institute.

13 With that, I will turn over the floor to
14 Kirsten.

15 MS. RITCHIE: Good afternoon, everybody. I
16 feel so lucky being the first speaker after lunch before
17 those carbs race in and shut your body system down.
18 Welcome, glad you could all make it.

19 What I am going to talk about, the whole panel
20 is talking about shades of green, and I am really kind of
21 getting to the whole issue of getting beyond eco fluff
22 and how we really get to green products. But before I go
23 on, I will just give you a little bit of insight into who
24 I am. I am Director of Sustainable Design at Gensler.
25 How many of you are familiar with Gensler? Well, Gensler

1 is the world's largest architectural firm. We specify
2 and we are involved in 250 million square feet of
3 building a year. So, you can imagine the quantity of
4 products that we are responsible for specifying, and we
5 have the opportunity to make a lot of them very, very
6 green. We are just trying to find them. And one of the
7 challenges that our designers have is that they have to
8 wade through all this eco fluff thrown at them. So, I am
9 going to hopefully clarify that.

10 So, the four key agenda items, how we lose the
11 eco fluff, the realities that we cannot speak, multi-
12 attributes, what the value is of standards and how you go
13 about gaining our trust.

14 Losing eco fluff. Family Circus, this was a
15 Mother's Day cartoon. You have little Jimmy there, mom
16 is being served pink eggs and ham, and Jimmy says, Look,
17 Mom, we could not find any food coloring so we used
18 finger paint. But it is okay, Mommy, on the box it said
19 non-toxic, that means it is not fattening. People do not
20 always understand what we are throwing out there when we
21 say what we are saying. So, what is really the true
22 meaning?

23 Or we may mistakenly assume there is this nice
24 little can here. It has a pretty graphic little symbol
25 here, nice blue water drops and water-based. What does

1 it mean? What does it mean to you? Well, a lot of
2 people think, oh, it means it is a safe product, I can
3 use it maybe around my pools and my sinks. The reality
4 is it only means that the carrier is water, it is no
5 longer oil. It can still contain arsenic, cyanide and
6 all kinds of other things. And if you notice, it has a
7 big keep out of reach of children label on it. So, we
8 have to be very concerned about those things that look
9 pretty but, you know, what do they really mean.

10 We can misinterpret. I love this. Our store
11 uses environmentally friendly darkening fluid. What the
12 heck is that? No cancer-causing agents. Now, you get
13 any good scientist or toxicologist and they could say,
14 you know, we throw enough of something at any one
15 particular thing, we could probably get some sort of
16 cancerous reaction. And this has no, not even free of,
17 which we know can be .05 percent, but no. That is pretty
18 firm. And virtually non-toxic and biodegradable. Well,
19 it is a dry cleaning fluid. Chances are it has no water
20 as a carrier. It is not supposed to get out in the
21 environment. Why would you have something that
22 biodegrades if it is never even supposed to be out there?
23 So, I mean, that is a little question.

24 Miscalculate. Those of us who are involved in
25 the green building industry and there is the LEED rating

1 system, which is a point-based system, and we love all
2 these manufacturers that come to us and say, look at my
3 product, just specify my product and you get seven
4 points. And you are going no, that is not the way it is.
5 Just by specifying a stormwater collection system, we are
6 not going to get seven points on the project. So, please
7 do not try and allude that we will.

8 Sometimes we can just get confused. I love
9 this one that came to me a couple months ago from a
10 designer. More environmentally friendly and functional.
11 Our unparalleled products are manufactured with 100
12 percent new, virgin, mechanically frothed polyurethane
13 formulation containing ultra-fresh antimicrobial
14 chemicals, blah, blah, blah, blah, blah. Does somebody
15 want to explain to me what is environmentally friendly
16 about that?

17 So, the reality is even though we get -- well,
18 we lost a few. We have a whole long laundry list of
19 attributes that are out there, eco safe, no chemicals, no
20 additives. I always love the no chemicals. Okay, yeah,
21 it does not have any carbon, it does not have chlorides,
22 it does not have any oxygen or hydrogen. The list goes
23 on and on and on and we really can get very confused.

24 At the same point in time, the market is able
25 to understand a lot of claims. We are able to understand

1 and speak multi-attribute. Plenty Magazine, I love that
2 magazine, he could be the one, he drives a hybrid but
3 does he compost.

4 **(Laughter.)**

5 MS. RITCHIE: We have the capability to
6 understand more than one thing at one point in time.
7 And, actually, the Europeans I think are a bit ahead of
8 us. This is from Marks and Spencer, they have what they
9 call their Plan A because there is no Plan B. They are
10 now requiring their tire supply chain, all their products
11 to evaluate along what they call the five pillars of
12 environmental and social issues. Climate change, waste,
13 dealing with is this product recyclable, is it
14 compostable, sustainable raw materials, what is the
15 recycled content, is it organic, is it FSC certified, is
16 it a fair partner that is dealing with the social
17 responsibility aspect, and then health because we are
18 concerned about public health and we want to make sure
19 these products do not cause any problems for us.

20 So, they are looking -- Marks and Spencer is a
21 very, very large retailer in the European Union and they
22 actually are coming here to the States and actually going
23 internationally. And they are saying, you know what, our
24 customers, the average, you know, grocery store buyer can
25 understand these things and they want to know.

1 So, what are the targets that we have to --
2 what we are trying to achieve because we often have
3 people come to us and manufacturers come to us and say,
4 well, just tell us what you want. And it is like, that
5 is your job, you are supposed to know your product, you
6 are supposed to know the market, you are supposed to be
7 doing the right thing, but we will go ahead and help you.

8 We have issues of product -- the reality is you
9 are looking at both the product and the process. On the
10 product side, you are looking at things of the
11 attributes, it is the material content, it is the mission
12 profile, it is performance characteristics, it is
13 toxicity. But you also have to deal with the process,
14 how that product was produced. Energy consumption, its
15 carbon footprints, clearly we are very concerned about
16 that from a climate change perspective. Water
17 consumption, behind energy and carbon, we are running out
18 of water. What waste is being generated and how is this
19 being managed, what are the air emissions that are
20 associated with the production of that product.

21 In terms of the product characteristics, there
22 are a whole bunch of green rating systems that are out in
23 the marketplace. Many of you are familiar with some of
24 these, like, for example, LEED, you've got Energy Star,
25 you've got Green Globes. If we look just at LEED, LEED

1 actually lays out for us kind of the product
2 characteristics that we typically are looking for when we
3 are talking about products for the built environment.

4 In terms of water, I mean, you have water
5 efficiency fixtures, energy efficient lighting and
6 appliances. You want to reduce toxic materials,
7 particularly as it relates to lighting the steels with
8 mercury. Are you using salvage materials? Are you using
9 recycled content pre and post? Post is preferred. Is it
10 a locally and regionally harvested material? Is it
11 rapidly renewable? Is it a certified wood source? And
12 then, also, from more of the health perspective, is it
13 low emitting, whether it is adhesives, your paints, your
14 carpets.

15 LEED actually has some guidelines here for you.
16 So, from that perspective, if you are a manufacturer or
17 if you are a specifier, if you are a buyer and you are
18 concerned about product characteristics, this is a good
19 short list to start to say I have to be able to
20 articulate how my product performs or meets these
21 criteria.

22 But what we really are concerned about is the
23 life cycle of this product and all the impacts that are
24 associated during the extraction of raw materials, its
25 manufacturing, its use and then what happens to it end of

1 life. That is the life cycle assessment. Part of the
2 reason we want to look at things from a life cycle
3 perspective is to make sure that we are not trading off.
4 Just because we are getting something that is very energy
5 efficient, we do not want to know that it is toxic from a
6 public health perspective. Or just because we are
7 really, really good at extracting materials does not mean
8 we have a very inefficient product in the marketplace.
9 So, we have to make sure that we are not incurring undo
10 trade-offs to try and get some of the benefits that we
11 think we are receiving.

12 Now, the reality from a life cycle perspective,
13 it is pretty complex science and it is evolving science.
14 This is the scope, a life cycle assessment, for ketchup.
15 Now, you think ketchup and then you think potentially
16 this podium. There is a bit of difference in the
17 complexity of that. And from here, you see all the
18 different things you have to look at and you multiply
19 that by what is -- when you have a multi-material sort of
20 product, how you really can assess it. But we can. We
21 are getting better and better and better at that.

22 What is it we are really trying to determine
23 from a life cycle perspective? We look at all these
24 flows, we look at all these emissions, we look at all the
25 consumption and we aggregate them together to identify

1 the impacts in certain key impact areas.
2 Internationally, there are five agreed-to impact
3 categories. There are global warming, also known as
4 carbon footprint, greenhouse gas emissions, stratospheric
5 ozone depletion, acidification, eutrophication and photo-
6 chemical smog. We agree to both universally. There is
7 no doubt about that.

8 But the reality is there is a whole lot more
9 that we are also interested in. This is the list of
10 impact categories. It was developed by EPA as part of
11 TRACEI, the Tool for the Reduction and Assessment of
12 Chemical and other Environmental Impacts. How is that
13 for nomenclature? You can see that it has the five main
14 categories there, climate change, eutrophication, smog,
15 acidification, ozone depletion, but it also has things
16 like resource depletion, human health, a big thing. On
17 the life cycle area, public health is a real challenge,
18 we do not know how to do it yet. Water intake, human
19 health cancers, eco toxicity, habitat alteration, non-
20 cancerous human health impacts and indoor air quality.

21 Now, from a life cycle perspective, the life
22 cycle practitioners say all of these are equal. They are
23 all equally important and we have to address them all
24 equally. But the reality is trying to do that from a
25 manufacturing perspective or from a marketplace

1 perspective is not really practical. It is like there is
2 too much, I cannot work on it.

3 So, what NIST actually did is they undertook an
4 assessment to try and figure out what really are the
5 priorities. This is what is going to kind of form the
6 basis of the criteria in LEED saying, you know, we are
7 looking at the most important things for us are climate
8 change. So, if you are looking through your target from
9 a manufacturing perspective and from a marketplace
10 perspective, you have to be able to articulate how this
11 product impacts climate change, i.e., what is its carbon
12 footprint. And as you can see, you know, going on the
13 independent and U.K. requiring carbon footprint to be
14 revealed.

15 Just a quick word on environmentally
16 preferable. We hear this a lot, environmentally
17 preferable products. Oftentimes, somebody says my
18 product has 5 percent more recycled content than theirs,
19 therefore, I am environmentally preferable. We do not go
20 there. We say in order to make the claim of
21 environmental preferable, you have to consider both the
22 product as well as the process. The intersection where
23 you can get the best of both, that is when you have
24 something that truly is environmentally preferable.

25 The value of standards. Standards are what we

1 use to define performance internationally. There is a
2 whole set of definitions. But the one that we are really
3 focusing on here is that rule or set of rules or
4 requirements which are widely agreed upon or imposed by
5 government.

6 Now, the reality is they touch all facets of
7 our life. How fast the secondhand moves on your watch,
8 the flamability of the carpet you are walking on, red
9 means stop at a stoplight, yes, not in Italy but
10 generally everywhere else in the world, that is what it
11 means. And the international language of commerce is
12 standards. We have to understand that. Because the
13 reality is we are living in an international marketplace,
14 and when we order specified products for those 250
15 million square feet of building, they are coming from
16 around the world. So, we have to have standards that are
17 applicable around the world.

18 Now, the reality is that there are a bunch of
19 road maps that already exist. They are international.
20 They are ISO. And, yes, we, as Americans, always say do
21 we have to use international standards, can't we create
22 our own? But from an FTC perspective, I would really
23 like to encourage that we start to leverage and use what
24 is already out there, starting, for example, with ISO
25 14021, the single environmental attribute road map. It

1 has a bunch of great language in there. But one of the
2 things is an environmental claim that is vague or non-
3 specific or which broadly implies that a product is
4 environmentally beneficial or environmentally benign
5 shall not be used. What does that mean? All those terms
6 that we see, environmentally friendly, environmentally
7 safe, earth friendly, non-polluting, green, ozone
8 friendly, you just don't go there. Pretty simple. Just
9 don't do it.

10 ISO 14025, which is a life cycle, basically
11 nutritional label. A newcomer for those of us in the
12 building products trade is 21930, which is environmental
13 product declaration for building products, basically
14 think of a nutritional label for building products. It
15 does not tell you good bad or ugly, it just tells you
16 what is.

17 So, for example, carbon facts on the
18 cheeseburger right here. This is just reporting out what
19 the carbon footprint of a cheeseburger. I am running out
20 of time, but just quickly to note, carbon product ratio,
21 this is just a teaser for the day, 23.7, that means 23.7
22 points of CO2 equivalent per pound of cheeseburger.

23 Do you know what concrete is? .1. Do you know
24 what steel is? 1.7. Do you know what carpet is? Three.
25 Cheeseburger, 23.7. So, watch those cheeseburgers if you

1 are concerned about climate change.

2 **(Laughter.)**

3 MS. RITCHIE: 14024, environmental seal of
4 approval. This is giving you the good, better, best.
5 And, fortunately, we have a lot of standards that are now
6 developing here in the United States using that kind of
7 protocol to help us figure out what are really good
8 products, and they look at a whole host of attributes.
9 This is not just recycled content, this is not just
10 energy efficiency. This is the new standard, IEEE 1680,
11 which is the basis for the electronic products
12 environment assessment tool.

13 And you notice they talk about elimination of
14 environmentally sensitive materials, materials selection,
15 end of life management, energy conservation, corporate
16 performance. If we had to list all the attributes for
17 every single one of the thousands and thousands and
18 thousands of products that go into our buildings, we
19 would have spec books that would run from that wall to
20 that wall. You cannot operate that way.

21 But, now, what we can do is we can say, all
22 electronic products have to meet IEEE 1680 level of
23 bronze or level of silver. It is greatly simplifying
24 what we will have to do as specifiers to get good quality
25 products that are also environmentally friendly in the

1 marketplace.

2 NSF Carpet standard, NSF 140. We also have a
3 new draft standard out for sustainable assessment for
4 resilient floor coverings. BIFMA is also working on a
5 standard for sustainability of furniture. The list is
6 growing, which is very important.

7 ASTM has an evolving standard on
8 environmentally preferenced products. So, a number of
9 organizations are working in that way. But how do we
10 then move from standards and get products in the
11 marketplace? And the important thing is we have to gain
12 our trust. In God we trust, all others bring data, great
13 quote from Gerry Anderson who was the founder of
14 Interface. You have what are called environmental
15 product declarations.

16 This is that nutritional label we are talking
17 about, very detailed, tells you what the carbon footprint
18 is, tells you what the acidification footprint is, tells
19 you what materials went into the product. A very nice
20 one because we are dealing again with the design
21 community, try and have a little nice graphic on their
22 face. This is an environmental product declaration that
23 Steel K (phonetic) has put together on a chair. They
24 have it for a number of their products, particularly
25 those that they sell in Europe.

1 We then quickly have the issue of
2 certification. Because these are very complex standards,
3 they look at a lot of information. Who can we really
4 trust in saying, yes, I meet the standard? You have the
5 first party certification, which basically is
6 self-declaring; you have second party which there is some
7 relationship between the certification organization and
8 that being certified, such as, for example, a membership
9 in a trade association or a vendor; and then you have
10 third-party certification and that is really where we
11 want to encourage that you go.

12 The final element is branding. Branding is
13 very important. The reality is we are a brand-driven
14 society as you know, it really helps -- takes a lot of
15 complex processes, brings them down and makes them nice
16 and graphical. And there are things like the value, even
17 from an environmental perspective, when you talk about
18 the value, for example of Energy Star. People who became
19 aware of Energy Star appliances said next time that they
20 are going to buy and look for them. So, it does have
21 real value.

22 And you see we have a whole lot of those brands
23 in the environmental arena, and I would leave you with a
24 question, though, are we being overwhelmed. So, I am
25 hoping somebody will ask us that of the panel so I can

1 answer that because I am out of time. Thank you.

2 **(Applause.)**

3 MR. FRISBY: Thank you very much. Corey, you
4 are next.

5 MR. BRINKEMA: Thank you. I am Corey Brinkema
6 with the Forest Stewardship Council United States and I
7 am the president of what is known as the National
8 Initiative within our International System. I think we
9 are approaching 50 national initiatives now. We are
10 based in Bonn, Germany and our offices are based in
11 Minneapolis.

12 We are going to make that shift now into
13 discussing certification systems and standards, and I
14 would also like to comment on a few points that Kirsten
15 touched on as well. First of all, our organization, our
16 mission, as stated here, we are about promoting the
17 environmentally appropriate, socially beneficial and
18 economically viable management of the world's forests.
19 We do this through setting standards, developing a
20 certification system and creating a logo and a label that
21 will be recognized in the marketplace and reward good
22 behavior.

23 So, I mentioned we are a global organization,
24 and if there is one take-away today that you get out of
25 my talk, it is comprehension that FSC is what is known as

1 a consensus-based organization. And that means we bring
2 all stakeholders together through membership, through
3 standard-setting and policy development. And that is
4 really what sets FSC apart.

5 We have three chambers in our membership.
6 Membership is open. You categorize yourself as either
7 environmental, economic or social. Organizations like
8 the timber industry and lumber producers and retailers
9 would be in our economic category. Environmental is
10 primarily environmental NGOs; and social is an
11 interesting and sometimes eclectic mix. Internationally,
12 it is indigenous organizations, labor, and community and
13 community development organizations.

14 We have certified now -- these are figures from
15 April of 2008. I've just recently received the second
16 quarter of this year and we are a little over 260 million
17 acres certified and we are getting very close to 10,000
18 chain of custody certificates, and I will explain what
19 that means in a minute. We are now in 81 countries.

20 So, what is FSC? We are a market-based non-
21 regulatory tool for forest conservation. We have
22 developed the world's most rigorous and prescriptive
23 standards for forest management. Essentially what we are
24 trying to do is allow the consumer or corporate purchaser
25 to reward good forest management practices, and we do

1 this through setting standards, as I mentioned, and
2 providing a third party verification system for
3 accrediting independent certifiers, more forest
4 management and then through the chain of custody. This
5 set of arrows down here, in just very summary form,
6 describes the chain of custody process from the forest
7 floor through primary and secondary mills and through to
8 the distribution channel and retailers and, finally, a
9 label on a product like a pad of paper or a piece of
10 furniture or lumber or other green building products.

11 Our guiding principles, there are 10 of them.
12 And with each one of these principles there are a set of
13 criteria. We have, I believe, 54 criteria and then at
14 the standards, national and regional standards level we
15 have also what are known as indicators that allow and
16 provide guidance for our certifying bodies to determine
17 compliance to these principles and criterias.

18 So, the first one is primarily around legality.
19 The second one about land tenure. The third is
20 indigenous people's rights. Four is community relations,
21 labor rights. Number five, benefits of the forest,
22 largely an economic principle. Number six, environmental
23 impact. These are quite a lengthy section of our
24 standards. Number seven, requiring a detailed management
25 plan. Eight, monitoring and assessment. Number nine,

1 the maintenance of what are known as high conservation
2 value forests. That is a term that was coined by the FSC
3 and specifies protections for areas of special
4 conservation value, it can also be social criteria there.
5 Number 10, plantations and plantations need to be managed
6 under the FSC principles and criteria. They do not have
7 a separate set of rules, and it is an understanding that
8 plantations do have a role in reducing the burden on our
9 natural forests.

10 I mentioned the consensus based approach and
11 what you get when you move forward with that approach is
12 you get some strange bedfellows. In the FSC, you have
13 folks like the Sierra Club and Forest Ethics and
14 Greenpeace sitting down and negotiating with Potlatch and
15 Domtar and New Page over what the standards should be.
16 And in the U.S., our national initiative, one of the
17 roles that we play is taking those international
18 principles and criteria and creating indicators for those
19 criteria. We are actually in the middle of that right
20 now. We are in a five-year, every five-year standard
21 revision process. And on our standards revision
22 committee we do have Sierra Club, Forest Ethics and the
23 Nature Conservancy, Potlatch, and a number of other
24 forest management companies are also represented.

25 How does FSC earn market trust? Certainly,

1 this consensus approach is very powerful, but what
2 matters most are the standards. And FSC has set, by far,
3 the most comprehensive and prescriptive and verifiable
4 standards for forest management.

