

January 3, 2023

The Regreening of the FTC “Green Guides” – FTC Seeks Public Comments in 2023

One of the resolutions on the Federal Trade Commission’s list in this new year is the revision of its Guides for the Use of Environmental Marketing Claims (the “Green Guides”), 16 C.F.R. Part 260.

The Green Guides provide guidance on environmental marketing claims. They outline the FTC’s position on how such claims may be substantiated so as not to run afoul of Section 5 of the FTC Act, which prohibits unfair and deceptive trade practices. The Green Guides, however, were last updated in 2012, over 10 years ago. Clearly, in the last decade, there has been an increased focus—by companies, consumers, and regulators alike—on environmental and sustainability issues. As a result, the FTC now seeks comments by **February 21, 2023** on potential updates and revisions to its Green Guides.

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Interestingly, the FTC seeks both general and specific comments concerning the Green Guides. With respect to the “General Issues” for which the FTC seeks comments, these include but are not limited to: the continuing need for the Green Guides; the costs and benefits of the Green Guides; any proposed modifications; the interaction with federal, state, local, and international laws, regulations, and standards; and the need for FTC rulemaking in this area.

Further, the FTC seeks comments on the following specific environmental marketing issues and claims that, in the FTC’s words, “have generated increased attention and interest over the last several years”:

- **Carbon Offsets and Climate Change-related claims, including “net zero,” “carbon neutral,” “low carbon,” or “carbon negative”**
- **“Compostable”**
- **“Degradable”**
- **“Ozone-Safe/Ozone-Friendly”**
- **“Recyclable”**
- **“Recycled Content”**
- **“Energy Use/Energy Efficiency”**
- **“Organic”**
- **“Sustainable”**

In addition to seeking comments on whether the current guidance in the Green Guides regarding the specific claims should be revised and the nature of guidance that the FTC should provide, the FTC seeks evidence supporting the comments. With respect to “**organic**” and “**sustainable**” claims, the FTC refers to its prior decisions to decline to issue guidance and seeks comments on what, if any, guidance to provide on these claims.

For further information on the FTC Green Guides updates and comments, please contact [Chong S. Park](#) or your usual Ropes & Gray attorney.