5 When I go around talking with our stakeholders,
6 particularly the corporate stakeholders, these little
7 checkmarks here are what I hear most frequently why
8 company A or consumer B has chosen FSC. I hear national
9 forest conversion, the fact that we disallow that within
10 our standards. Converting natural forests to plantations
11 or other non-forest uses. The real protection of high
12 conservation values in forests. The fact that we protect
13 indigenous rights and labor rights. And then you get
14 down to some of the more minutia within the standards,
15 tree retention within openings, protections for
16 threatened species and a very lengthy list of pesticides
17 that are not allowed within forest management practices.

18 Obviously, the balance in democracy and
19 transparency in the system and for many it is the fact
20 that we have the leading environmental and social NGO
21 support.

22 Our growth here in the U.S., you can see
23 that -- and it is part of the reason why we are here
24 today and why the FTC is paying so much attention to this
25 arena, our growth has been quite rapid, almost 100

1 percent last year. We are on a similar pace this year.
2 Internationally, we grew by 40 percent last year. We are
3 at 47 percent annualized rate internationally right now.

4 In green building, specifically the driver
5 certainly has been FSC's exclusive recognition within the
6 LEED program, the USB Building Council's LEED Program.
7 Many other green home-building programs, many of which
8 are regional in nature, also recognize only FSC or give
9 preference to FSC. I mentioned a few states there. Home
10 Depot and Lowe's have given preference to FSC-certified
11 wood products as well. And the environmental
12 organizations are also playing a significant role in
13 demand creation in this arena.

14 I am going to end very quickly here with a
15 description of our logos. The mixed sources logo is the
16 one that is used frequently in the paper sector and
17 engineered wood products, and I can describe this later
18 if anyone wants me to go into what is known as controlled
19 sources. That is where that mixed sources label comes
20 into play. 100 percent FSC is fairly self-explanatory.
21 All the fiber or product comes from an FSC certified
22 forest and then there is also a label for recycled.

23 And then, finally, this is my last slide, FSC
24 trademarks provide a guarantee that the products are
25 coming from a responsible source and authorization is

1 required to ensure that these trademarks are used
2 correctly. The certifying bodies provide that guidance
3 to the companies that are in the chain of custody and
4 then for others, like retailers who do not require chain
5 of custody, there are nominated agents and my national
6 initiative serves as one of those. We also have a very
7 robust misuse functioning system.

8 So, I will end with that. This is one of many
9 now promotional examples of FSC recently in the
10 marketplace, this is from a couple months ago. Wal-Mart
11 is an example of how corporations are using FSC in
12 promoting their products. I will end with that. Thank
13 you.

14 **(Applause.)**

15 MR. FRISBY: Thank you. Rick?

16 MR. CANTRELL: Thank you. Good afternoon,
17 everyone. I do have a lot packed into this presentation,
18 so I am going to go through some things fairly quickly.
19 We have been talking about green buildings and the green
20 building standards a little bit. Basically, when you
21 look at those standards, they are all addressing some of
22 the basic core values.

23 The one I am going to focus on today is
24 resources and particularly the wood resources in those
25 buildings. It is interesting to note in most of these

1 systems, if not all of them, that wood is the only
2 material that is being held to voluntary third-party
3 standards and certification processes.

4 Our relevance is to the materials and
5 resources. We believe, as others have talked about today
6 already, in a life cycle analyses and the value that can
7 bring. We know that in all these analysis we have seen
8 that wood stacks up very favorably with some of the other
9 materials in terms of life cycle analysis results.

10 Here is just another example of that that I saw
11 recently from the BCMON up in British Columbia, and I've
12 put the website down there if you want to take another
13 look at this in more detail. But it shows how wood
14 stacks up against some other materials as well in terms
15 of life cycle analysis on climate change, energy and air
16 pollution.

17 We have heard about certification programs, we
18 have heard about what is credible, what is not credible
19 in the marketplace. Recently, a group called the
20 American Consumer Council published an article on how to
21 evaluate credible green certification programs. We took
22 a look at it and thought it was interesting and decided
23 we would see how our program stacked up against their
24 criteria, which you see here on this slide.

25 First of all, SFI is sponsored by a credible

1 non-profit organization, we are an independent 501(c)(3),
2 the Sustainable Forest Initiative Program. We, too, have
3 a balanced Board of Directors with the three chambers
4 represented, the environmental, the social and the
5 economic interests. We are also a consensus-based
6 process as well. In fact, our bylaws and governance
7 dictate that no individual chamber can be overruled in
8 terms of voting and we have never had that to happen
9 anyway. The board and all the folks, all the
10 stakeholders involved in setting our standards operate on
11 a consensus basis.

12 We are also in a five-year review cycle and we
13 have started that review this year. It will be the third
14 such review we have had since 1995. Open comment period,
15 public input is welcome.

16 The existing standards based on nine
17 principles, 13 objectives, 34 performance measures and
18 103 indicators where program participants are required to
19 implement policies, plans, procedures to make sure all of
20 those things are being met in their operations in the
21 forest and in the way they procure their wood on the open
22 market as well. This was developed by professional
23 foresters, conservationists, scientists and others
24 through a very rigorous public review process.

25 And we are a single standard that is applied in

1 the U.S. and Canada and recognized internationally. We
2 have been endorsed by the Program for the Endorsement of
3 Forest Certification Schemes out of Europe, which is
4 similar to FSC in that they are an umbrella organization
5 that endorses national or regional standards. And, so,
6 we are now endorsed by PFC, which means we have access to
7 international markets with our products as well.

8 We do have verification and validation as part
9 of the certification process. We do not accredit the
10 third party certifiers that certify companies to our
11 standard. We rely on groups like ANAB, ANSI and SCC, the
12 Standards Council of Canada, to accredit auditors.
13 Auditors who want to do business by certifying folks to
14 the SFI standard have to receive their credentialing from
15 ANAB, ANSI or SCC.

16 We do have both accountability steps and a
17 continuous improvement process. We do require folks to
18 be audited to our standard before you are allowed access
19 to product labels, and that does also require annual
20 surveillance audits with a full recertification required
21 every five years.

22 Principle 9 of our standard and Objective 13
23 are specific to continuous improvement, which requires an
24 annual management review and a feedback loop so that as
25 problems are detected or opportunities for improvement

1 are found that that happens within the organization.

2 Credible in the marketplace. We are recognized
3 by a number of green building standards as well, like the
4 National Association of Home Builders and Green Globes.
5 We strongly believe that we should be recognized in LEED
6 and continue to work toward that end. We have been
7 recognized internationally. The United Kingdom
8 Government's Timber Expertise Panel recognizes SFI and
9 gives us full credit as does the U.S. Government Central
10 Services Administration. It is interesting to know we
11 are also recognized in the U.K. Government's Green
12 Building Program.

13 Chain of custody. Corey walked you through how
14 FSC worked. It is very similar with FSI. If you are
15 going to make a percent content claim and carry a product
16 into the marketplace with a label, if you are going from
17 a certified forest, certified logs, certified sawmill in
18 this case, the lumber eventually makes it to a retailer.
19 Chain of custody is required throughout the process so
20 you can keep track of that fiber. If you are able to do
21 that with SFI and meet our requirements, you can use on
22 product labels, here are a couple of examples. 100
23 percent, as Corey said, is self-explanatory. That means
24 you are tracking all of that lumber from a certified
25 forest.

1 If you are going to make a percent content
2 claim, in our situation, you have to put the percentage
3 on the label. You could put 10 percent came from
4 independently certified forests or 50 percent, whatever
5 percentage you are able to track through your chain of
6 custody. That makes the claim very clear.

7 We also have what is called a fiber sourcing
8 label for those who are not able to make a percent
9 content claim or do not wish to. This does not have any
10 claim at all regarding what percentage of the wood came
11 from a certified forest. This is important because it
12 recognized a very important fact. Only 10 percent of the
13 world's forests right now are certified. There's 90
14 percent that are not. And, so, having a way to track
15 your wood and to make some type of a claim in terms of
16 your fiber sourcing, this is one of the ways you can do
17 it without having misleading claims about percent
18 content.

19 Consumer research, we have done some and are
20 currently doing some more. Some that we did recently, in
21 terms of our messaging on our labels, was with the
22 Artemus Strategy Group and we found out some things that
23 were top of mind for customers making sure that
24 sustainable forestry practices are in place particularly
25 related to sensitive land. And the Smead example there,

1 where the office workers are talking about buying papers,
2 we want to make sure that they are coming from well
3 managed forests.

4 Some customer research we did with the Lowe's
5 and Home Depots of the world, who we also supply a
6 significant amount of material to, sustainable, renewable
7 are important for them, globally recognized symbols, use
8 of the word "sustainable" is also important. We are also
9 doing some consumer testing right now. It just started.
10 Looking at our labels, looking at claims because we want
11 to make sure, as we have done in the past, that our
12 labels are not misleading, that they are providing the
13 information that our program does deliver, that that is
14 the perception the consumer has. And based on the
15 results of that consumer work, as we have done in the
16 past, we may tweak our labels, add some new claims, add
17 some new labels to make sure that our claims continue to
18 be represented in the marketplace in the manner they
19 should be.

20 And I see that I am now out of time, but just
21 to give you a parting thought, this is a timely issue for
22 green building claims and that programs like NAHB, Green
23 Globes need to recognize all credible systems, which they
24 do, and we hope that LEED will do that soon. Thank you.

25 **(Applause.)**

1 MS. FRISBY: Thank you. Steve?

2 MR. SIDES: Thank you to the FTC for organizing
3 and inviting a number of us here to speak with you today.
4 I am from the paint manufacturing industry. Those are a
5 lot of companies you probably know because you have used
6 their products and appreciate them and a lot of companies
7 you probably do not know, but maybe still appreciate them
8 because of the finishes on your car or something that you
9 purchased.

10 The trade association itself that I worked for
11 is about 115 years old, and our primary mission is to
12 assist our industry with compliance with governmental
13 regulations and also advocacy before federal, state and
14 local agencies. The paint industry in the U.S. is about
15 an \$18 billion industry. Not very big. But our products
16 ultimately end up being applied to about 75 percent of
17 the gross national product. So, we are regulated
18 everywhere our customers are regulated.

19 And, consequently, coatings and paints are a
20 very diverse industry. The stuff we make has to stick to
21 the surfaces and perform to our customers'
22 specifications, and it is important for protection and
23 for beautification of those products. And while,
24 Kirsten, I do not think we use cyanide and arsenic in any
25 great quantities, I know that was a jest on your part, we

1 certainly do use a number of hazardous substances and we
2 are highly regulated. So, I wanted to give you a little
3 sense of what happens in the course of putting out a
4 paint formulation and why green product claims are
5 difficult and truly require the formulation of a very
6 responsive green product at this point.

7 The paint industry is regulated. We, as an
8 association, also put forward guidance for our members on
9 how to label products and produce material safety data
10 sheets. Many of you are familiar with these regulations.
11 The OSHA has a communications standard that requires
12 appropriate hazard warnings on products containing
13 chemical components. So does the Federal Hazardous
14 Substances Act. Our industry labeling guidance compels
15 action and awareness of our members on the specific
16 requirements that are necessary for both hazard and
17 precautionary warning, target organ health effects and
18 even chronic hazard warnings like cancer on consumer
19 products.

20 Take a trip down to one of your local paint
21 stores and take a look at a paint label sometime and you
22 will see that those product claims are present on those
23 products as a result of regulatory requirements.
24 Consequently, to get a truly green product like you have
25 heard described here and to make environmentally friendly

1 and non-toxic claims requires an intentional effort on
2 the part of a product manufacturer.

3 A lot of what you see in the environment claims
4 and in some of the green building standards associated
5 with paint, as with other building products, have emerged
6 from other regulatory requirements. In our case for
7 paint, the volatile component of that product is a
8 critical consideration. Essentially the solvents that
9 are in the paint.

10 A lot of you are not old enough to remember
11 oil-based paint and the particularly odorous requirements
12 of applying that type of product, it is almost gone in
13 the marketplace right now. A lot of technology forcing
14 regulations have come along which have pushed that
15 product out. A lot of them are emerging in California.
16 By, I guess, by our best estimate, low VOC requirements
17 are going to be required by law, by regulation in nearly
18 68 percent of the country within the next six to eight
19 months, I believe, because of requirement in the ozone
20 transport states out east here and the mid-Atlantic, as
21 well as the areas around Lake Michigan.

22 There is a national rule. EPA has promulgated
23 it some years ago. But it is, of course, the least
24 stringent of these rules that are currently operating,
25 and the paint industry needs to react to that.

1 VOC product fees is a new area that is driving
2 changes in product formulations. Because of air quality
3 impacts of stationary and mobile sources, a lot of state
4 governments are interested in controlling area sources
5 and the emissions from you painting your house is an area
6 source. So, consequently, if we make products that you
7 use and they have VOCs, we may pay a fee in several
8 states now, and more states are pursuing that, to address
9 the air pollution requirements of that. It drives up the
10 cost of manufacturing a product and, so, consequently,
11 the industry responds by driving down the use of these
12 materials, really changing product manufacturing as well.

13 We, too, are engaged in research. We have a
14 cooperative research venture now with UC-Riverside in
15 California. It is called Paces. It is essentially
16 seeking to integrate life cycle assessment, to look at
17 the next generation, if you will, of product restrictions
18 on paints and integrate many of the features that you
19 have seen here. Historically, we have been interested
20 and receptive in moving forward with tools to evaluate
21 potential risks. There is a wall paint exposure model
22 that EPA has up on its website that many of our
23 formulators use to assess formulations. Then there is
24 the whole myriad of green building standards which have
25 incorporated requirements for paint and coatings.

1 I just want to quickly run through four.
2 Anybody here from other standard setting organizations, I
3 apologize, but there is a time terminator right here in
4 front of me that is going to keep me moving.

5 **(Laughter.)**

6 MR. SIDES: LEED, Green Seal, ANSI and
7 Scientific Certification Systems. LEED really, as most
8 of these are focused on, how does the use of the paint
9 product impact indoor air quality for principally the
10 persons applying the product because you would hope that
11 after it dries, it is not continuing to off-gas. Many of
12 you would not paint if that were, in fact, the case, if
13 the paint was stinking and causing problems for a long
14 time. But the LEED standards basically seek to do that.

15 How do they do it? These standards tend to
16 piggyback on each other. Green Seal, GS-11 on paint
17 references EPA test methods, has some specific content
18 restrictions, but also looks at VOC numbers, solvent
19 content numbers that have been established by
20 governments.

21 ANSI, I think you are going to have a speaker
22 from ANSI later today, and the National Association of
23 Home Builders Research Foundation is working with ANSI,
24 is establishing new standards, building standards, and
25 they have two tiers, interestingly, of restrictions. One

1 has to do with sort of the traditional gross VOC content
2 restrictions, but they are moving into a new area which
3 involves small chamber testing and evaluating the
4 emissions of products from small chambers and some of
5 those are identified here.

6 The Scientific Certification Systems on the
7 West Coast is one of the standard setting organizations
8 that has embraced small scale testing. Ironically, a lot
9 of these testing, Scientific Certification and others,
10 are commercial standards, Green Seal, commercial
11 standards. They set themselves up. They say if you want
12 to be certified and be able to stick a logo up on your
13 paint product label, pay us money and we will certify
14 you. So, they become a business in and of themselves,
15 quite frankly, and they certainly are not going to have
16 more restrictive standards that drive their marketplace
17 away. I will offer that to you at this point. You want
18 to make sure they are intellectually honest.

19 Consequently, we tend to favor strong FTC
20 guidelines, EPA stepping into the fray and putting forth
21 solid standards. Let's face it, some of these things,
22 like Energy Star, we all respect and EPA has a good green
23 flag to fly, I would say.

24 We have a whole number of other standards, I
25 will toss them up here, ASTM, National Sanitation

1 Foundation. We are regulated everywhere.

2 A couple conclusions I seek to offer. We are
3 technically challenged all the time in terms of
4 formulating a product. It has to meet our customer
5 standards, but it also needs to meet environmental
6 performance considerations that the marketplace is
7 increasingly valuing. Our members do want to market a
8 green product. It is challenging in light of this myriad
9 of technical standards and the trade association is
10 viewed as being a critical supportive entity.

11 Again, we are very supportive of strong FTC
12 guidelines. I cannot tell you how many times I have
13 cited it. The marketplace is a savage place. An
14 extraneous claim of non-toxic, I get a letter or call
15 from a company saying there is a paint company saying
16 non-toxic, how would they be making that claim, and I
17 follow up on those things. Not that I am looking at a
18 job at the FTC or anything, but we do find a way of
19 supporting this through peer-to-peer interactions, and
20 that is what we do. So, thank you very much for your
21 time.

22 **(Applause.)**

23 MR. FRISBY: Thank you. Frank?

24 MR. HURD: It has been alluded to, there is a
25 lovely young lady who keeps our time. But what they did

1 not tell you is Robert promised to tazer us if we did not
2 finish on time. So, I was really worried about Steve
3 when he went over. And that is why Kirsten sped up so
4 much towards the last half of her presentation.

5 Definition of sustainability. Sustainability
6 is really talking about meeting the needs of today
7 without sacrificing the needs of tomorrow. And that
8 means there are trade-offs when you do this. There is
9 always trade-offs when you are talking about
10 sustainability.

11 I am not going to spend time about standards.
12 Kirsten really talked about that, what standards are.
13 But standards are just recognized -- widely recognized
14 standards. Like what a ton is.

15 When we talk about environmental standards,
16 they involve recognized protocols, developing consensus
17 process and, generally, usually some third-party
18 certification is involved in that.

19 This has been alluded to all morning and now
20 that these are the kinds of sins that you talk about when
21 you talk about green washing, this is what we do not want
22 to do. This is what I think the FTC is trying to
23 preclude.

24 Credibility that prevents green washing is at
25 third-party verification. An organization like ANSI that

1 does accreditation that is third party that does not
2 allow the industry to be the predominant part of the
3 consensus-based organization that sets it up and is
4 balanced, whether it is academics, environmentalists,
5 industry folks, architectural designers. And I think
6 probably the most important aspect when we talk about
7 that is the fact of transparency. You have got to be
8 transparent with everything you do. Without
9 transparency, everything else is a waste.

10 Carpet and Rug Institute. I think I will
11 surprise you when I talk about what we do. We are an
12 ANSI-accredited, product-certifying body, which means --
13 ANSI does two things. They accredit bodies to develop
14 standards, they accredit bodies to certify products. The
15 most famous ANSI-accredited, product-certifying body that
16 you are familiar with is UL. That is the kind of things
17 we do.

18 Right here, we certify green label plus carpet
19 for VOCs. We also certify adhesives and we certify
20 cushions, those all kind of fall into the bailiwick of
21 what you would expect us to be able to do. We also
22 certify vacuum cleaners. Why? Because a vacuum cleaner
23 manufacturer had some processes of ASTM how to do it but
24 never told the consumer what they were doing, never gave
25 the consumer the results. Would not give us the warm and

1 fuzzy feeling that their products were doing what they
2 said they would do. So, we were forced by them to go in
3 and certify vacuum cleaners.

4 Now, the seal of approval that is on the far, I
5 guess, left-hand side on there, that represents the
6 products that we are certifying in the cleaning area.
7 Spot removers, deep clean machines, systems, cleaning
8 systems, in-tank solutions. Why would we, as a carpet
9 industry, be doing that? We are doing that because we
10 want to make sure that our customers have the proper
11 cleaning equipment to clean our products because that is
12 the number one problem that people think about and it was
13 actually welcome.

14 Let me give you a little reason of why we went
15 in that. We went out and purchased 24 spot removers off
16 the market, just right off the shelf. Nationally known.
17 You would recognize those products. Tested those against
18 an extremely difficult benchmark, water. Six did better
19 than water. And when we took them to -- we went to the
20 cleaning manufacturers and said, this is what we found,
21 they looked at us and said, no, you do not understand,
22 you are not right. They had never tested them. They
23 were not looking at it. We were looking at it. That is
24 the kind of thing that you have to do when you look at
25 it. Now, we have an open, transparent process that the

1 manufacturers know what it is and the consumer knows what
2 it is.

3 The second thing that we have done, and this
4 was alluded to a little bit by Kirsten, is we went out
5 and we went to NSF and asked them to help us develop a
6 sustainable carpet assessment standard, and this is under
7 the ANSI process. They are an ANSI-accredited, standard-
8 setting body. NSF, like I said, it is ANSI driven, it is
9 consensus driven. It took us probably more than four
10 years to develop, it was long. It is inconclusive. It
11 is not a LEED, it was developed by a multi-stakeholder
12 group. It is LCA-based, supply-chain focused, includes
13 social equity, and, probably most important to us, it
14 requires third-party certification.

15 The last thing I was going to say is there are
16 a lot of things going on with ASTM also just dealing with
17 the kinds of things that FTC is looking for for the FTC
18 guides. And these are the kinds of things, environmental
19 principles, economic principles, social principles, all
20 under the rubric of what sustainability is and what we
21 are talking about. With that, I will give it next to our
22 moderator.

23 MR. FRISBY: Thank you very much.

24 MR. HURD: I am not going to get tazed.

25 MR. FRISBY: No tazers.

1 **(Applause.)**

2 MR. FRISBY: Now, we will turn to our
3 question-and-answer period. The first question is
4 actually for Kirsten. It alludes to a point you made at
5 the end of your presentation about being overwhelmed.
6 Could you elaborate on that, please?

7 MS. RITCHIE: I am so glad somebody asked that
8 question. I go back and forth on that. On the one hand,
9 I say, yeah, I think we are overwhelmed, but then, on the
10 other hand, I think, okay, I know how many record artists
11 can my son remember, how many TV shows can he remember,
12 the list goes on and on. We have capacity to remember
13 and to recognize and make distinctions.

14 So, you know, are we really being overwhelmed?
15 I do not necessarily think so. But I think it is very
16 important. There are five key principles no matter what,
17 if we have one brand or if we have multiple brands that
18 we have to address and that -- first of all is that brand
19 has to be based on open transparent, scientifically sound
20 standards, preferably ones that have been developed in an
21 internationally based consensus process. They have to be
22 internationally applicable.

23 Second, the manufacturers have to have the
24 data. There really has to be the information that stands
25 behind that brand.

1 Third, third-party certification, it has been
2 talked about a number of the times by other panelists, is
3 really important, particularly for these complex things.
4 So, that talks about the issue separating the standards
5 development process from the certification bodies and
6 what we need to really potentially do there to truly make
7 a claim.

8 The appropriate graphic mark. Graphics do help
9 a lot. We are a visually-based society. But I think we
10 have to be very careful that the mark is not implying
11 more than is really is being delivered. That is a
12 nuance, but if you think like that water-based, what does
13 it really mean to people, and we have to be careful about
14 that.

15 And the fifth and really important thing, and I
16 did not really talk about it in my presentation, is the
17 reality is that this has to be a cost-competitive
18 environment. We have to have things that are out there
19 that are not driving and not single sourced or sole
20 sourced. There has to be some competition, multiple
21 certifiers, manufacturers, and you just have to know the
22 analysis and the process they are going to be going
23 through really are competitive from a cost perspective
24 and not prohibitive.

25 MR. FRISBY: Thank you. The next question is

1 for Corey. In your presentation, you described the logos
2 and mentioned the references to controlled sources. I
3 wonder if you could explain that.

4 MR. BRINKEMA: Controlled sources play a very
5 important role in the FSC system, particularly for those
6 products that do not necessarily or through the course of
7 inventory controls and the manufacturing process where
8 FSC certified sources may be commingled with other
9 sources. What FSC allows is innovation in the system --
10 I forget exactly how old it is, at least three or four
11 years. We call it a volume credit system and it is very
12 important, I think, for folks to understand and it is
13 confusing to many. But under the volume credit system, a
14 manufacturer, let's say Andersen Windows, near my
15 hometown, manufactures wood-based windows. So, during
16 the course of a calendar year, 10 percent, let's say --
17 actually, I think it is a little bit higher for them. I
18 want to say it is 15 or 16 percent. FSC certified wood
19 comes into their manufacturing process, and we are not
20 forcing them to segregate that FSC wood to create an FSC
21 line, we allow them to commingle with other sources.

22 But what we do, though, is the other 85 percent
23 of their wood cannot just be any wood, it has to be what
24 is called controlled. And controlled in the FSC world
25 means getting rid of what we consider the five most

1 egregious practices of conventional forestry. So,
2 getting conversion out, conversion wood, wood from high
3 conservation value forests, wood from areas where there
4 is social or civil strife, wood with genetically modified
5 organisms and then also, obviously, legal. We get the
6 illegal wood out of the system.

7 So we ask -- we force Andersen Windows to do a
8 risk assessment and they have to identify the areas.
9 They have to know where their wood is coming from and
10 they have to do that risk assessment and determine if it
11 is high or low risk. If it is high risk in any category,
12 then they actually have to drive down to the forest
13 management unit and find out if that particular unit is
14 safe. Otherwise, they can do it on a country or regional
15 basis.

16 MR. FRISBY: I would like to follow up on that
17 answer. Do you have any data or anecdotal evidence on
18 how consumers interpret controlled sources on the logo?

19 MR. BRINKEMA: We do not, we do not. I need to
20 make one other point about controlled sources. We do not
21 allow Andersen to label 100 percent of their product,
22 they can only label 15 percent at the end of the day with
23 that mixed sources label. So, the consumer is still,
24 over the course of the inventory controls during the
25 calendar year, they are forcing Andersen to buy 15

1 percent FSC certified sources. So, if there is more
2 demand, then they have to buy more FSC certified
3 material.

4 No, we do not have a lot of information about
5 -- in fact, I would probably argue there is not all that
6 much distinction between the mixed sources label and the
7 100 percent label.

8 MR. FRISBY: This is a question for all the
9 panelists, although I think that Kirsten already touched
10 on this. To what extent do you all believe that
11 marketers are currently making problematic environmental
12 claims for building products and could you give examples
13 of claims that you think are either prevalent or
14 relatively egregious? Kirsten, do you want to start by
15 elaborating on your presentation?

16 MS. RITCHIE: Sure. I hope I gave you some
17 examples and we could go on and on and on. If you ever
18 want examples, actually, a really great place to start is
19 the garden aisle of your local do-it-yourself place
20 because they tend to have a lot of egregious claims.

21 I think the biggest part of the claims is when
22 you have -- for the area that we are really concerned
23 about is those fluffy words. It is the environmentally
24 friendly or the eco safe or the great green or clean air,
25 I like that one. Those kinds of claims that clearly, you

1 know, there is no basis behind them. I think the trends,
2 though, that we have seen, particularly in the building
3 industry and I think part of it is because the awareness
4 from the green building programs that are going out
5 there, we are seeing less and less of those claims.
6 There are fewer of them. I think now it is little bit
7 harder, although you still can find them, it is a little
8 bit harder to find some of those claims than before.

9 There does seem to be a bit more of a trend
10 probably from some international manufacturers coming in
11 and trying to make some sort of market niche, making
12 claims, and then you just raise a flag and say, hey you
13 do not want to go there, what is the basis of your claim?

14 It would be really great if we could have a
15 mechanism by which we see the claims and we could send it
16 to the FTC and have you guys follow up on it. That I
17 would really like. You just write the letter to them and
18 that would get a lot of action. From my perspective,
19 they are using the fluffy language, the stuff that you
20 guys say do not use and, in many cases, it simply needs
21 somebody sending them an e-mail, raising a flag and
22 saying what is the basis of this, where is the data.

23 MR. FRISBY: Just to follow up, are you saying
24 that those fluffy terms, for lack of a better word, are
25 impossible to qualify adequately and that is why the

1 green guides should identify them as being likely
2 deceptive or --

3 MS. RITCHIE: On a basic level, yes. I do
4 think through the standards process you potentially could
5 find ways to quantify what do I mean when I am saying, in
6 this particular product sector, do we mean when we say
7 environmentally friendly. But that to me would say that
8 when you are making that term, you are qualifying it by
9 saying environmentally friendly as defined by ASTM 1153
10 or as defined by ISO 5367. So, we have a reference point
11 such that the next client or the next manufacturer who
12 comes along and wants to make the same claim can go to
13 that standard and follow that process and be allowed then
14 to compete and make the same claim in the marketplace.

15 MR. FRISBY: Thank you. Corey, do you want to
16 address this point?

17 MR. BRINKEMA: I would just maybe comment a
18 little bit on our analysis of claims that can be made on
19 a label, specifically related to wood. We have generally
20 used the term well managed. That is what FSC, from its
21 early days, you know, there is certainly the word
22 "sustainable" and sustainability has been used frequently
23 in the forest industry, and there was a high degree of
24 discomfort over using that term and also that it is a
25 squishy term in the marketplace. There are some in the

1 forest products industry who would have you believe that
2 sustainability means planting one tree for every one you
3 cut down, and we certainly believe that it is a much more
4 loaded term than that. And that we really -- none of us
5 are really truly sustainable anyway. It is a condominium
6 that we strive for. So, for now, we stay away from that
7 and use well managed, and that is fairly fluffy as well.

8 It is challenging to come up -- I showed that
9 Wal-Mart ad. And I think, actually, they did a pretty
10 decent job of describing what we are about in very
11 careful and measured terms.

12 MR. FRISBY: Would you like to follow up on the
13 first part of my question about claims that you think
14 might be problematic in the marketplace today? Care to
15 discuss any claims in particular?

16 MR. BRINKEMA: I think what will be certainly
17 interesting coming up here with the passage of the Lacey
18 Act will be issues around legality and, so, I am not
19 exactly sure how that is all going to play out, but I
20 know that there is going to be a lot coming up here
21 within the wood industry -- wood products industry.

22 MR. FRISBY: Rick, what about you, do you want
23 to tackle this one, too?

24 MR. CANTRELL: Sure. Yes, I believe there are
25 some misleading claims in the marketplace. We have all

1 seen them. We have seen some recently with materials
2 that compete with wood in green buildings where brick or
3 concrete or one of those type of materials we will talk
4 about, we have seen an ad that called them one of the
5 most sustainable building materials and there was no
6 qualification behind that.

7 We think the use of the word "sustainable" is
8 appropriate in certain instances. If you are talking
9 about the wood in this product came from a forest that
10 was certified to a sustainable forest industry standard,
11 like SFI, and you give a website and the website details
12 what that means, if you do your consumer testing to make
13 sure the perception of the label by the consumers is
14 consistent with what your product is and what your
15 program delivers. So, there is some opportunity there,
16 certainly, to make sure the claims are accurate and not
17 misleading.

18 And, yeah, we think there are some claims out
19 there that need to be looked at and, hopefully, as you
20 revise the guides, there will be some better guidance
21 with some of those to make sure they are not used in the
22 future.

23 MR. FRISBY: Yeah, we will be talking about
24 ways to possibly revive the guides a little later.
25 Steve, do you want to weigh in on this?

1 MR. SIDES: I think probably one of the most
2 frequently overused terms for chemical products, if you
3 will, is non-toxic. Kirsten mentioned it as well. That
4 is a tough one. You know, those of us that have a
5 background in public health, or at least follow this,
6 maybe can maybe tie that to some particular standards.
7 But I think it is rather loosely used.

8 In the case of art products, there is an
9 industry standard setting organization that operates that
10 is fairly reliable. But I think that is one area, in
11 looking at the current guidelines, that could be beefed
12 up or improved somewhat.

13 In our industry, as well, we are somewhat
14 compelled to use petrochemical or soil derived feed
15 stocks. There are very little renewables, and there is a
16 history of using renewables in the industry, but
17 petrochemicals replaced it, and not much success in using
18 post-consumer reprocessed consumables as well. So, if
19 you move into that area and want to establish some
20 guidelines along that line, I think we would probably be
21 finding some opportunities to provide you some insight on
22 our experience on the chemical product side as well.
23 Those are just some thoughts.

24 MR. FRISBY: Thank you. Frank?

25 MR. HURD: Yeah, I can give you a very good

1 example of one. We had a manufacturer who said that this
2 product contained up to 70 percent recycled content and
3 his attorney said that met the FTC guidelines. When we
4 challenged that particular company, they actually took it
5 back. Because that is not what -- you know, that could
6 be zero or 70 or 35, anything that says up to 70 percent.
7 But it met the FTC guidelines according to their
8 attorneys. So, that is the kind of things when you talk
9 about misleading claims, that you can make those kind of
10 misleading claims.

11 The other thing that is interesting, I think
12 we have talked about it is we throw terms out about
13 renewable, we throw terms out about nontoxic. We throw a
14 lot of these terms out, but we do not put them in the
15 context of what the overall impact on the environment is.
16 A good example is ethanol. Look what happened, ethanol
17 is a renewable product. Look what is going on right now
18 because of the use of ethanol. There are other impacts.
19 And when you look at the ethanol, the energy used to
20 produce ethanol is greater than the energy used to
21 produce oil, gasoline going through a refinery.

22 So, I mean, yeah, there are trade-offs that you
23 have to do and you have to look at life cycle assessment
24 and the entire gamut of attributes that you are dealing
25 with.

1 MS. RITCHIE: If I could also just add, one of
2 the things, too, that is an issue is the term "free."
3 Free of or like formaldehyde free. The FTC, on the food
4 side, you can make a sugar-free or fat-free claim if it
5 is less than .5 percent free. But from a chemical
6 perspective, .5 percent is still very big, particularly
7 when the testing is down to the part per billion.

8 So, I think that is an area that we are going
9 to have to look at and really encourage you to look into
10 saying how does the use of the term "free" really --
11 should it be used in reference to environmental green
12 claims?

13 MR. BRINKEMA: I was just going to make one
14 really quick point because Frank reminded me something
15 that I wanted to mention and Kirsten had brought it up
16 and Rick as well. But this holy grail of an analytical
17 tool, this life cycle assessment or life cycle analysis,
18 I think actually Rick had a nice slide there that showed
19 some of the life cycle attributes of wood related to some
20 other structural building products.

21 I think we do all have to remember, though,
22 particularly those products that are derived in the case
23 of wood from -- essentially from organic systems and
24 ecosystems and have significant impacts on ecosystems.
25 We have not yet figured out really good ways of measuring

1 those things. So, we can measure carbon emissions, we
2 can measure direct air pollution. But how do we measure
3 an endangered species loss or how do we measure whether
4 these forestry practices are impacting our water aquifer
5 resources and so on.

6 So, I think when we do these sort of analyses,
7 we really need to understand many things, which, right
8 now, are frankly really qualitative and not quantitative.
9 But they are absolutely essential. We have to figure out
10 some way to value them.

11 MR. FRISBY: Here is a question from the
12 audience about life cycle analysis. And this question I
13 will address to all five of you if you care to weigh in.
14 Should the green guides encourage green building
15 certifiers to engage in a life cycle assessment which
16 includes the use phase, that is the use and maintenance
17 of a building following construction?

18 MS. RITCHIE: I think absolutely you have to,
19 particularly when you are looking at the trade-offs or
20 the benefits that are derived from those products, for
21 example, energy efficiency lightbulbs, energy efficiency
22 fixtures, water efficient fixtures, insulation, which,
23 yes, it does take energy to manufacture insulation. But
24 what it saves over the product is very, very important.

25 So, there have been some moves in that

1 direction. BEES is one of the few kind of life cycle
2 tools that actually does that. It is a tool developed by
3 NIST, the Building Economic and Environmental
4 Sustainability tool set that actually help you quantify
5 and compare different products and life cycle
6 perspectives. So, yes, absolutely.

7 It is a challenge, though. How do you assess
8 the life cycle impact of the two-by-four stud that you
9 are not doing anything with in the use phase other than,
10 hopefully, it's continuing to hold up the building or the
11 brick or there are other things. But because there are
12 those products that really do have significant benefit in
13 use, even if they do require a little bit more energy or
14 water consumption up front, we do have to have a
15 mechanism to recognize that.

16 MR. FRISBY: Anyone else want to comment on
17 that question?

18 MR. SIDES: I just think from the standpoint of
19 the paint and coatings industry, life cycle assessments
20 will provide us with some opportunities to serve the
21 marketplace better. California's a bit of a laboratory
22 for a lot of these things. Discussions now on what are
23 known as cool paints which help reflect heat and save
24 energy, the automotive industry is looking at embracing
25 that, a whole host of opportunities to integrate those

1 kinds of additional ecosystem services, if you will, that
2 can come about as a result of formulating in that area.

3 The big question, though, is how will benefits
4 in that arena weigh against use of certain raw materials
5 and the like that may pose a problem. So, we are still
6 trying to figure that out working with UC at Riverside
7 and exploring some options for that.

8 MR. HURD: I am not sure about the use phase,
9 but I would like to comment on the concept of using life
10 cycle assessment as comparative tool. It is very
11 difficult to compare a product to another product
12 category whether that is floor covering, whether that is
13 wall covering, whether that is roofing shingles. A life
14 cycle assessment is best used internally for you to
15 figure out how you can improve your product and make sure
16 that it becomes a better product that you are developing.
17 I do not think we have developed the analytical tools
18 well enough to be comparing different products, even like
19 products.

20 MR. FRISBY: Here is another question from the
21 audience. Because of the current difficulty in defining
22 sustainability, would it make sense for the guides to
23 encourage marketers to list product contents and describe
24 business practices to allow the consumer to decide
25 whether a product is sustainable?

1 MS. RITCHIE: So, there is the issue of
2 sustainability. First of all, when I am thinking about
3 sustainability, I am thinking of that thing beyond the
4 environment. It is an assessment by which you have
5 looked at economic, you have looked at environmental and
6 you have looked at the social repercussions as it relates
7 to products for its manufacture and its use.

8 The challenge that you get in saying, let the
9 consumer decide -- as an example, there was a little
10 product I came across, it was a little carpenter's level.
11 It was about this big, right? The label was this big, of
12 all the different things it had. No old growth forest,
13 sustainably produced, blah, blah, blah, blah. But I
14 really loved the no old growth forest because the
15 reality, it was steel and plastic.

16 **(Laughter.)**

17 MS. RITCHIE: That was one of those, it is kind
18 of a little misleading here. So, the challenge that you
19 have also is if you just list all those things and you do
20 not have standards behind them, somebody is coming along
21 who has a competing product and says, I want to be able
22 to make the same claims or I believe my product makes the
23 same claims. But you do not have that methodology, how
24 can they do that?

25 So, you have a company that is legitimately

1 saying, I believe we have a better product from an
2 environmental or a sustainable perspective, but I cannot
3 fight, I cannot counter what this other manufacturer is
4 saying because there is no basis for that. So, I think
5 that is something we really want to try to avoid.

6 The really is we have really won when we do not
7 have to make all these sustainable or green claims on the
8 products because it just is. We can really focus on
9 those things that are important to us, the performance,
10 the aesthetics, the price. That is where we want to get
11 with our products. Right now, we have -- you know, we do
12 have products that do have huge varying environmental
13 profiles and sustainability profiles and that justifies
14 the differential. But, with time, eventually that is
15 going to go away.

16 MR. CANTRELL: We think the use of the term
17 "sustainable," as I said a little earlier, has to be done
18 carefully, and we support the way that the Canadian
19 Competition Bureau has recently released guidelines,
20 which talk about not making generic claims of
21 sustainability, but it is okay to make a claim, as I used
22 earlier, that fiber in this product line came from a
23 forest managed to the Sustainable Forestry Initiative
24 standard, and then you define that standard and you have
25 your website information, et cetera, to back it up.

1 Those types of claims are fine. It is the
2 generic, the most sustainable product in the world,
3 without any qualification, that are problematic.

4 MR. FRISBY: I would like to turn now to
5 suggestions for revising the guides. You have already
6 touched on this to some extent. This question I am
7 mainly directing to Corey, Rick and to Frank. To what
8 extent do you evidence of people misusing your
9 certifications and do you think or do you have any
10 suggestions for how the guides might better address the
11 use of seals and certifications?

12 MR. BRINKEMA: I will start off. We see misuse
13 all the time. I probably see some evidence of it every
14 other day probably. In fact, I was even told by our
15 German office to go check out an eco home store in the
16 northern part of town to make sure that a label or a
17 product that came over from China that was mislabeled and
18 to make sure that the labels were taken off. So, we
19 actually have a very robust misuse reporting and anyone
20 is asked to report misuse of the label.

21 But, generally, we police it by our third-party
22 certifiers in the case of chain of custody companies, and
23 then I mentioned those nominated agents, they are
24 actually going to be called trademark service providers
25 here by the end of the year, which we will be one, and

1 that is one of our primary roles is to enforce that.

2 But, generally, what we are able to do through
3 the trademark service provider platform is we actually
4 review every on-product and off-product claim in the
5 system. So, for instance, an advertisement by Wal-Mart
6 was reviewed by us to make sure that there were no
7 overstatements or misstatements. So, I think requiring
8 that is certainly something that the guides -- I think,
9 to some extent, you already do that. But I agree with
10 Rick that we all have to have where to turn to for
11 information and your website is generally one of the
12 better places for that.

13 What you also see is often when you have -- you
14 do turn to websites, we will also turn you out, for
15 instance, the third parties that have reviewed us and
16 other standards, for example, and have made robust
17 comparisons. Yale University, for example, did a very
18 nice analysis for the U.S. Green Building Council and the
19 Sustainable Furniture Industry Council to review the
20 forest management certification standards.

21 MR. FRISBY: We are almost out of time, but
22 Rick and Frank, do you want to try and move quickly on
23 this?

24 MR. HURD: Yeah, a couple things I would just
25 like to add. I think that the FTC guides could do a lot

1 of help in making sure that the logos that go up are --
2 define really what they are talking about. Many of them
3 just say it is green or sustainable or whatever and they
4 do not let you know what it is certifying against or what
5 it is certifying for.

6 And the other thing that I would say is, we are
7 really surprised at the number of phone calls we get from
8 competitors about a competitor who has misused the logo
9 or mis-spoken in the advertising, and that really has
10 proven very successful in keeping it down because all we
11 have to do is send them a letter or make a phone call and
12 cease and desist.

13 MR. FRISBY: I am afraid we do have to stop.
14 Thank you all very much for your presentations and for
15 your insights.

16 **(Applause.)**

17 UNIDENTIFIED FEMALE: The next panel will begin
18 at 2:30.

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1 **SESSION 4: FRAMING IT UP - CONSUMER PROTECTION ISSUES**
2 **REGARDING GREEN BUILDING CERTIFICATIONS**

3 MS. ROSEN SPECTOR: Welcome back. Now that we
4 have talked about some of the green building products
5 that are out there, we are going to frame it up and we
6 are actually going to talk about green buildings and the
7 consumer protection issues regarding green building
8 certification.

9 We have a wonderful panel here today. We have
10 Michelle Moore from the U.S. Green Building Council; Erin
11 Shaffer from Green Building Initiative; Carlos Martin,
12 National Association of Home Builders; and Sam Rashkin
13 from EPA, Energy Star.

14 So, I am going to turn it over to Michelle to
15 give the first presentation.

16 MS. MOORE: Good afternoon, everybody. I have
17 my trusty water here because my throat decided to do its
18 best impersonation of Marlena Dietrich today.

19 First of all, thank you so much for convening
20 this tremendously interesting conversation. We are
21 really thrilled to be a part of it as USGBC and we think
22 the timing could not be better for what is happening in
23 the marketplace. It has not been that long ago when this
24 is how people thought about green building and green
25 homes specifically, which is what I am going to be

1 talking about today.

2 **(Laughter.)**

3 MS. MOORE: So, false claims were not happening
4 so much because there just were not that many people who
5 were listening or who were into it. It was a really
6 narrow part of the marketplace, but a really important
7 one. I am sure many of you here are very familiar with
8 these numbers. But the built environment overall, and
9 this represents commercial building and residential
10 building, has an enormous environmental footprint, and
11 from an economic perspective, from an environmental
12 perspective and from a personal perspective, there are a
13 lot of really wonderful benefits that could be driven by
14 paying more attention and really measuring what our
15 results are.

16 And the public attitudes around these things
17 have really transformed and we actually have NAHB to
18 thank for helping to advance this research with
19 McGraw-Hill. But as you can see, we are looking at a
20 potentially \$40 billion marketplace projected by 2010 in
21 combined sales of green building products and services in
22 both the commercial and residential marketplace. And
23 from the perspective of market transformation, this is
24 great news. From USGBC's perspective, we would like to
25 see every single building that gets built be green and,

1 to some extent, labels like LEED becoming irrelevant in
2 that future.

3 It also means that with so much money to be
4 made, potentially with such a great market opportunity
5 here, that there really has been a rush of people -- we
6 do not like to assume bad intent but maybe just
7 misinformed intent into making claims that are not
8 necessarily accurate. Because when it comes to a green
9 home, there are lots of different definitions. This is
10 not really surprising, the residential marketplace is
11 very localized and very fractured and the market needs
12 multiple entry points.

13 But screwing in a CFL lightbulb and having a
14 bamboo floor doth not a green home make, and we think
15 that there is a wonderful opportunity here to expand some
16 of the guidance and give broader examples for how to
17 appropriately market green claims in the residential
18 context that could help the marketplace to really develop
19 a more common vocabulary around these areas and to have
20 an easier scale-up to being able to meet growing consumer
21 demand.

22 Many people on the panels today have talked
23 about sustainability as being a three-legged stool,
24 right? It is people, profitability or prosperity, and
25 planet. We would argue that particularly at this stage

1 in our development there is a fourth P and that is proof.
2 You know, it is just a regular old business adage, right,
3 that if you cannot measure it, you cannot manage it, and
4 if what we are looking for is lower energy bills, a lower
5 CO2 emissions footprint and a healthier indoor
6 environment for our families, those kinds of claims need
7 to be substantiated. How are you getting there and where
8 are people getting on the ladder?

9 You have seen this before, although I think
10 before it was a hamburger. It is very similar to the way
11 that we think about the food that we put into our bodies.
12 Consider the built environment, the room that we are in
13 here, the home you are going home to, the places that
14 your kids are going to school. As Americans, we spend
15 about 90 percent of our time indoors. So, it just makes
16 sense that the environments that we live and work in
17 would have a tremendous impact on our health and
18 well-being. But whereas you can get pretty reasonable
19 nutritional information about a box of animal crackers,
20 it is devilishly difficult to figure out what a building
21 is going to do for you.

22 If you are in the market looking for a new home
23 right now, which, of course, there are not a lot of
24 people doing right now, good luck trying to find out what
25 the energy performance of that home is expected to be,

1 what have the historical energy bills been, how can you
2 improve on that as a consumer. Or if you are looking for
3 a place for your child to go to school, how is that built
4 environment going to have an impact on the way that your
5 child learns. So, good ideas to consider.

6 I am going to talk just a little bit about how
7 LEED looks at a green home. It is fairly comprehensive.
8 I am not going to get down into the nitty-gritty
9 technical details of the rating system. That can be
10 found in the trusty LEED for Homes reference guide, all
11 400 and something pages of it, which I do have here if
12 anybody wants to take a look. But we look at it from, as
13 I said, many different lenses and not just the materials
14 that go into a home, which is actually how most consumers
15 think about green homes. They do not think about air
16 conditioning and windows and flooring products and that
17 sort of thing, but energy performance. What is the site
18 like, where are you building, how are you treating the
19 land development?

20 And LEED, too, just a little bit of context for
21 you guys, you know, USGBC's mission is market
22 transformation. We are a 501(c)(3) and LEED is the chief
23 tool -- I was going to say in our quiver, but that is a
24 mixed metaphor. But to be able to advocate green
25 building and green homes, you have to really be able to

1 define it. So, we seek to set the bar for leadership.
2 So, the best builders, the innovators, the risk takers,
3 the market leaders are the people who would be naturally
4 embracing the LEED rating system. There are a lot of
5 other entry points and a lot of other needs in mainstream
6 building practice that would be at code level or just
7 above that.

8 So, by setting the benchmark for top
9 performers, it does not denigrate what other folks may be
10 doing in the marketplace, but rather provides a continuum
11 for people to get involved and step up to the appropriate
12 level for where they are performing.

13 LEED applies in the residential marketplace for
14 a lot of building types, from single-family homes to
15 condos to multi-family dwellings, and it mirrors the
16 certification process that we are implementing for our
17 commercial rating system right now. And this is really a
18 complicated diagram. I know that many people have
19 referred to ANSI and ISO. But the very short version is
20 that as a part of the next evolution of LEED, some of
21 which Kirsten talked about earlier during her
22 presentation, and we are also evolving to an ISO type
23 process for building certifications that engages
24 international certification bodies and that actually
25 would be administered by Green Building Certification

1 Institute, which is a 501(C)(6) nonprofit that USGBC
2 helped to developed, next year.

3 So, this is what it looks like for residential.
4 Again, this is where we are headed currently. The
5 process looked a little bit different during our pilot
6 program during which USGBC was doing all the
7 certifications itself through staff. But USGBC works
8 with Green Building Certification Institute, which
9 administers third-party certifications and also the LEED
10 accredited professional program. So, LEED AP,
11 professional accreditation, people get accredited and
12 buildings get certified and that is done through an ISO
13 type process that USGBC is implementing in the
14 marketplace. So, we are able to really manage quality
15 assurance and to have an auditable program in the
16 community that works not only at teeny, tiny numbers of
17 buildings, that would work at scale as well as more
18 builders and homeowners more really embrace these ideas.

19 From a local perspective, from a builder
20 perspective, they are primarily working with their local
21 provider, and LEED for Homes provider is a local home
22 organization that has expertise and energy efficiency in
23 green building. There are about 33 of them around the
24 country available today. And they are effectively the
25 front door for home builders who are interested in using

1 the LEED for Homes rating system. There are coaches,
2 there are teachers. They help them with the
3 certification package. But, ultimately, it is USGBC via
4 GBCI and the certification bodies that will be engaging
5 who would actually be administering the certification
6 process. So, we are really differentiating between arm's
7 length third-party certification and the coaching and
8 sometimes consulting process that happens as the market
9 is adapting and learning how to apply these new tools.

10 So, back to our credits. I am just going to
11 step through these very briefly one by one. Innovation
12 and design. What is important about this to remember is
13 that green homes is a new idea in the marketplace and it
14 is really important that we engage consumers as well in
15 what that means because if you buy a green house, you
16 want to operate those systems at optimal efficiency and
17 not -- and this perhaps is not the best metaphor, I say
18 that every single time I use it, though, and I keep on
19 using it -- but you do not want to operate a Ferrari like
20 a Chevy.

21 So, one of the things USGBC requires and LEED
22 is that the homeowners actually get an operating manual
23 and a walk-through so they understand how to better use
24 their home, how to really drive efficiency and better
25 performance out of it.

1 Sustainable sites and locations and linkages.
2 So, where is your home? Is it transit-oriented
3 development? How are you developing the site and using
4 plantings? And if you use irrigation, are you using
5 irrigation smartly? So, it is not just the building, but
6 it is also the place that the building is located.

7 Water efficiency, incredibly important, in my
8 home state of Georgia and if you are in California, it
9 has a big impact on your CO2 footprint for your home as
10 well.

11 Energy and atmosphere. We looked to the
12 incredible work that has been forged by EPA with Energy
13 Star for homes and how LEED addresses that issue. It is
14 a tremendously important area of credits and where the
15 greatest weights in the rating system are headed, not
16 only in our residential program but in commercial.

17 Materials and resources. Indoor environmental
18 quality. Awareness and education, as I shared, requiring
19 homeowner manuals so people really know what they are
20 getting. And it lines up with what we see coming from
21 consumer motivation. This is from research that was done
22 by the Shelton Group. You can see that people do have a
23 real concern that is changing their behavior around their
24 children's future and their energy prices. But there is
25 a link, at this point, that is missing between consumer

1 understanding of what a green home or what a green
2 product is and how that really connects to the benefits
3 that they want.

4 And there is a wonderful opportunity, as I
5 shared early on, from our perspective, in expanding the
6 examples and the guidance given in the green guides to
7 help create a conversation that will allow marketers,
8 which I was one for a private company once upon a time
9 and made extensive use of the FTC Green Guides, to be
10 able to engage folks in a conversation that helps them to
11 move towards their goals in a way that ultimately leads
12 towards a broader market transformation without us
13 accidentally building a Tower of Babel around home
14 certifications and product certifications. Thank you
15 very much.

16 **(Applause.)**

17 MS. ROSEN SPECTOR: Thank you, Michelle. Erin?

18 MS. SHAFFER: Thank you very much. It is good
19 to be here. I am going to jump right into talking about
20 the green building initiatives and our green globes
21 tools. GBI is a nonprofit 501(c)(3) that was formed in
22 2004. Our headquarters are in Portland, Oregon, and we
23 are dedicated to accelerating the adoption of green
24 building practices. We are an ANSI standards developer.
25 We have a standard right now going through a tool system,

1 green globes for new construction, that is in the ANSI
2 process right now. We anticipate that it will be
3 completed by the end of the year, at which point it will
4 be the first green building standard that is an ANSI
5 standard.

6 Let me rephrase that because one of the things
7 that people confuse is rating system and standards. This
8 is a rating system as is LEED. It is not a standard. It
9 will be an ANSI standard, but it will still be a rating
10 system. We also have an existing tool and we have filed
11 opins which are anticipated to take that through the ANSI
12 process as well.

13 We have a personnel certification system for
14 green globes assessors that follows the ANSI and ISO
15 standards. It will be the first real independent
16 third-party verification system. We help homeowners
17 associations start green building programs supporting the
18 National Association of Home Builders green building
19 guides, and we own the U.S. license to green globes for
20 new construction and existing buildings.

21 So, what is Green Globes? Green Globes is
22 North America's first design assessment and rating system
23 for commercial buildings. And saying commercial
24 buildings, Green Globes can be used for multi-family
25 housing, health care, schools, through your high-end

1 commercial office buildings.

2 A little bit about the history of Green Globes.
3 It started with BREEAM in the U.K. and BREEAM stands for
4 the Building Research Establishment's Environmental
5 Assessment Method. There are over 100,000 buildings in
6 the U.K. that are certified. In 1996, BREEAM was brought
7 to Canada and it was published as a Canadian national
8 standard. In 1999, it became a streamlined
9 question-based tool and changed the name to Greenleaf and
10 it was used for municipal buildings in Canada. In 2000,
11 it became BREEAM Greenleaf which was matured into an
12 online assessment rating tool and the name was finally
13 changed to Green Globes for Existing Buildings.

14 At the same time, work was begun on a design
15 tool for new buildings. And that was really geared
16 toward the Department of National Defense and the General
17 Services in Canada. In 2002, the name was changed to
18 Green Globes for Existing Buildings and it was introduced
19 in the U.K. And Green Globes for New Buildings came
20 online.

21 2004, BOMA Canada took on Green Globes Plus.
22 It became Go Green Plus. It had a couple of different
23 names for a while. That same year, the Green Building
24 Initiative, who I represent, purchased the U.S. rights to
25 the new construction tool and, later, the existing

1 building tool.

2 GBI became the first green building
3 organization that is ANSI approved as a standards
4 developer, and then immediately we put our new
5 construction tool into the ANSI process. What that means
6 is at the end of that process, it is a true
7 consensus-based standard.

8 So, Green Globes for New Construction is a
9 design assessment and rating tool and our Green Globes
10 for Continual Improvement of Existing Building can be
11 used to establish a baseline and then give performance
12 reports. It helps you improve the performance of a
13 building.

14 There was a study done about a year and a half
15 ago by University of Minnesota and it looked at the two
16 major systems that are out there in America right now and
17 that's LEED and Green Globes. And it said 80 to 85
18 percent of the substance of the two tools is the same.
19 We come at things a little bit differently, but the
20 substance overlap is significant.

21 A couple of highlights, though, Green Globes
22 being web-based interactive is a little bit easier to
23 use, there is immediate feedback and it is less costly,
24 and Green Globes places a little bit more emphasis on
25 energy use, energy performance and it integrates life

1 cycle assessment through the tool.

2 Building on that, GBI commissioned some life
3 cycle assessment work looking at building assemblies, so
4 wall systems, floor systems, and had the systems
5 evaluated for five environmental indices, air, water,
6 waste, embodied energy and climate impact. That eco-
7 calculator for assemblies, as it is called, has been
8 incorporated within our Green Globes tool and can be
9 utilized in the design phase. We have also authorized
10 the generic version of the tool that I know other groups
11 are looking at incorporating.

12 We have a couple of key partnerships. One of
13 them is with the Building Owners and Managers Association
14 in the United States, which is the international
15 organization. We have an MOU and are working closely
16 with them and many of their large members who are
17 property management teams in America. We also have a
18 partnership with EPA's Energy Star office.

19 We have been recognized by a number of
20 insurance companies, Fireman's Fund, Liberty Mutual and
21 Travelers who give us reduced insurance rates for
22 commercial buildings that are Green Globes verified
23 buildings. We also are utilized by a couple of federal
24 agencies at this point and are developing pilot projects
25 with several others.

1 Our new construction tool has seven areas of
2 assessment. We have 1,000 points in our tool which gives
3 opportunity for partial points, it gives an opportunity
4 for us to leave non-applicable for a building, for
5 instance, a recycling facilities, the first green
6 recycling facility was built in Colorado on a hilltop.
7 They did not want to have to put central air in just to
8 get the points. They were able to take off a total of up
9 to 10 percent of the total points so that it would not be
10 judged against them.

11 But looking at the areas of points, we have
12 seven: Project management, site, energy -- energy is a
13 third of the points within the system and we link
14 directly to EPA's Energy Star tool, we utilize their
15 tools for the new construction and the existing building
16 -- water, a new water calculator has been developed
17 through the ANSI process, resources, emissions and other
18 impacts, and indoor environment. Indoor environment is
19 another area with significant points.

20 For a Green Globes rating for a building, you
21 have to achieve at least 35 percent in order to achieve
22 one Green Globe. We have four levels: One, two, three
23 and four Green Globes. The top tier buildings are
24 similar to a LEED platinum. And I reference LEED just
25 because it is one that people are more familiar with. It

1 was in the United States while we were in Canada.

2 For a third-party verification, if you want a
3 plaque on your wall so you can call your building a Green
4 Globes verified building, you need a two-step process.
5 One is a paperwork review by one of our third-party
6 verifiers and the other is the site visit. We are the
7 only ones who do a site visit at this point.

8 CSA America is developing an ISO certified and
9 ANSI approved third-party personnel certification program
10 for us. In order to enter that and hope to pass the exam
11 and become a third-party verifier for GBI, you would have
12 to have 10 to 15 years of experience, typically as an
13 engineer, architect, et cetera. And that is it and I
14 will be available for questions. Thank you.

15 **(Applause.)**

16 MS. ROSEN SPECTOR: Thanks, Erin. Now, we will
17 hear from Carlos.

18 MR. MARTIN: Usually when I talk in these
19 forums about green building, I get really energized, but
20 am exhausted after this day. I do not envy you FTC
21 people at all who have to go through all of this.

22 No, in all honesty, I would like to thank you
23 all for inviting us because this actually weds to core
24 activities that NAHB is involved in. One is promoting
25 green building as an technological alternative for our

1 builders and our modelers to offer their customers and
2 also to provide guidance to our builders on claims that
3 they make regarding the products they produce.

4 So, given that, I would like to focus on -- I
5 will talk a little bit about our NAHB program and I would
6 be happy to answer questions and provide sources for more
7 details on that. But I would like to focus a little bit
8 more on the actual claims that we make throughout our
9 program. And, so, in particular I want to talk -- I am
10 only going to talk about the program in relation to sort
11 of our reliance on technically rigorous standards, et
12 cetera, and how that affects the kind of claims that we
13 make in terms of how we define green building.

14 Just very quickly, the primary green program
15 offerings that we have are the guidelines and standards,
16 are rating systems, and then the certification and
17 verification. Now, we offer a variety of other programs
18 through NAHB Green and NAHB was officially launched this
19 February, but we have pieces of it that go back to 1998
20 in terms of the first green building subcommittee, the
21 development of the first national green building
22 conference, et cetera. And through of all those there
23 are some claims that are made, especially in our
24 educational venues, the largest residential trade show,
25 the International Builder Show, there are a lot of

1 educational events that are provided there in which
2 claims are made that may affect consumers, et cetera.
3 So, through all of these, we are very conscious of the
4 messages that are being given out.

5 So, let me focus a little bit on our green
6 building guidelines and standards. Now, this is really
7 the meat of the NAHB Green Program, as it is for
8 practically all of our programs. The guidelines is the
9 older of the two rating systems. It was started by an
10 open committee process in 2004 and it contains green
11 building provisions similar to many of the other ones
12 that you have already heard. The guidelines, however,
13 only addresses single-family housing and there are three
14 sort of ratcheted-up thresholds, the bronze, silver and
15 gold.

16 Since it was created, a variety of local
17 homebuilder associations that are members of the NAHB
18 Federation have certified homes to it and have developed
19 their own certification programs around it. Three years
20 later, after the publication of the guidelines, NAHB saw
21 the need to add rigor to the development of green
22 building rating systems in order to establish a
23 technically sound platform from which additional claims
24 and any other services could be developed. So, NAHB
25 agreed to work collaboratively with the International

1 Code Council and to undergo the rigorous standards in
2 developing protocols that would produce the first
3 standard on residential construction submitted to the
4 American National Standards Institute, ANSI.

5 My colleagues have already spoken to you about
6 it. Numerous people have already spoken about these
7 things. So, I will not get too deeply into the ANSI
8 process. But you should know it went through the 42
9 committee stakeholders representing all segments of the
10 green building industry, environmental groups, my
11 colleagues from Energy Star, from the Green Building
12 Council were all represented and, so, the standard sets
13 out a new threshold for green building in this country.

14 Now, how does the certification process work?
15 The other big part of our program. Along with defining,
16 which is what the rating systems are, there is a way of
17 promoting that definition and that is our certification
18 program. So, NAHB works with the NAHB research center,
19 which is a separate subsidiary, to develop the national
20 green building certification. Let me step you through
21 that process only to talk about the claims that could be
22 made at each step that we permit.

23 The first step is to do the online scoring
24 toll, which generates a design report to the builder or
25 their modeler. What the builder and modeler can say at

1 that point is basically that she has gotten Y points
2 achieved that meet X thresholds. It is not a
3 certification, it is not a warranty, it is not a
4 guarantee or anything. It is just self-certification
5 based on the rating system. Self-scoring based on the
6 rating system. See how difficult it is when you are
7 talking about accreditation, designation, certification,
8 et cetera. We will try to be very careful as we provide
9 these.

10 The second set of steps are the verification
11 processes. Now, the work of a local trained, accredited
12 and audited verifier, who is audited by the NAHB research
13 center, is required for the next few steps. That
14 verifier has a set of instructions and guides for
15 performing the inspections and then that person submits
16 the list of documents based on the rating system to the
17 certifying agent. So, at this point, the claim can be
18 made that a builder can say that they are going for a
19 certification, et cetera, but they still cannot claim any
20 certification or home performance or anything like that.

21 Now, once the verifier has signed off on the
22 inspections and documented and sent them to the
23 certification agent, the research center reviews for full
24 compliance based on the rating systems and then transmits
25 a certificate to the builder and a copy of it for the

1 client, et cetera. The certificate states what you see
2 right, this house as originally built is in substantial
3 conformance with the NAHB model green home building
4 guidelines. This certification is not a representation,
5 warranty or guarantee of home performance. Basically,
6 that is all the stuff that you see in the fine line.

7 Basically, at that point what a builder can say
8 is that they have a certified emerald through the
9 national green building standard, et cetera. They can
10 make a claim that the house has been certified according
11 to a definition that has been set forth in the guidelines
12 of the standard.

13 Now, a little bit more about certification
14 agent. We talked about the ANSI process for the actual
15 standard. The research center actually is an ISO 17025
16 accredited product testing laboratory. They are
17 accredited to a variety of ASTM and ANSI tests,
18 particularly those on material properties and structural
19 systems and building envelope. So, they have a variety
20 of accreditation programs associated with them.

21 Now, what are the program claims that we
22 provide? NAHB is very careful, again, when it comes to
23 the claims not only about the program itself but about
24 the homes that are certified to it and the rating systems
25 that are provided under it. These claims I think can be

1 broken out into two categories. One is those based on
2 the home performance and then the benefits that one gets
3 from that home performance. For both, we are careful to
4 reference peer-reviewed, technical field studies when
5 available, as well as to not overextend claims that do
6 not account for other factors that go beyond the actual
7 design.

8 Let me give you an example. Say specific
9 design and construction, when properly executed, may
10 increase energy efficiency by basic engineering
11 principles or other studies, et cetera, of those
12 technologies. So you can say that. But an energy
13 efficient home will not guarantee a specific utility bill
14 because, obviously, there are a lot of other factors in
15 the actual bill, the utility rates, the homeowner's
16 behavior, long-term maintenance that allow for those
17 original technologies to be continued and to be
18 maintained in the same way. So, all those other like
19 long-term benefits have to be tempered based on the
20 actual performance we know is available.

21 Just as a side note for manufacturer's
22 promotional claims, we generally do not repeat any
23 manufacturer's promotional claims within our ratings
24 system. A lot of manufacturers' certifications or
25 organizations that certify, for example, the lumber one

1 that was discussed earlier today, we have included in the
2 guidelines their standard, but we do not repeat any
3 manufacturer's claim to those rating systems.

4 Now, just as an example. What happens on our
5 -- the benefits page for homeowners that we have listed
6 on NAHB Green lists out areas of benefits, operating
7 costs, maintenance, health and comfort. Obviously, you
8 cannot read all that. The environment. I invite you to
9 go to NAHB.org to further look at that. But we are very
10 cautious about using generic language about comparisons
11 with standard homes or traditional homes like a better
12 home or a more sustainable home. We do not make those
13 claims essentially and we do not provide blanket
14 quantitative assertions to any of those benefits.

15 Now, one of the reasons that we are very
16 cautious about the program and certified homes claims and
17 benefits is that we have an in-house staff that has been
18 working for a decade on providing accurate guidance to
19 our home builders and our remodelers. Now, much of that
20 guidance comes to us, again, from this group that had
21 provided regular training and educational sessions at all
22 of our green building conferences, at all of our green
23 educational sessions, and the builders show. We have
24 in-house legal staff that provides regular technical
25 assistance and they provide guidance on everything from

1 the actual warranties, from the consumer expectations
2 that are expected, and they have adopted green building
3 as an area in which they provide this guidance as well.

4 So, as much as we would like to promote green
5 building internally at NAHB, we are very cautious of the
6 reminders and the disclaimers that are provided from our
7 legal staff to temper our marketing materials and make
8 claims to ensure that consumers are receiving accurate
9 and appropriate information. There is much guidance, we
10 believe, that needs to evolve on green building claims.
11 That is especially true with the research and development
12 side of a lot of the discussions. This was true in the
13 last panel as well, that we would like to see a lot more
14 of this research come forward and substantiate a lot of
15 the performance and benefits claims that we would like to
16 see.

17 So, in the meantime, consistency of terms,
18 reliance on credible standards and homeowner education
19 are all mechanisms that we believe can contribute to
20 appropriate green home claims. Thanks again for this
21 opportunity.

22 **(Applause.)**

23 MS. ROSEN SPECTOR: Thank you, Carlos. And now
24 we will hear from Sam Rashkin.

25 MR. RASHKIN: Thank you very much. And this is

1 an incredible amount of information to kind of come at
2 you all at once, so I agree with Carlos. I am going to
3 talk about Energy Star qualified homes as it serves as
4 another instrument for defining green. And a big part of
5 this is to start with the branding that we use, the
6 claims that we imply from the branding, how we justify
7 those claims and bring that to the market.

8 So, clearly, Energy Star is a well-known brand
9 out in the marketplace. We like to say it is a national
10 U.S. Government backed symbol for energy efficiency, but
11 the core principles that drive where this brand came from
12 are two things. One, before a product has a chance to
13 earn the Energy Star label, it has to prove itself to be
14 cost-effective and, secondly, it has to meet or exceed
15 performance expectations consumers have for that product.

16 We all know the experience of introducing CFL
17 lightbulbs in the mid-1980s, when they flicker, they
18 hummed, they did not produce as much light as they
19 claimed. There was a multi-billion dollar effort to
20 prove to the consumer public that this was a technology
21 that does not work. So, giving them away for free was
22 not the best market transformation you can make. So,
23 these are key principles for what we do, and following
24 those has led to success.

25 The last nationwide survey for Energy Star

1 reveals about a 70 percent consumer awareness across the
2 country for this logo and for the name. Now, in markets
3 where you get actual concentrated support by utilities or
4 state programs, that awareness jumps to more than 80
5 percent. Thirty-five percent of the public normally
6 purchase products with the label and 70 percent plus of
7 that group said they were influenced by the label in
8 making that product choice and 85 percent of households
9 would recommend. Now, I show you these because these
10 metrics are so critical to demonstrating a brand that has
11 truly arrived in the marketplace.

12 Now, when I come to homes, there are three
13 points I like to make about the Energy Star label about
14 homes. We find it a daunting challenge that we are a
15 voluntary program. We have to go to builders and ask a
16 very change-resistant industry to work with us, embark on
17 applying new technologies, hire a new third-party
18 consultant to poke and peck around their product and see
19 if there is anything wrong with it and do all this for
20 our label. So, what it means is we have to indeed have a
21 very compelling value proposition. Everything we work
22 with in our program, so much is geared to how to develop
23 that value message for the builder partner because we do
24 not have our product on the shelf yet until they build to
25 our specifications.

1 And maybe one of the key things that we do is
2 we define truly energy efficient in the marketplace. We
3 set a very regular rigorous set of specifications
4 together by aggressive vetting with building science
5 experts, stakeholders across the housing industry, and
6 come up with a very, very strong set of specifications
7 for that point in time that we put it in the market, and
8 then we require third-party verification. Most of our
9 homes are verified by using the existing home energy
10 rating system or HERS (phonetic) industry that is in the
11 market and overseen by RESNEC, the industry association
12 for that group. In addition, we have special
13 verification options for modular and manufactured
14 housing. So, that is how we define truly efficient, with
15 specification and strong certification by third-party
16 inspectors.

17 What we bring to the builders in terms of
18 value, we think, is a very high recognition with the
19 label itself and the various rewards we provide. Now,
20 the growth numbers are shown here. We are approaching a
21 million labeled homes at the end of this year, which is
22 truly staggering. In the early years when we were
23 struggling just to get out the door and were happy with a
24 few thousand homes, it is amazing to see ourselves
25 arriving at such a big milestone, a million labeled

1 homes.

2 You can see that we are tracking a little bit
3 of a decline as the industry has gone a little bit soft
4 in the last 18 months, but our number of builder partners
5 is staggering in the increased interest. Prior to the
6 soft market conditions, we were getting 30, 35 builders
7 per month join the program. The last 18 months since the
8 market has gone very soft, we have increased to over 300
9 builders per month joining the program. There is truly
10 an interest in building green and finding a way to make a
11 more value-based offering to consumers looking for new
12 homes because you have to have that.

13 Some more metrics, just to show you what has
14 happened with homes, we now work with over 6,000 builder
15 partners actively labeling homes. We have labeled, to
16 date, over 860,000 homes and in over 25 markets, we have
17 20 percent or more market penetration. Again, very
18 substantial growth. And it all comes down to this label.
19 It is easy to recognize, it is widely established, it is
20 widely recognized. This is our brand offering in the
21 marketplace and, coincidentally, it is our biggest asset
22 we have and everything we have to do from a program
23 management perspective is protect this label, it is our
24 biggest asset we have.

25 So, how do we do that? How do we define green?

1 How do we bring this value to consumers? What I am going
2 to do in the next slide is compress three, four hours of
3 building science training into this one slide.

4 **(Laughter)**.

5 MR. RASHKIN: So, bear with me. I am going to
6 work with you on this. But you will at least get a
7 flavor for just the sound underpinnings that drive this
8 program's specifications. The goal, the objective, if
9 you will, or the why is we want to build homes that are
10 affordable, comfortable, healthy and durable. And the
11 value proposition that we want that is compelling for the
12 builder is to reduce their risk. It is an incredibly
13 high risky proposition to be in that industry. While
14 increasing consumer satisfaction and having a way to
15 differentiate themselves from their biggest competition.
16 About 75 percent of the competition's used homes, three
17 out of four homes sold in the marketplace are used, and
18 what a compelling difference it is for a consumer to buy
19 a new Energy Star home. And from our perspective the
20 benefits are incredible in terms of environmental
21 protection and improved national security.

22 So, how do we get there? It is very simple.
23 You do three things. You control air flow, thermal flow
24 and moisture flow and you wind up with a great building.
25 You learn these three filters and go through a set of

1 plans or a house under construction and see if you
2 effectively addressed thermal flow, air flow and moisture
3 flow that you have a great building. And there are
4 various components of each of those that we know from old
5 physics classes and science courses we took in high
6 school how you do that. That is what we try to do. That
7 is the big how and that is where we spend two to three
8 hours with builders and with HERS raters and with all the
9 classes, we do training, what you do to get to Energy
10 Star, and it winds up being these set measures.

11 What you will notice is there is a very
12 repetitive set of improvements that get you control of
13 air flow, thermal flow and moisture flow, air ceiling,
14 air barriers, better insulation, low E windows, and so
15 forth, and better equipment and right sizing and the keep
16 repeating as solutions for each of the various columns
17 that we are trying to solve, and the ones acquired by
18 Energy Star shown in blue here now. The ones that are
19 not in blue will be required soon by the next iteration
20 of Energy Star.

21 The key take-away point here is the
22 requirements for Energy Star are science-based and they
23 lead to a complete systems approach to how to build a
24 high-performance home that can, if not guarantee, almost
25 effectively promise, that the house has to be more

1 comfortable, it has to be more durable, it has to be more
2 healthy and have lower bills for increased affordability.

3 Unless you break the laws of physics, you have
4 to get those outcomes and that is the underpinning for
5 how we can make our brand promise. That is why when you
6 see these requirements for Energy Star, which are
7 effectively what you have to do without much choice. You
8 have to have your duct systems tight, you have to do an
9 incredibly well air-sealed home, you have to have
10 advanced windows, appropriate to the climate, efficient
11 equipment, the insulation has to be installed properly
12 because what we know about insulation is R value is much
13 less important than how it is installed. You can lose
14 about 85 to 90 percent of the rated R value of insulation
15 if you are not attentive to how you put it in place,
16 including complete air barrier assemblies.

17 I have this one three, four hour course with
18 builders on how to do air barriers right. Because I
19 promise you 90 percent of the homes that I see, and I
20 travel and see tens of thousands of homes, do not do the
21 air barriers right.

22 And then right sizing, making sure the big
23 investment in the cooling systems and heating systems
24 actually get the results we want. In the end, if you
25 field verify it in the field, you have Energy Star.

1 Now, we have other EPA programs that are based
2 on the same exact principles. We have energy efficiency,
3 Energy Star I just covered. For indoor environments, we
4 have something called EPA Indoor Air Plus. We have a
5 group from the Indoor Environments Division today and it
6 is the same basic concept. You have three principles
7 that get you an incredibly comprehensive approach to air
8 quality. You want to control sources of pollution, you
9 want to ventilate properly or ventilation and you want a
10 filtration system. If you do those three components, you
11 have an incredibly comprehensive approach that allows you
12 to promise a very effective, healthier indoor air quality
13 home.

14 And the same thing with the water conservation
15 and a program called WaterSense. If you address the
16 indoor fixtures and you address the outdoor water needs
17 and you have homeowner guidance, you have a very
18 comprehensive approach to water conservation.

19 So, it leads me to two roads to green, that we
20 find ourselves contrasting, if you will, with our EPA
21 labels with the broader green labels in the marketplace.
22 First is we are binary. Either you are or you are not
23 Energy Star. I mentioned the EPA Air Plus label. That
24 is 35 specific requirements, with some variations for
25 climate, for how you achieve the label. Energy Star is

1 very specific what you have to do. In contrast, the
2 green programs often have four tiers and then many, many
3 ways of getting to those four tiers by combining points.
4 Energy Star also works at the systems approach that I
5 laid out versus a parts approach where you get points for
6 various categories.

7 Third, we specify a minimum performance level
8 as -- without a lot of choice, knowing we are trying to
9 define that attribute, and the green programs are
10 striving to include all the choices that are in the
11 marketplace to achieve green and you can kind of choose
12 how you get to that performance by mixing and matching.
13 And, also, we allow, because of the various labels that
14 are individual, to use component approaches versus going
15 all in and doing all green. For instance, if you want to
16 focus on water conservation and not materials, you can
17 make that choice.

18 So, in the end, this is a simple definition of
19 green, energy, indoor environment and sustainable
20 resources, and EPA feels, in effect, we have three very
21 strong ingredient labels but do not provide the whole
22 label for green. So, it is kind of like this TV set I
23 saw in a fitness room where I was speaking at one
24 conference and I saw all these individual components for
25 the TV that were individual attributes, surround sound,

1 HD, and also Dolby sound. In effect, we do not make the
2 TV, we do not make the green program. We make
3 ingredients that are very powerful attributes within the
4 green program.

5 I am a Fast Talker of America, a proud member,
6 thank you very much.

7 **(Applause.)**

8 MS. ROSEN SPECTOR: Thank you all very much. I
9 just have to say that after hearing all this, I always
10 want to buy a new house.

11 A number of you very helpfully gave some
12 suggestions about what we can do with our Green Guides
13 and I want to pick up on that. Carlos, you mentioned
14 that the guides should have consistency of terms and
15 stressed a reliance on credible standards. So, first, I
16 would like to ask the panel, what specific terms do you
17 think that we might need to add to the Green Guides and
18 maybe provide definitions for that would help with green
19 building claims?

20 MS. MOORE: Well, I will start since I am
21 immediately to your left. I think there is an
22 opportunity to help people understand sustainability as
23 an aspirational goal versus green as being generally
24 descriptive of a whole basket of goodies that are
25 benefits-oriented from a consumer perspective. Because

1 what we see happening in the marketplace, as it relates
2 to erroneous claims of green and people misapplying our
3 trademarks as well, which we do police very actively, is
4 that folks will apply terminology to single attributes.
5 So, it has some recycled content, so it is green, it has
6 some bamboo in it, so it is green. And those kinds of
7 misunderstandings could be helpfully addressed by
8 creating more of a -- a broader based lexicon for people
9 to understand how single attributes fit into a multi-
10 attribute solution like a greener home.

11 MS. ROSEN SPECTOR: Does anybody else have a
12 thought?

13 MR. MARTIN: I would agree with that. I would
14 also like to add that I think that a lot of the --
15 perhaps the performance categories and the benefits
16 categories are ones that we could all come to some
17 standardization on. I think primarily because that is
18 what the consumer hears. And, so, if there are certain
19 things we say about energy efficiency that we are all
20 talking about the same, about what do we mean by energy
21 efficiency, what do we mean by improved environmental
22 quality, that sort of thing. So, just those overarching
23 terms. Obviously, there are a variety of different ways
24 to get there that exist. But having those overarching
25 terms would be helpful.

1 MS. ROSEN SPECTOR: Right. I guess I noticed
2 that with all these different rating systems, you have
3 different strategies and approaches to get to a green
4 building, but they all emphasize kind of energy
5 efficiency but they may get there in a different way.
6 So, is there something the FTC could do, through its
7 Green Guides or through education, to make it easier for
8 consumers to understand these different standards and the
9 different claims?

10 MS. SHAFFER: I think that it is an area that
11 the government does not need to carry a heavy hand at
12 this point. There is a lot of work going on in trying to
13 understand what green building is for people who are
14 building as well as those of us who have rating systems,
15 and it is an area that there needs to be additional
16 research. USGBC did a study recently, the New Building
17 Institute did a study for them and released looking at
18 the four levels of LEED buildings and showed that 50
19 percent of the buildings did not achieve the baseline
20 Energy Star level. That is really helpful and useful
21 information and that is what we all need is more studies
22 looking at buildings' performance after they are either
23 plaqued or not. And that is an area we don't have a lot
24 of information. We don't really have a great deal of
25 data on health of workers in green buildings.

1 So, I do think that the definition of what a
2 green building is or the attributes of what might
3 encompass a green building is an area you might want to
4 look at, but it is an area that there is a lot of work
5 going on.

6 MS. MOORE: I think there are some examples as
7 well that are happening in Europe that might be
8 interesting to looking to as a long-term horizon.
9 Certainly, and I believe this is true, that any of the
10 residential rating systems, at this point, look to Energy
11 Star as sort of the engine under the hood and I believe
12 that Sam has probably sat on an awful lot of our
13 committee calls to that point. But there are a number of
14 us who use the nutrition label from products, and if
15 there were a common vernacular, particularly since many
16 of the rating systems have a common core of issues that
17 they are looking at, if you are talking about a green
18 home or if you are talking about a green building, you
19 look for performance or look for different
20 characteristics in these attributes. So, there is that,
21 sorry, common lexicon that is being developed around the
22 discussion.

23 So, if we do, eventually, evolve in this
24 country toward a labeling system for buildings,
25 commercial or residential or for otherwise, there is a

1 foundation, some capacity in the marketplace to be able
2 to have that discussion.

3 MR. RASHKIN: Just to weigh in on this, the
4 challenge I think for FTC gets back to the metrics. With
5 energy efficiency, you have a metric whether it is
6 percent relative to code or even a percent energy
7 savings, there are numbers that consumers can relate to.
8 Once you get past energy and you start looking at indoor
9 air quality, what is the metric? How do you provide
10 guidance to consumers and how do you gauge whether a
11 standard or a label meets that?

12 When you get to water conservation, maybe there
13 is some percent water savings, but relative to what
14 again, there is no code reference. And for materials and
15 for a lot of these factors that relate to green, I do not
16 know how to get a hold around the metrics. And
17 symptomatic of that is the fact that if you look at the
18 rating systems, they vary from about 100 to 150 points to
19 few thousand points, and even the point systems mean
20 something very different. So, a consumer can look at one
21 green rating and then another and see 10 points means a
22 lot in one and 100 points means a lot on the other. It
23 is going to be a very big challenge.

24 MS. ROSEN SPECTOR: Well, that relates to a
25 question that came from the audience which I am going to

1 slightly rephrase, but the idea that consumers are seeing
2 LEED Certified Silver or Green Globes verified or NAHB
3 Gold, how are they perceiving that claim? What
4 environmental benefits are they even taking from that
5 simple certification language and how are those specific
6 environmental attributes that are being certified being
7 communicated to consumers through just that simple
8 certification language?

9 MR. RASHKIN: I would not mind weighing in on
10 that one only because I spend too much time traveling and
11 I do not know what to do with myself a lot. I mystery
12 shop thousands of homes and ask sales agents questions
13 and see how they portray the green home to a consumer. I
14 do that because I think, in the world of housing at
15 least, I think one of the biggest educational experiences
16 happens face to face between the home buyer and the
17 person selling them the house. And, so, there my message
18 gets back to if that is your goal, how do you get a
19 consistent message to the consumer, what kind of controls
20 do you have in the sales process?

21 Again, one of the reasons why, again, I think
22 it is so important we are binary with Energy Star is what
23 I have experienced when there are multiple tier programs
24 in a marketplace is that the pressure to sell is so great
25 the salesperson is willing to convey very strong

1 stretches of meaning to make that sale. So, if they are
2 selling a premium platinum product, they will say
3 everything else is ruffraff. If they are selling a very
4 bottom end certified level product, they are saying this
5 is everything you need, and I find I am not getting clear
6 information when I mystery shop.

7 So, at the end of the day, you know, all this
8 becomes how do you control the sales process and that
9 takes tremendous resources and it is very challenging and
10 intentions can be good, but I do not know if the
11 infrastructure right now is able to handle the very
12 complex nature of green.

13 MS. MOORE: From the USGBC perspective, I will
14 share a little bit of our experience from the commercial
15 marketplace, although I know the conversation here is
16 focused on green homes. The certification seal that
17 conveys LEED Silver, Gold or Platinum can only be used in
18 concert with the actual building that is being certified.
19 So, if you build your spec house in a development and
20 only the model home is certified, that is not something
21 that can be applied to any of the other homes if they
22 have not actually been through that process. Similarly,
23 we have had that experience on the commercial side as
24 well.

25 And the investment that we are making in

1 education right now to help develop the capacity on the
2 market side, not only to engage the people who are
3 involved in sales and marketing of these homes but also
4 the builders themselves and understanding how to apply
5 the label, USGBC has also undertaken a very deliberate
6 consumer education initiative and that is expressed at a
7 website that we have created called thegreenhomeguide.org
8 and a website that we continue to advance, build more
9 curriculum in to connect with Green Bill 365, which is an
10 online education portal that address both the builder and
11 the consumer, and also marrying that with educational
12 programming that we provide for even product
13 manufacturers and constituency at Green Build every year.

14 We have seen a huge transformation in the
15 commercial marketplace. That is demonstrated by the many
16 people here who have been involved in this dialogue
17 today. There is extraordinary expertise among
18 architects, engineers, builders, increasingly trades
19 people on the commercial side of this sector to have a
20 fairly sophisticated conversation about what green
21 building means and what it means in terms of performance.

22 It is ready for an investment in R&D, like the
23 NBI study that Erin referenced that showed that 35
24 percent energy savings was typical of LEED certified
25 buildings or many of the two million that USGBC is

1 putting into research to help understand things like the
2 reality of claims of increased productivity in green
3 buildings, for instance.

4 So, we are looking at the residential
5 marketplace not just as a snapshot today and making
6 decisions on that basis, but really understanding how we
7 can invest into developing a lexicon and building a
8 dialogue and leveraging the work that NAHB is doing to
9 really educate their builders and the extraordinary
10 foundation that EPA has created with Energy Star. There
11 is a way for us to create and transform in the future
12 where that Tower of Babel that we are all concerned about
13 around green home claims and what does it really mean to
14 the consumer and how can manufacturers appropriately
15 differentiate themselves is something that we can really
16 work through as a community. I think that what has
17 happened on the commercial building side of the
18 marketplace is a wonderful demonstration of what is
19 possible.

20 MR. MARTIN: There is certainly a lot of
21 precedent regarding what claims builders can make that
22 existed for several decades right now, to go beyond green
23 buildings. So, that might be helpful for FTC to review,
24 looking at what kind of warranties are acceptable, what
25 sort of legal precedents have occurred regarding those

1 warranties and any potential other physical claims of the
2 physical construction of the home. So, that might be a
3 good starting point for you all to perceive how green
4 building fits into that.

5 MS. ROSEN SPECTOR: A lot of green building,
6 obviously, the green building claims and a lot of the
7 products center around these certification programs and
8 Carlos mentioned reliance on credible standards. So, I
9 am wondering whether you all think that the FTC Green
10 Guides should perhaps set more specific guidance for
11 reliance on certification and seals to substantiate
12 environmental benefit claims and even there has also been
13 a lot of talk today about ANSI developed standards versus
14 consensus-based standards, open standards and whether you
15 think the Guides should provide some information about
16 that. Kirsten mentioned there is the first party
17 certification and then there is second party and third
18 party. Would it be helpful to the building industry to
19 weigh in on which of those types of standards and provide
20 more guidance on the use of those standards that could
21 provide substantiation for some of these claims?

22 MS. MOORE: Going back to Kirsten's slide,
23 there is a wonderful opportunity to differentiate between
24 marketing labels versus industry standards versus
25 third-party created programs because there is different

1 levels of scrutiny as a consumer that you might want to
2 apply in those different circumstances.

3 Speaking as someone who has experience on the
4 product manufacturing side as well, it could be helpful
5 in that circumstance, too, because there is, you know,
6 looking back at that slide that talked about the growth
7 of the potential market for green building products and
8 services, there are a lot of people who are seeing
9 certifications of different single attributes as a
10 business opportunity and are moving into that space where
11 there may not be a credible third-party certification
12 program today. And I imagine that manufacturers would be
13 very helpful or very appreciative of helping to kind of
14 sort through the differences in the labels out there.

15 I think that one thing that the Green Guides
16 could do, also, that would very concretely be supportive
17 of helping to address this is to give broader examples of
18 how labels can be credibly applied. My favorite example
19 of a company using USGBC's marks really inappropriately
20 that we are working through addressing is a paper
21 manufacturer that uses the USGBC member logo on all of
22 their tissue paper packaging and the USGBC member logo is
23 actually bigger than the product logo on the package and
24 this product is actually present in USGBC's very own
25 bathrooms at 1800 Massachusetts. So, I see it every time

1 I duck in there and every time I get on an airplane.
2 But, you know, that is contrary to our guidance.
3 Obviously, it is something that we're pursuing.

4 But having that present in the Guides, the FTC
5 has a much broader voice to engage the community that any
6 single 501(c)(3) nonprofit or governmental agency would
7 have that is focused on specific program implementation.

8 MR. SHAFFER: And I think one of the things
9 that is really helpful, we already talked about looking
10 at the attributes that would encompass a green building.
11 I think that it is important to distinguish between a
12 brand new built building and a building that has been in
13 operation for 5 years or 10 years or 15 years and that
14 the operation or the performance of that building is more
15 important than what it was 10 or 15 years ago when it was
16 built. So, I think that that is an important educational
17 aspect, that there needs to be performance data. A lot
18 of that data is what is in Energy Star on the energy
19 piece, but it is your utility data, are you changing the
20 air filters on the oil just like you operate your car.
21 That is a really important aspect that people need to
22 understand.

23 MR. MARTIN: I would actually caution the FTC
24 about going too far into speaking about standards.
25 Obviously, there is a lot of education about what

1 standards are that needs to happen for consumers to
2 understand. But when you talk about these, it is
3 bordering on building regulation and the building
4 regulations vary. It is probably one of the most complex
5 -- I should not say that if there is anybody from any
6 other industry here.

7 **(Laughter.)**

8 MR. MARTIN: I think it is one of the most
9 complex regulatory systems that exists in the country for
10 an industry. So, I think home buyer, homeowner, consumer
11 education about what standards mean is probably a more
12 useful vehicle for FTC.

13 MS. ROSEN SPECTOR: I just want to clarify, are
14 you saying that we should not be saying what the standard
15 should say or even weigh in on a standard that is --
16 saying something to the effect of in the Guides, a
17 standard that is developed by a third party through an
18 open consensus-based process can likely provide
19 substantiation for X type of claim. Are you saying the
20 agency should not even do something like that or just
21 that they should not get involved in developing building
22 standards?

23 MR. MARTIN: The latter definitely is the case.
24 For the former, I think it is a fine line that you are
25 going to be playing because you obviously want to

1 describe what standards are for the consumer to
2 understand what they are reviewing. And, so, in some
3 ways, you do not want to just say caveat emptor and leave
4 it at that, you want to provide some guidance about how
5 they can make logical decisions about what their green
6 building options are.

7 So, keeping the market open, obviously, as we
8 were saying there are a lot of different rating systems,
9 a lot of standards out there. Explaining how to
10 distinguish between all of them is probably a more
11 beneficial vehicle for FTC if that makes sense.

12 MR. RASHKIN: Maybe the best education that the
13 FTC can do is provide guidance to consumers what to look
14 for when it comes to a green label, and you can pick your
15 criteria. It could be, again, a percent better than
16 code. On energy, that there are measures that at least
17 assure certain health benefits in certain categories,
18 that there is some sort of ways that systems integration
19 is incorporated in developing recommendations as part of
20 the green standards. It is not just unrelated
21 recommendations, but someone is looking at is there a
22 systematic way of how these parts interrelate and, again,
23 that there is third-party verification of some type.

24 But you can come up with various criteria that
25 should be part of any green label and then say that is

1 what you look for. But beyond -- like we are not a
2 consensus-based approach and to have something that says
3 a standard has to be a consensus-based standard would
4 trouble us because we just find we like a different
5 approach that is more nimble and allows us to move more
6 quickly where we gather information from all the
7 stakeholders very aggressively, but we kind of adjudicate
8 the final standards that we put out without a consensus
9 process. That allows us to move quickly and make
10 decisions. It is just another way to go that we find
11 preferable.

12 So, I think there are certain criteria and you
13 have to explore what they are. But I am not sure how
14 much more specific you can get than that.

15 MS. ROSEN SPECTOR: Is there even kind of an
16 accepted metric for what is a green home?

17 MS. MOORE: I think there is a good opportunity
18 with regard to FTC's work in this area to look at
19 bridging the gap between how green homes or green
20 products for the home get sold and how consumers think
21 about having a green home. The consumer research that
22 NAHB commissioned, the stuff that we are about to come
23 with says consumers think about energy efficiency, they
24 think about environmental footprint. First and foremost,
25 they think about having a healthier place for their

1 families to live.

2 But if you are going into the Home Depot, you
3 are seeing lightbulbs and air conditioning systems and
4 windows and all these individual product oriented
5 approaches and it is really difficult to figure out how
6 to bring that together into a system. So, to harmonize a
7 vernacular that allows consumers to marry what they see
8 if they go to the store or what they see if they are
9 talking to that sales agent trying to up-sell them on a
10 granite countertop versus the kind of benefits they want
11 to achieve for themselves and their family, that could be
12 a helpful dialogue for the marketplace overall to just
13 begin to create the bridge because you all do not want to
14 have to reprint this whole thing in your Green Guides in
15 terms of detailed technical guidance.

16 MR. RASHKIN: What Carlos said was pretty
17 important because we agree with NAHB quite a bit about
18 how difficult it is to make claims. We caveat and cast
19 every benefit about these homes very carefully and choose
20 our words. So, I think one of the things you can do at
21 FTC is say no green program can make claims about percent
22 more healthy, percent more water savings. You can just
23 realize that there are so much behavioral factors
24 associated with these homes that you can forbid certain
25 claims as part of any green program. That can start

1 going a long ways to avoiding some of the abuses that are
2 happening.

3 MS. ROSEN SPECTOR: All right. Well, I guess,
4 Sam, you get the last word. That is the end of this
5 panel and we will start Panel 5 at 3:45. I want to thank
6 the panelist for a very informative and interesting
7 discussion.

8 **(Applause.)**

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1 **SESSION 5: PUNCH LIST FOR GREEN BUILDINGS - ROUNDTABLE**
2 **ON CONSUMER PROTECTION CHALLENGES & THE NEED FOR FTC**
3 **GUIDANCE**

4 MR. KOHM: The last session will be a little
5 different. Often, when we do these last sessions, there
6 is some fall-off at the end and then I invite everybody
7 to move to the middle and come forward, in which case
8 nobody does, and everyone else is kind of following form.
9 But if you would like to feel free to come forward and
10 move to the middle.

11 We have a distinguished panel and we are going
12 to -- the roundtable discussion on the table that is not
13 round, for the folks who do deception, is a little
14 different. We are not going to have presentations. We
15 are going to engage in a discussion. If there is
16 anything that you all want to ask, there will be plenty
17 of time in this last panel to send questions forward and
18 to get them asked. So, get out your cards and if there
19 has been something you have been dying to ask all day or
20 if there is something that comes to your attention, then
21 feel free to send the cards forward.

22 On the last panel we have Allen Blakey from the
23 Vinyl Institute; Christine Chase from Green Seal; John
24 Girman from the EPA; Sophia Greenbaum from the
25 Sustainable Buildings Industry Council; Thomas Reardon

1 from the Business and Institutional Furniture
2 Manufacturer's Association; and John Spears from
3 Sustainable Design Group. So, thank you very much for
4 joining us.

5 Let's start off with kind of a review of what
6 is going on in the marketplace. If we can kind of just
7 go down the line for the first question and tell us what
8 kind of green claims you see that are going on in the
9 marketplace right now, what are the hot green claims. I
10 am not sure if we are in the same order here, but, Allen,
11 why don't you start us off?

12 MR. BLAKEY: Well, vinyl is the most widely
13 used plastic in building and construction. It is a
14 synthetic material. Now, it is fair to ask are synthetic
15 materials green, but when we are talking about a
16 complicated thing like a building, it is unavoidable that
17 you will have synthetic materials in buildings and vinyl
18 can contribute. It does have benefits and advantages.
19 So, I think there is a tension between what sorts of
20 products and materials do the job in green buildings.
21 That is one of the issues that we are seeing.

22 MR. KOHM: Okay. And, Christine, what kind of
23 claims do you see going on out there?

24 MS. CHASE: Some of the things we are looking
25 at, at Green Seal, we sort of do have the product

1 standards. So, a lot of the confusion I think has to do
2 with how individual standards fit within a greater
3 context, be it a more broader building standard and how
4 that interaction is. I know that there is a lot of
5 confusion from contractors that we receive.

6 In addition to that, some of the things that we
7 are working on are more service-based standards. So,
8 this is basically after a building is built or, you know,
9 is developed and that sort of thing, how you maintain and
10 how you clean it, what kind of products you bring into
11 the built environment at that point will really affect
12 indoor air quality and other health effects. So, those
13 are some of the things that we are looking at as well.

14 MR. KOHM: Okay. And, John?

15 MR. GIRMAN: Several things. I think one of
16 the things that was touched on very well in the last
17 panel by Michelle Moore, and that was the definition of
18 green, what is green. She mentioned a lot of attributes
19 that could be used to define green, recycled content,
20 durability, maintenance, indoor air quality, energy
21 efficiency and others. I think one of the problems is
22 when something meets maybe two or three of these things
23 is it really green and these things are not discussed
24 very widely in some of the ads.

25 The other more specific things that we see at

1 times, for example, the issue of natural versus synthetic
2 does come up as a claim and there is a notion that
3 somehow if something is natural it is automatically green
4 and that is not always true. There are other things like
5 that as well.

6 MR. KOHM: Okay. Sophia?

7 MS. GREENBAUM: We are an educational
8 organization, so do not necessarily have a prescriptive
9 definition of green. We do support some of our members
10 that have green building standards including NAHB and
11 U.S. Green Building Council. But what we really look at
12 is some of the interactions between sustainable design
13 features and costs, life cycle analysis, security,
14 accessibility, safety and durability. So, we have more
15 design practitioners and building owners coming to us
16 looking for the crossovers between sustainability and
17 other design attributes. For example, in schools, you
18 might even have acoustics being considered in terms of
19 sustainability because it is an important aspect of
20 indoor environmental quality.

21 MR. KOHM: Tom?

22 MR. REARDON: Well, the furniture producers
23 have been fielding a lot of different requests from their
24 customers. The U.S. Green Building Council and LEED have
25 done a tremendous job in elevating the awareness and the

1 importance of evaluating environmental impacts of
2 buildings and construction projects. Our manufacturers
3 produce products that go in these buildings. And,
4 increasingly, the customers are focusing on recycled
5 content, emissions of VOCs from product, certified woods,
6 and sustainability is much larger than that.

7 So, as an industry, we saw a need for some
8 harmonization and some commonality among the different
9 attributes that define sustainability or green and I
10 think the entire marketplace can benefit from some
11 standardization in that area.

12 MR. KOHM: And, John?

13 MR. SPEARS: Thanks. Well, I am coming from a
14 perspective, I design homes, green, solar,
15 self-sufficient, sustainable, whatever you want to call
16 it. And in the early '70s when I started the terms were
17 all different but everything else was the same, and the
18 customers have not changed in their interest in demand
19 for quality housing.

20 The first thing they care about is indoor air
21 quality. They want to know is this house healthy or
22 isn't it and all of the details about the various
23 volatile organic compounds and percentages of this and
24 that are very irrelevant to that market audience, the
25 consumer of the house.

1 The second thing they want to know is, and even
2 more so today, is can I afford to pay the energy bill.
3 So, there needs to be a metric and a measurement that
4 says this is efficient or it isn't or some way of
5 distinguishing houses by their energy efficiency. And
6 this is where the Energy Star program, for instance,
7 comes into play really making it much easier for a home
8 buyer to distinguish products.

9 And then the third area, which is more and more
10 of interest but way down the priority list, is the
11 environmental footprint.

12 The key problem is, in my mind, with consumers
13 and rating buildings green or sustainable is the
14 difference between a component rating like a rating on a
15 product, whether it has recycled content in it or not,
16 and a rating of a building which is actually a system, a
17 compilation of lots of products that go into a system
18 that then has a performance. When people buy homes, they
19 buy a system. When they go to Home Depot, they buy a
20 component and the audience for that rating is the
21 consumer versus the audience from a manufacturer to an
22 integrator who might be making a product out of some raw
23 material. So, there are lots of levels of this that have
24 to be addressed.

25 MR. KOHM: That is an excellent point that I

1 was going to get to later, but let's get to it right now.
2 When you are buying a building as opposed to the
3 components of a building, or our last workshop was on
4 packaging, when you are dealing with something fairly
5 tangible and fairly simple, you are buying a complex
6 system. How does that change what kind of claims people
7 can make for that good, for the building, whether you are
8 selling the building or renting it? Does anybody have
9 comments about that? John?

10 MR. GIRMAN: Just a few comments. I think the
11 issue is inherently easier if you are dealing with just a
12 product because you can say, for example, that it is
13 going to emit so many milligrams or micrograms of a
14 particular pollutant per volume of the thing or per
15 weight. That is relatively easy and you can test and
16 meet it. It is much harder when somebody tries -- but
17 perhaps less understandable to the consumer, I should
18 say.

19 But when you are talking about a building, as
20 John said, you are talking about a system, it is a
21 complex thing. And it is very difficult to guarantee,
22 for example, even though we can measure energy use, we
23 can know what we put in in terms of appliances what they
24 would use, it is very difficult in the end to project
25 what that particular home is going to use in terms of

1 energy because there is a variation in climate and
2 weather, there is the variation in how the place is used
3 and how well it is maintained.

4 It gets even harder, and Sam Rashkin in the
5 earlier panel hit the nail on the head. It is even
6 harder to do that for indoor air quality because we do
7 not have a good metric for measuring, at least not one
8 that is agreed upon by a lot of people. So, to guarantee
9 a health claim, for example, does not make sense, you
10 cannot do it. You can, however, say that if you have
11 these systems in place or are doing this and maintain
12 them that you are reducing your risk of having health
13 problems, that probably is a legitimate claim. It is not
14 a guarantee, but reducing risk is what really should be
15 your goal.

16 MR. KOHM: It strikes me that for -- that we
17 say in the Green Guides right now, for example, that you
18 should avoid making general green claims, the eco-
19 friendly claims, the green, environmentally friendly
20 claims because it is very hard what consumers take from
21 that and, therefore, very hard to substantiate. It
22 strikes me that that becomes a much more complicated
23 issue for a complex system like a building. Does anybody
24 have any comment either on that or what you think
25 consumers take away when somebody makes a general green

1 claim about a building?

2 MR. SPEARS: I think consumers are very
3 gullible and they get most of their information about
4 their purchases from salespeople that represent the
5 companies that are trying to sell them something. So,
6 education, third-party education about how to be an
7 intelligent consumer of houses, products, things that you
8 do is really, really important. And standards and
9 ratings have a real role to play in those things.

10 And I think one of the best things that can be
11 done is saying, when you are shopping for energy
12 efficiency, here are the kinds of standards you can look
13 for and the kind of labels to look for on the products
14 and on the buildings. So, when you are shopping for
15 things for indoor air quality here are the kind of labels
16 and the kind of standards you should be looking for on
17 those. And that is about the best you can do.

18 MR. KOHM: I was speaking to a reporter
19 yesterday who asked me about the idea of the hidden
20 trade-off. This area, like all areas, has its jargon,
21 and the idea being that you tell the truth about
22 something that is green but there is a trade-off
23 involved. And what that means for the FTC Act, that is
24 often a green-washing sin. And that is not necessarily,
25 depending on how you do it, a violation of the FTC Act.

1 But it strikes me that it is a real problem when you make
2 general green claims and maybe a particular problem when
3 you have complex systems.

4 Could you all talk a little bit about what the
5 hidden trade-offs are you see and the kinds of claims
6 people make for buildings that may be confusing to
7 consumers?

8 Allen, if you wanted to comment on something
9 else, go ahead.

10 MR. BLAKEY: I will bridge from the last
11 question to the current one or try to anyway, thank you.
12 The difficulty with the complexity of a building makes
13 product and material choice difficult because it is one
14 thing to -- I mean, we know from meetings that you have
15 had, workshops this morning, for example, that it can be
16 difficult simply to determine what is environmentally
17 friendly in the way a product is produced. But what life
18 cycle studies show is that the use phase in a long use
19 product, i.e., in many buildings where things are built
20 and designed to last for decades, the use phase will
21 dominate in the life cycle.

22 So, the chemical basis of a product versus the
23 organic basis of a product can become, according to life
24 cycle studies, less relevant and, yet, there is intense
25 competition and we think a lot of misleading marketing

1 being done on market differentiation in green buildings.

2 MR. KOHM: That is fascinating. Can you give
3 us an example of where that might occur?

4 MR. BLAKEY: Yeah. PVC-free, for example, is a
5 term that we run across sometimes. And there are
6 problems with going free, you know, anything free, as we
7 see it. One is that often the advertisement, where this
8 typically appears, says nothing about what the product
9 actually is made of. So, the consumer does not know.
10 There is an implication, of course, that if it is free of
11 this material, then it is healthier or more
12 environmentally friendly. I guess we even question
13 sometimes whether the advertiser, the product
14 manufacturer knows for a certainty that it is PVC-free
15 because sometimes these are products that are made of
16 multiple materials.

17 MR. KOHM: John, you will be next, but it
18 strikes me that, at least potentially, that there are
19 claims that could be made that are true where the
20 implications are false, in other words, that you say
21 something about the chemical versus organic input of a
22 particular product at the time. But over the life cycle,
23 in fact, it is greener, in some sense, to use the
24 chemical product rather than the organic product because
25 over the lifetime it degrades less or you have to renew

1 it less often.

2 Are there examples like that or am I just being
3 a lawyer and making things up that are logical but
4 untrue? Anybody want to help me out there?

5 MS. CHASE: I guess I can speak to that a
6 little bit. Some of the things that we speak to,
7 particularly about the point that you make, is that is
8 sort of the difference when you get into some sort of
9 single attributes a lot of times. I think for a lot of
10 times single attributes are definitely an important way
11 to distinguish products. But I think the hidden trade-
12 off is probably one of the dangers of doing so. So,
13 having a certification that looks at the life cycle of a
14 product and looks at all the different impacts that it
15 could have is one way to distinguish it and to take all
16 those sort of different factors into account.

17 MR. KOHM: John, I am sorry, you were supposed
18 to be next, so...

19 MR. GIRMAN: Not a problem. Sure. You talk
20 about things that could be true, but there is more to the
21 story that is not being told and is necessary to
22 understand something. I think emission rates are an
23 example. If something is going to be called low
24 emitting, what does that mean? Does that mean it is low
25 emitting for a very long time? In which case, you may

1 get a high exposure or is it something that is high
2 emitting at the very beginning but then is low emitting
3 later on?

4 When a product is tested is also very important
5 and that could be very misleading because if something is
6 tested within 24 hours of being manufactured that means
7 one thing. If it is tested 14 days later, that may be
8 more meaningful to the people who are moving into the
9 house. So, that is a case where they have to -- giving
10 information is not enough. You have to tell people what
11 the information means, what does low emitting mean.

12 MR. KOHM: And it seems that VOCs would be an
13 example of that.

14 MR. GIRMAN: Exactly.

15 MR. KOHM: Is there any standardization on what
16 people mean when they talk about VOCs and emissions?

17 MR. GIRMAN: No, some testing programs do tell
18 you when it is being tested so you have some ability to
19 check on that. But that is not generally something that
20 people even know enough to ask about.

21 I think another thing where something is
22 misleading is very often something will be touted as
23 being natural, and the implication is that natural is
24 green and good. We get calls like this all the time from
25 the public and I remind them that bee stings are natural,

1 snake venom is natural, poison ivy is natural, but they
2 are not benign and natural does not mean benign. There
3 are some cases where you would much prefer to use a
4 synthetic product that is much more durable and would
5 last a long time, has easier maintenance and perhaps
6 emits less.

7 So, going back to what some of the panel has
8 said on earlier panels, you have to look at the whole
9 thing, you have to look at things holistically. Life
10 cycle analysis can help on that, but you really have to
11 look at things as a system.

12 MR. KOHM: Is there any specific example you
13 have of a product that might be not natural but over a
14 lifetime analysis be more green in a broad sense than its
15 organic counterpart?

16 MR. GIRMAN: I do not think there have been
17 sufficient good analyses that show this, but let me throw
18 one thing out that might be interesting to at least one
19 panelist. That is that linoleum is often touted as being
20 an environmentally friendly product and the reason is
21 because it is a natural product, although I have never
22 seen a linoleum tree, perhaps you have.

23 **(Laughter.)**

24 MR. GIRMAN: So, it is really composed of many
25 things. But the thing is Tunga Sawhammer (phonetic) in

1 Germany has tested a lot of products, both natural and
2 synthetic, and he found that many natural products are
3 much higher emitters of VOCs, linoleum, in general, being
4 a much higher emitter of VOCs than vinyl, for example.

5 Now, that is half the story, getting back to
6 what you said earlier, because the thing is you have to
7 also look at what things are being emitted and for how
8 long and what their health effects are. So, it is a very
9 complex thing that you have asked.

10 MR. KOHM: Tom?

11 MR. REARDON: Yeah, I just support that. I
12 think it is very easy to make well-intentioned single
13 attribute claims or even multi-attribute claims that do
14 not necessarily look at the whole story and potentially
15 give a misleading impression to what could be a somewhat
16 uninformed consumer.

17 MR. KOHM: Can you give us a hypothetical
18 example -- they do not have to be specific companies or
19 ads -- of where that might occur?

20 MR. REARDON: Well, I mean if you are --

21 MR. KOHM: Now, everybody is on notice that I
22 ask for examples all the time. You can think in advance.

23 **(Laughter.)**

24 MR. REARDON: I did not bring anything to share
25 with the class.

1 MR. KOHM: If you brought some, it would have
2 to be enough for everybody.

3 MR. REARDON: And I was not sure how many to
4 expect.

5 **(Laughter.)**

6 MR. REARDON: Any claim about energy
7 consumption of the product, I mean, that is looking at a
8 very specific attribute, but it does not address
9 emission, it does not address embodied energy that was
10 used to create the product or how recyclable the product
11 is. Sustainability is just so multifaceted that really
12 looking at any one single attribute really opens the door
13 for misperceptions.

14 MR. KOHM: I want to come back to the single
15 attribute, but first, John Spears.

16 MR. SPEARS: I have an example for you. One of
17 my pet peeves is a product that claims, this is under the
18 category if it sounds too good to be true it probably is
19 not, claims that a paint has an insulation value as good
20 as a fully insulated wall that might be six inches thick.
21 And they make the claim, they site its R value, which is
22 a single attribute, and they claim it is NASA tested,
23 therefore, it gives it credibility. But it is
24 misrepresenting totally the term "R value," but R is the
25 number that everybody relates to so it is a number people

1 think is the actual attribute you are looking at. So,
2 they are using the terms incorrectly.

3 Giving it credibility by giving it, you know,
4 NASA tested, there are no -- and even the like ASTM
5 standards that they will claim for the testing do not
6 really give you technically an R value. So, if you took
7 this paint, painted it on your wall and assume that it is
8 going to cut the heat loss of your building the same as a
9 fully insulated wall would, you are not going to get that
10 performance because, I mean, technically what they are
11 doing is they are claiming the performance in radiant
12 heat transfer and not in conductive heat transfer and R is
13 not the right value for doing that.

14 The other one has to do with insulation in
15 general, the difference between types of insulation and
16 their various attributes. For instance, the difference
17 between a loose fill insulation in a wall and a foam
18 insulation which might fill a cavity and make that cavity
19 actually airtight as well as making it insulating. A
20 poorly insulated wall with a loose fill insulation is a
21 very leaky wall and probably will not even come close to
22 achieving the values that are specified by the material
23 in a standard product test of that material under ideal
24 conditions. You foam that same wall and you get
25 significantly better performance because you have reduced

1 air infiltration, the performance is more like the
2 standard test method conditions when you get it.

3 So, there is lots of variety in claims when you
4 take a single component performance factor that may be
5 tested with an ASTM test and very valid, but when it is
6 applied in the field it has very different performance
7 characteristics.

8 MR. KOHM: Okay. We are going to go to Sophia
9 first, but before we do that, I want to tell the panel
10 what my next question is going to be and give you some
11 time to think. It springboards off John's last comment.
12 What are the one or two worst kinds of claims that you
13 are seeing in your area in the marketplace now?

14 Sophia, first to you?

15 MS. GREENBAUM: I guess this can kind of tie
16 into that, but I just wanted to take a step back. You
17 were talking about consumer knowledge and I think
18 consumers, at this point, are up against two things, it
19 is the lack of technical knowledge of building and the
20 building industry and building products, but also the
21 building systems, and also the amount of eco fluff that
22 Kirsten mentioned before. And I think until we can
23 really gauge where consumers are and where their
24 understanding is, it is going to be a challenge to
25 provide a good context for some of these environmental

1 building claims.

2 MR. KOHM: Can we just go down the line and if
3 you can tell me kind of what the worst things you are
4 seeing, the one or two worst things you are seeing in the
5 marketplace now?

6 MR. BLAKEY: I think, in addition to being free
7 of something, it is comparative claims that are based on
8 very little data or no data. Sometimes they are single
9 attribute comparative claims, sometimes they are tied to
10 a website that some group has put up that is perhaps a
11 pressure campaign organization and it is clear to us, it
12 seems clear to us that the marketing organization has not
13 really investigated, it has not done its own research or
14 investigated the quality of the research that leads to
15 the claims on the website that they are linking to.

16 Six degrees of separation, I guess we would
17 say, as we mentioned in some previous comments.

18 MR. KOHM: Christine?

19 MR. CHASE: I guess I would say, I do not know
20 if they are necessarily the worst, but some of the ones
21 that I have seen that have been my pet peeve are sort of
22 the earth-friendly and safe for people, planet and
23 yourself or something like that. I saw one ad campaign
24 with a baby with a cleaning product and it sort of
25 implied that it would be safe for a baby, which all

1 products have impacts as far as environmental goes, but
2 particularly products that, you know, have chemicals in
3 them. Maybe they have sort of bettered them. That is
4 one certain thing, but I do not think any cleaning
5 product would be safe for your baby to drink, and that
6 implication, I think, is definitely a dangerous one to
7 make.

8 That is something that we definitely try to
9 keep at bay and provide a certification and provide a
10 standard to show that it is a comparative product and not
11 necessarily an absolute.

12 MR. KOHM: Thank you. John?

13 MR. GIRMAN: Yeah, I do not monitor ads like
14 that, so I am having trouble coming up with examples.
15 But one thing that strikes me is occasionally you will
16 see a claim that green buildings have X percent better
17 indoor air quality and there is no way of knowing how
18 they measured that, if there was really a study that did
19 that or what that means.

20 Another one that might be a little off target,
21 but it is nonetheless a problem because it comes up many
22 times, and that is the use of plants, and they are green,
23 as air cleaners indoors and the claims that are made are
24 pretty outrageous.

25 MR. KOHM: Sophia?

1 MS. GREENBAUM: Right now in the current Green
2 Guides there is a principle that addresses packaging and
3 addresses where the Mobius strip of recycling is put on
4 the packaging. So, it is describing either the packaging
5 or the product, but should not be ambiguous. And I think
6 one of the things that we could do better in our industry
7 is distinguish more between professional accreditation,
8 membership in an organization and product or building
9 certification. Because sometimes you can go to a design
10 professional's website and if they have the logo of a
11 certain organization, it might make you think that all of
12 their products or their entire portfolio will be Energy
13 Star when it is really taken out of context.

14 MR. KOHM: Thank you. Tom?

15 MR. REARDON: I was having a hard time coming
16 up with a specific example, but one just came to me. I
17 did see an advertisement recently where the product
18 manufacturer was saying that this certification that they
19 were claiming compliance with was required for LEED
20 certification. And, you know, LEED is a credit-based
21 system. They are all optional, so there really is no
22 credits that are required for LEED certification. So,
23 that was very misleading.

24 But I think most of the time it is really a
25 matter of vagueness, you know, eco friendly,

1 earth-friendly kind of thing. The manufacturer, I think
2 most of the time, just wants to jump on this green
3 marketing bandwagon and say something. It is fairly
4 obvious that they are not aware of the FTC guidelines in
5 this regard and maybe some education and awareness in
6 that regard would help them make more appropriate claims.
7 I do not know that it is really malicious, I think it is
8 just uninformed.

9 MR. KOHM: John?

10 MR. SPEARS: The one I come across all the
11 time, I told you my pet one which was the insulation
12 paint. But the one I come across all the time a product
13 manufacturer -- and then this is not in their printed
14 material, it is the salesman pitching you. Oh, well, our
15 product, all our products are LEED certified.

16 **(Laughter.)**

17 MR. SPEARS: Well, LEED does not certify
18 products. But they are pitching that out there all the
19 time. And you hear it everywhere, at the trade shows and
20 stuff. Our product is LEED certified.

21 MR. KOHM: This is an area, in green marketing
22 in general and buildings in specific, where certification
23 seals make a lot of sense because the way we describe it,
24 because we have so many economists at the FTC, is that
25 these are essentially credence goods at least as to their

1 green components. In other words, if I had an apple and
2 was selling it and told you that it was red and delicious
3 and juicy, you could bite into the apple and then tell if
4 I was telling the truth and then you could complain to
5 the FTC or you could complain to the person who sold it
6 to you or you can exercise your right and not go back and
7 buy apples from that person again. That is much more
8 difficult with a lot of green claims. And, so, there is
9 a real role here for certifications and seals.

10 I just wanted to ask Sophia, in particular, and
11 anybody else who wants to pipe in, are we getting to kind
12 of certification overload? Are there so many
13 certifications that it is hard to get the message out?

14 MS. GREENBAUM: I think there definitely are a
15 lot. That is hard to -- you cannot argue with that
16 point. But I think that the certifications provide a
17 certain efficiency to consumers and design practitioners
18 and so long as they can find explanations of those
19 certifications, I do not think it is a problem.

20 When I was looking at this panel and some of
21 the topics that we were going to discuss, I was imagining
22 that perhaps we could recommend that the FTC provide the
23 registry of these certifications. But there are already
24 organizations that are doing that and the building
25 industry has been good with filling those voids. I

1 believe there is a group that is run by Consumer Reports,
2 they have a website greenerchoices.org and they do not
3 deal with all of the building certifications that are out
4 there, but they provide a good template for starting to
5 look at just check boxes, is the certification program
6 vetted by a third party, is it consensus-based, is it
7 transparent.

8 So, tools like that are helpful and I think the
9 certificates are worthwhile because they add
10 efficiencies. It is those claims that do not have a
11 context that make it more challenging for consumers to
12 sort out.

13 MR. KOHM: Okay.

14 MR. REARDON: If I could add.

15 MR. KOHM: Okay, Tom?

16 MR. REARDON: I definitely support that. I
17 think the most important thing to the consumer is the
18 question of what is this claim based upon. Ideally, from
19 my opinion, it is based on an open, publicly available,
20 consensus-developed standard so that the consumers can
21 know exactly what the criteria was and what it conforms
22 with.

23 Secondly is who is making that claim? Is it
24 a first party claim made by the manufacturer? Some
25 customers may have less credence and credibility in that.

1 Is it a second party claim? Is it a third-party claim
2 being made by some independent organization?

3 But, yeah, first and foremost, what is the
4 claim based upon and then, secondarily, who is making the
5 claim. And in our marketplace, with this proliferation
6 of logos and identities ideally, regardless of who is
7 making the claim for certification, they should be using
8 the common mark of conformance to the underlying
9 standard. So, again, whoever is making that claim, it is
10 the same identity being transferred to the marketplace
11 and a consistent message going forward.

12 MR. KOHM: Allen?

13 MR. BLAKEY: I just wanted to take a little
14 different tack and say, first off, I think competition is
15 a good thing. I think that is what you all would
16 probably agree with. And, so, indeed there may be more
17 certification and standards bodies than we can figure out
18 which ones to use. But I think competition is a good
19 thing in that.

20 But we have a concern that there is openness
21 and transparency and then there is openness and
22 transparency. Some third-party organizations, we
23 believe, are financial conflicts of interest with
24 industry representation and financial conflicts are well
25 recognized and there are lots of rules for that. But

1 there is another kind of bias. There is ideological
2 bias. And we believe that there are certification bodies
3 that are suffering from ideological bias and that this is
4 an anti-competitive result. And I believe that it would
5 be in FTC's interest, it would be in consumers' interests
6 -- and it is my understanding that you do have an
7 extensive history of looking at antitrust aspects of
8 standards and certifying organizations.

9 MR. KOHM: The FTC does, that is correct.

10 MR. BLAKEY: The FTC does. This is an issue
11 that perhaps the FTC would be interested in looking into.

12 And how does an organization ensure that it has
13 balance among its representatives? In a building, if a
14 standards body has an industry representative on a
15 building standard, how can you have one industry
16 representative for all of the industries that are
17 involved in putting together a building? Is it the
18 building materials, is it the energy systems, the water
19 systems and so forth? So, I think there are questions
20 that need to be asked about the true openness and
21 transparency.

22 A third aspect I just wanted to mention is that
23 sometimes openness and transparency has to do with the
24 general vote once the standard provision has been issued,
25 but the development of the standard provision or the

1 policy is done in a very non-open, selective, exclusive
2 group that does not have adequate representation in our
3 view.

4 MR. KOHM: Christine?

5 MS. CHASE: I think, Allen, your points are
6 well made and you definitely want, when you have a
7 standard setting body, particularly a credible one, you
8 want it to be based on scientific rigor and make sure
9 that you have a balanced representation of people at the
10 table when you develop that standard, so that when you
11 are moving forward, you have something that is meaningful
12 and also addresses all the different issues.

13 I think one of the things that I was just going
14 to address about sort of the multitude of different
15 standards out there is that, you know, some of the things
16 that we are facing is that there are a lot of different
17 standards and what we are trying to do is sort of a more
18 of educational and awareness and sort of a lot of it is
19 knowing your certifier, who is behind it and who is sort
20 of creating it. How a standard is created, that is a
21 very important factor as well. And then looking at some
22 of the different issues as far as openness, transparency
23 and whether it is a profit driven or non-profit, and
24 those sort of ideas.

25 I do not necessarily know if it is something

1 that -- I think some of the underlying principles may be
2 something that FTC can touch upon, but definitely I would
3 say from a greater consumer awareness point of view,
4 definitely understanding the certifying body is an
5 important factor to consider.

6 MR. KOHM: Is there a way that the FTC can
7 promote that understanding?

8 MR. CHASE: I think that maybe some of the --
9 looking at the Green Guide, they do have a specific area
10 that talks about eco labels and seals and perhaps
11 definitely embellishing that and being more descriptive,
12 perhaps giving examples and that sort of thing within the
13 context of the Green Guides would be very helpful I
14 believe.

15 MR. KOHM: I will not put you on the spot right
16 now, although if you want to be you are welcome to. But
17 if you or other people want to comment on what some
18 examples are that we might give in that space, that would
19 be very useful.

20 John Spears?

21 MR. SPEARS: Referencing your question about is
22 there a proliferation of standards out there or guides or
23 labels, looking at the consumer in a residential home
24 market, there is really only one label out there that has
25 market penetration that people are aware of. There are

1 others that are moving into that, but Energy Star is
2 clearly the lead in the market for labeling of energy
3 efficient buildings.

4 There are standards out there for indoor air
5 quality. The American Lung Association's Health House,
6 for instance, is one that works very hard to address
7 that. And, again, it is a set of attributes that you
8 either meet or you don't to get that label. But it is
9 not well-known or widely out there.

10 And then at the consumer level the appliances,
11 again, it is Energy Star which, in my mind, has really
12 been the moving force to get the consumer to look at
13 energy, look at indoor air quality, look at water
14 conservation, and to provide a reference to go by. The
15 other standards are probably much more focused towards,
16 or guidelines, using the correct term, are probably more
17 focused towards the professional that are building the
18 buildings or designing the buildings. Like LEED is much
19 more oriented to the architects and the builders than it
20 is to a consumer. The same thing with many of the other
21 systems.

22 So, you got to really look at the market for
23 the rating. Who is it communicating to?

24 MR. KOHM: Question from the audience. What
25 are the most pressing issues in indoor air quality and

1 green building at this time? What claims are being made
2 in this area that concern you? And why don't we start
3 with John Girman.

4 MR. GIRMAN: I think one of the biggest
5 problems in terms of indoor air -- first of all, let me
6 set the stage. We believe there's really a hierarchy in
7 terms of controlling indoor air quality sources,
8 ventilation and then air cleaning in some cases. So,
9 addressing sources first as the thing that -- most of
10 what we are discussing right now, I think that one of the
11 biggest problems is the fact that we build buildings and
12 test products one by one. And, so, we do not build on
13 previous knowledge.

14 And if I can just dream for a moment, I wish
15 that every product that we tested would be identified as
16 far as what it was, who made it and everything else and
17 go into a database. So, then the person down the road
18 who builds a building and wants to use similar products
19 could just access that database and find out what it is
20 without having to pay the expense of testing that product
21 again. We are doing it one by one by one. It is a very
22 expensive and time-consuming way of doing things and it
23 means buildings are not being built green than could be
24 otherwise. So, if there was some way to translate the
25 knowledge we have from existing building and existing

1 testing into future buildings that would make me very
2 happy.

3 MR. KOHM: Anybody else want to comment?

4 MS. CHASE: Yeah, I just want to reiterate what
5 John said. I think a lot of times the indoor air quality
6 is being impacted by a variety of different sources. So,
7 it is a combination of the paints that you use, of the
8 cleaners that you bring in, of the furniture, of the
9 carpet, of the wall covering and, so, that sort of
10 combination of different factors definitely contributes
11 into, and then you sort of look at the building and how
12 it is ventilated and that sort of thing and there are
13 factors to consider, different. So, that, I think, would
14 be definitely a very difficult way to check or to average
15 the impact of the overall indoor air quality of the
16 environment.

17 MR. REARDON: Just add to that and maybe expand
18 on it a little bit. There are relatively static sources
19 of indoor emitants, air pollutants, whether it is a piece
20 of furniture, the carpet or a wall covering, and then
21 there are continual sources, like copy machines and
22 things like that that -- and even human beings. I mean,
23 we emit VOCs in our deodorants, in our mouthwashes and
24 things that we bring into the workplace, too. So, it
25 really is a multifaceted perspective we need to take.

1 MR. KOHM: John?

2 MR. SPEARS: I think one of the things that the
3 FTC could do is eliminate this whole notion that John
4 just brought up about the fact that there are sources, so
5 when you buy a product to put in the building or when you
6 bring materials into the building, you can look at the
7 ratings of those materials and at what their emissions
8 are. The building is actually a system, so you need to
9 look at ventilation and how that then controls those
10 sources, the ones that you build the building with as
11 well as the ones that you bring in on a daily basis.

12 And then the third one is the cleaning. A lot
13 of times you see claims from air cleaning companies that
14 that is the silver bullet that is going to make your
15 building pristine. But, in fact, it does not necessarily
16 do that. It is just part of the system's approach. So,
17 you have really very different categories, very different
18 audiences, again, for the standards. And when you get to
19 the consumer, you really have to have a standard that is
20 the system's look at the whole system, how it is put
21 together, and then the manufacturers and the
22 professionals that design the buildings need to look at
23 the individual components and how they go together.

24 MR. KOHM: Let me ask you all kind of the
25 \$64,000 question. And I will let anybody start who

1 wants, and if nobody wants to be the first one, then I
2 will pick somebody. What are one or two revisions that
3 you think would be most useful that the FTC could make to
4 the Green Guides?

5 Allen's going to be on the block if he does not
6 -- if somebody does not help him out here.

7 MR. BLAKEY: Opinions do not count, you need
8 data. The reiteration of the inappropriateness of these
9 broad eco friendly sustainability -- I know that
10 sustainability is a process, not an endpoint. It is a
11 management tool. Perhaps there are appropriate ways to
12 use these terms, but I think that is something FTC needs
13 to look at. Opinions do not count. Some of the broad,
14 sweeping terms. The more you can measure it, the more
15 you can show it with data, the better off life cycle data
16 is. Is it perfect? No. Is it easy? No. It is
17 complicated. There are gaps in life cycle comparisons.

18 But if you do not have life cycle data
19 comparing two products -- and it is a very narrow
20 science, you cannot really do a life cycle of a material
21 versus a material because so much depends on the
22 particular application. But absent full data to support
23 your claim, you are really not able to justify it.

24 MR. KOHM: Thank you. Christine?

25 MS. CHASE: I guess I will just sort of build

1 upon what Allen said and a lot of it I think has to do
2 with substantiation. So, if you are making claims, be it
3 overly broad or that sort of thing, show what you are
4 creating, the proof of why you are making that claim. I
5 think if there is a basis, if there is a third-party
6 certification involved or not, what is making you make
7 the claim, and then do so in a context that has sort of a
8 life cycle consideration so you can avoid some of these
9 hidden trade-offs.

10 MR. KOHM: John?

11 MR. GIRMAN: I think that the two previous
12 responders really listed it very nicely. I think bring
13 the data, have the data available, the transparency of
14 the certification, what it means. It is also useful to
15 have in the guide what it does not mean and there are
16 some things in there you might want to go into in
17 certification in a little more detail.

18 One thing that I think consumers need to know
19 is that this is an area that is evolving and changing
20 fairly rapidly. So, what is true last year may not be
21 true this year. So, they need to keep on top of things
22 and use current information.

23 I think that one thing that consumers sometimes
24 get confused about because it is never discussed is the
25 difference between emissions versus the formulation or a

1 content of a product. Those are two different things and
2 they are looking at two different outcomes. For example,
3 emissions might be more related to health and indoor air
4 quality whereas the content might be more related to
5 sustainability and the ability to recycle and reuse the
6 product. So, I think that people need to know that all
7 certifications are not created equal.

8 I mentioned earlier about when a product is
9 tested and what it means in terms of trying to interpret
10 what the emissions might mean. I think another thing
11 that is very important, if you are testing for chemicals,
12 what were the chemicals you tested for? And that list is
13 very important because nobody is going to be able to test
14 for everything and, so, you need to know what things
15 might be overlooked that might be important and I think
16 consumers need to know that.

17 Another thing, I do not know the extent to
18 which it comes up now, but I predict that it will in the
19 future, is that total volatile organic compound content
20 is a very poor indicator of health. It is used that way
21 as a surrogate, but it just does not work. There have
22 not been studies, at least very, very few studies, that
23 suggest even that you can use TVOC or total volatile
24 organic content as an indicator of health and, yet, it is
25 a very cheap and inexpensive way of doing it so a lot of

1 folks love it. You can do it, but it is like looking for
2 the key under the lamppost.

3 MR. KOHM: Do you think that is what is being
4 conveyed when people talk about VOCs?

5 MR. GIRMAN: I think sometimes that is what
6 people have in mind. If it has not occurred yet it will
7 because it is such a cheap and easy way to do emissions
8 testing and it is what some people will gravitate towards
9 unless we educate consumers.

10 I should also say we are talking about
11 consumers, we are not just talking about the public. If
12 an architect is asked to build a green building or
13 intends to do that, some of the architects are not very
14 well educated, also. Some education has to go to them.
15 And product specifiers are not very well educated, too,
16 about the large list of attributes that we talked about
17 in various panels.

18 MR. KOHM: Can I just get you to lean into the
19 microphone a little bit. I'm sorry.

20 MR. GIRMAN: Sure, no problem. We need to
21 educate product specifiers about the large list of
22 attributes that we need to look at to really have a green
23 product. It is not just one or two things. They need to
24 consider all these things. So, there is education, not
25 just of the man or woman on the street, but the product

1 specifiers, some of the people in the building trades
2 themselves.

3 MR. KOHM: Sophia?

4 MS. GREENBAUM: A couple things change. To
5 reference what Carlos from NAHB mentioned earlier, I
6 would definitely distinguish between design and
7 performance of buildings. In the commercial building
8 industry, we are taking a look at performance metrics and
9 standards, but I do not think we are quite there yet to
10 be able to guarantee those based on design that is on
11 paper. I think that is an important distinction that
12 should end up in these marketing claims.

13 The second change, which Christine also touched
14 on, was embellishing the use of the labels, the
15 appropriate use of the labels. And, again, I mentioned
16 earlier whether it is a professional accreditation, an
17 organization membership label or a product label, they
18 need to be used appropriately.

19 And then the last change that I might suggest
20 would be expanding the environmental terms so that they
21 really address some of the marketing claims that are
22 being made for buildings and green buildings. Two of the
23 most common that might be pressing right now would be the
24 health claims and the energy efficiency claims.

25 MR. KOHM: Before we move on, let me just

1 explore a little further this idea of time because in a
2 building, the product is used over a much longer period
3 of time than packaging, for instance, or other consumer
4 goods. Do you think that it is deceptive not to or
5 misleading not to talk about time when you are talking
6 about the attributes of a building, for example, if you
7 have a certain energy efficiency that may degrade over
8 time or depending on use, and if it is, should the FTC be
9 saying in its Guides that it, in fact, is misleading if
10 you do not give a time period or you do not indicate that
11 your claim is time qualified? I would just open that up
12 to the group.

13 MR. SPEARS: Well, some of the standards
14 already take that into account, for instance, on foam
15 insulation, for instance, particularly, the rating that
16 they give that through an ASTM standard process is a
17 time-rated average over the life expectancy of the
18 product. The biggest issue is really maintenance. Is
19 the building going to be maintained because if the
20 exhaust fan craps out and nobody replaces it, then the
21 indoor air quality goes away.

22 MR. KOHM: Although you do not have to make
23 these claims through certifying bodies, you can make them
24 directly to the public. If one were to do that, then
25 there would be -- do they need to be time-qualified in

1 the same way the certification is? Any thoughts, Sophia?

2 MS. GREENBAUM: I would just cast it in terms
3 of performance maybe instead of the time because the
4 performance element captures that operations and
5 maintenance, and when you are designing the building, you
6 can make assumptions about how it will be occupied or how
7 it will be maintained, but those might not come to pass
8 if you do not have the training for the building owner.
9 But at the same time, it is a good start to start making
10 those assumptions, to design for a higher standard. But,
11 again, the performance is the issue.

12 MR. KOHM: John?

13 MR. GIRMAN: I think I am saying much the same
14 thing. It is not just time-qualified, but you have to
15 qualify that the appropriate maintenance and operation
16 has to occur for the building and building systems, and I
17 think that is something that needs to be stressed.
18 People very often have more control than they think they
19 do. Getting the product or a new building is one thing.
20 Taking care of it is another thing and we sometimes fall
21 down because we made the purchase and it should last for
22 how long, we can forget about it for a while, and you
23 cannot.

24 MR. KOHM: Let's move on with this general one
25 and then I have one more question. Tom?

1 MR. REARDON: I would definitely support all of
2 the suggestions made thus far and maybe reiterate
3 something that a speaker earlier today said, that to
4 remember that these FTC guidelines are not just for
5 retail consumers of products, they are for business
6 consumers of products, too. And I go back to the comment
7 I made earlier that I think increased education and
8 awareness would definitely be helpful here and it is
9 something like an organization like my own could probably
10 assist with making sure my members are aware of these
11 guidelines and helping coach them a little bit on
12 appropriate environmental claims as other industry trade
13 associations could also.

14 MR. KOHM: And industry trade associations are
15 a great way to get the word out. And if there are things
16 that, now or if you intend to, which I hope you do
17 comment later, if there are things that the FTC or
18 materials that the FTC could develop or provide that
19 would help industry trade associations get those kinds of
20 words out, that kind of word out to their members, then
21 that would be very useful for us to know.

22 MR. GIRMAN: Well, I commend you on this
23 exercise. Certainly, these things need to be reexamined
24 as our society advances and we have new perspectives on
25 this. I would also encourage you to try and keep it

1 simple, though. Simple and understandable for the
2 audience.

3 MR. KOHM: Well, just so you do not get the
4 wrong idea, our materials may be written in the first
5 instance by lawyers, but they have to go through non-
6 lawyers before they go out to the public.

7 **(Laughter.)**

8 MR. KOHM: They translate them into English.

9 John, do you have a general comment on two or
10 three things that you think would be most useful for the
11 FTC to do with the new Green Guides?

12 MR. SPEARS: Yeah, as I mentioned before, I
13 think for consumers, I am relating to the consumer, the
14 buyer of a house or the buyer of a product at Home Depot
15 to go into their homes, what would be really, really
16 useful, and this could also be useful for the
17 professional product buyer, but a very clear listing of
18 the major ratings, standards, certifications, labels that
19 are out there, and some description of them in terms of
20 the categories we have been talking about.

21 So, for instance, when a home buyer wants to
22 buy a house and go to the FTC guide and say, oh, well,
23 there are three different ratings I can use or I should
24 look for, then go to the home builder and say, are you
25 rated any of these, it would be a very simple process.

1 And then making it clear as to what those ratings are and
2 who is doing the rating and what is the process.

3 MR. KOHM: Thank you. Christine, a specific
4 question for you. How does Green Seal communicate the
5 specific environmental attributes that have been
6 certified to consumers to avoid the perception of a
7 general green claim?

8 MS. CHASE: I think that is a good question.
9 Something that Green Seal does is makes sure that all of
10 our standards are open and transparent. Each of our
11 different standards that we have developed are available
12 online. They are downloadable and people print them out
13 and use them. The benefit of this, not only is it the
14 same thing that we use whenever we certify a product, is
15 that also different people who would need to use it, be
16 it specifiers or government or just someone in general,
17 some people use it as a guide or pick out different
18 elements that they find important. All of those
19 different criteria, they are very specific and they are
20 laid out within a different category online.

21 MR. KOHM: The Canadian government has recently
22 promulgated guidelines that indicate that a general green
23 claim has to be supported by a full life cycle analysis.
24 Do you all think that is a good idea? Is that something
25 the FTC should look into or does that have competitive

1 problems? Tom?

2 MR. REARDON: I think it is definitely a
3 worthwhile aspiration and the direction that we want to
4 head. I am just not certain that the data and the
5 science has developed to the point that it is truly
6 viable yet.

7 MR. KOHM: Anybody else? Okay. I am sorry, go
8 ahead, Sophia.

9 MS. GREENBAUM: I would just echo Tom's
10 sentiments just to say that there is not necessarily a
11 single methodology out there for establishing those life
12 cycle analyses.

13 MR. REARDON: But, ultimately I think that is
14 nirvana.

15 MR. BLAKEY: I guess I agree with those
16 comments. But if you are making a general green claim,
17 that does imply so many things in buildings. Energy,
18 water, materials, indoor air and so forth. And I think
19 one could make the case that you do need almost life
20 cycle type data. You certainly need more than if you are
21 making a single attribute claim.

22 MR. KOHM: Christine? Oh, I'm sorry. Go
23 ahead.

24 MR. BLAKEY: Just the last thing is I am not an
25 expert on the life cycle databases and methodologies, but

1 my understanding is that they are growing. I mean, there
2 are many gaps in the life cycle data of every product and
3 when you are doing life cycle comparisons, you end up
4 doing apples and oranges. But the more data that is
5 contributed and the more it is peer-reviewed, I think the
6 sounder, the larger, and the more effective the ability
7 to do this becomes.

8 MR. KOHM: Christine?

9 MS. CHASE: Yeah, I think the really important
10 thing here is one of the things, the idea is certainly to
11 have a life cycle approach. But I agree with what has
12 been expressed before is that there is a lack of data and
13 sort of a lot of different methodologies and you do not
14 really want to be bogged down -- sometimes I think it is
15 definitely very important and something that we are
16 striving towards, but you do not want to stop everything
17 in order to do a full life cycle analysis before you can
18 sort of proceed forward, but definitely something you
19 strive towards.

20 MR. KOHM: John?

21 MR. SPEARS: Well, there is is life cycle
22 analysis and then there is life cycle analysis and then
23 there is cradle-to-cradle analysis. The terms are
24 general; the methodologies are varied. I think we are
25 probably more interested in what has been termed cradle-

1 to-cradle analysis rather than life cycle analysis
2 because where do you end the life cycle of a product?
3 And, so, if you are going to say we should say life cycle
4 analysis, there needs to be a whole discussion what that
5 is.

6 MR. KOHM; Okay. We have had a long day and
7 you all have been up here for a long time, but I just
8 want to give everybody one last chance. If there is
9 something you've heard today or something you want to
10 communicate to the FTC or the audience, this will be the
11 last question.

12 I'm sorry. Allen?

13 MR. BLAKEY: Once again, I feel like I am late
14 on the draw here. Thank you for the opportunity. I
15 would encourage -- I know you asked a question at an
16 earlier panel today what can the FTC do. I would
17 reiterate what I think someone said earlier, workshops,
18 work through trade associations. I think there is a need
19 for FTC to raise the consciousness and awareness of the
20 marketplace. Thank you.

21 MR. KOHM: Okay. John?

22 MR. GIRMAN: I think one of the difficult
23 things that is facing all of us in this and it is not
24 just FTC's job, but to be able to define what it really
25 means to be green, what the attributes are. Unless we

1 can agree on some common understanding of what that
2 means, it is going to be very difficult to define the
3 rest of the things on what we should or should not be
4 doing and how we should discuss that. So, I think that
5 is one of the first tasks. And as I said, I would love
6 it if FTC did it, but it probably involves a much larger
7 community to do that.

8 MR. KOHM: Thank you very much. At the
9 beginning we promised that we would start and stop on
10 time. The hidden promise is that we would stop a little
11 early.

12 To all our distinguished panelists, to
13 everybody who has stuck it out with us today, all day,
14 and to everybody across the country and across the globe
15 who watched on the webcast today, thank you very much. I
16 want to remind everybody, as I did this morning, that
17 this is part of the process of developing the Green
18 Guides. The record is open until August 15th and we hope
19 that all of you will take the time to comment. You can
20 do that on the website.

21 And, again, when you are commenting, we are
22 very interested in what kind of claims that are out there
23 that are problematic and what kind of guidance the FTC
24 can give to help marketers and sellers not step over the
25 deception line. That is really the line we are looking

1 for. We are not an environmental standard setting
2 organization. And, in fact, we are not an environmental
3 organization at all. So, we are not looking to what is
4 the optimal environmental solution. We are looking for
5 the solution that allows for competition of these claims
6 on a non-deceptive basis.

7 Thank you all for joining us and we hope to see
8 you at our next workshop.

9 **(Applause.)**

10 **(Whereupon, at 4:47 p.m. the workshop was**
11 **concluded.)**

C E R T I F I C A T I O N O F R E P O R T E RMATTER NUMBER: P084203CASE TITLE: ECO IN THE MARKET - GREEN BUILDING AND
TEXTILESDATE: JULY 15, 2008

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

DATED: AUGUST 6, 2008

ROBIN BOGGESS**C E R T I F I C A T I O N O F P R O O F R E A D E R**

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

ELIZABETH M. FARRELL