



June 5, 2009

Testimony to House Sub-committee on Commerce Trade, and Consumer Protection hearing -- "It's Too Easy Being Green: Defining Fair Green Marketing Practices"

Consumers Union, the non-profit publisher of Consumer Reports, appreciates the invitation by the House Sub-committee on Commerce Trade, and Consumer Protection hearing, "It's Too Easy Being Green: Defining Fair Green Marketing Practices" to share our perspective.

I am Urvashi Rangan, Ph.D. and Director of Technical Policy for Consumers Union, non-profit publisher of Consumer Reports. I am an Environmental Health Scientist and provide technical support to our research and testing and help develop advice, policy recommendations and advocacy initiatives on a wide array of environmental and public health issues. I also direct Consumer Reports' Greenerchoices.org, a free, public-service website, which disseminates wide ranging reports on the green marketplace, including an eco-labels database, that gives consumers our evaluation and ratings of more than 150 environmental claims including those found on food, personal care products and cleaners. We also advocate for stronger labeling standards across a wide range of products.

There are broad and specific challenges in defining fair green marketing practices and we believe that the government has a very important role in guiding and protecting this marketplace. Consumers are faced with a dizzying array of labels—some which are very specific and discreet, like "no phthalates" to those that are vague and not well defined, like "natural" and "green." This marketplace is incredibly confusing for consumers and filled with a lot of noise that can be misleading and at times, deceptive. Often, consumers are presented with claims that sound better than they are ("carbon negative"), have minimal standards ("natural") or no standards ("non-toxic") while there are also meaningful, certified labels to choose. Of the certified label programs, there are several viable business models including public, private, non-profit, for-profit—that may or may not be of interest to a particular consumer. Some claims have comprehensive standards behind them with robust verification (certified labels) while many do not (general claims). But it is difficult to impossible for consumers to make accurate assessments of green claims in the marketplace on their own. The Federal Trade Commission's role in reducing deceptive marketing practices is necessary and should be broadened. At the same time, the baseline for good marketing practices and minimum standards for common claims should and could be established.

Consumers are currently faced with a huge learning task that better guidance and regulation could reduce. Requirements for transparency in standards and product information, such as ingredient lists, should be standard for all products being sold with green claims. Government regulation and guidance would be helpful in maintaining universal requirements for credible green marketing practices.

Consumers Union has been rating the meaning of green labels for consumers for the last ten years. We measure the value of green claims over conventional production practices in order to help consumers make the most informed purchasing decisions, especially where there may be an associated premium. The following is a list of criteria and typical questions or issues we consider, with the first two about meaning and verification being the most important:

Meaning: How meaningful is the label (with ratings of highly, somewhat, or not)

- are the standards credible?
- have the standards progressed over time?
- does the claim accurately represent the standards behind it?

1. **Verification:** Is the label verified (rating: yes / no)
 - many general claims are on the market which are not verified but impossible for consumers to know
 - types of verification can range from none to onsite inspection
2. **Consistency:** in meaning across products (rating: yes / no)
 - does the claim mean the same thing across products that it is found?
3. **Transparency:** Are the standards and labeling organization information publicly available? (rating: yes / no)
 - is enough product information disclosed so claims can be analyzed effectively?
4. **Stakeholder input** -Were the standards developed with broad public and industry input? (rating: yes / no)
5. **Independence**—Were the decision making bodies within both the standard-setting and verification arms free from conflict of interest? (rating: yes / no)

In evaluating claims, we provide consumers with comparative rating snapshots. Examples of these comparisons can be seen in a recent presentation made to the American National Standards Institute on sustainable product standard setting¹.

Based on our experience of rating and monitoring label claims in the green marketplace, we have identified a few trends. Comprehension and accessibility are challenges for all green claims. Whether specific or broad, the maintenance and evolution of standards over time must be addressed. Consistency in the meaning of standards across different

¹ Rangan, Urvashi. A purchaser's / consumer's perspective on setting product standards for sustainability. American National Standards Institute meeting, April 8, 2009.

product categories can also be a challenge. And the ability to respond and incorporate emerging marketplace issues, especially around health / safety (bpa, phthalates, mad cow) is another hurdle for label standards and programs. All of these challenges increase with the complexity of a label.

And yet the green-ness or sustainability of a product is a complex subject. There are often many attributes to a product's sustainability like the social, environmental, and health aspects from production through to disposal. Green marketing claims can be very specific or very broad with the latter being much more difficult and challenging, that can require more consumer education to launch and more maintenance (standards development and evolution) to keep current over time—which then requires additional consumer education. For these reasons, consumers tend to better understand labels that are discreet and can better decipher the meaning of a group of discreet labels compared to a single large multi-attribute label. When a set of sustainability practices has become defined and well understood, then combining labels or standards can be accomplished more coherently. For example, there are labels that address well-understood and defined practices, like energy or water usage, and newer, innovative labels that may need to compete in the marketplace until well understood or defined practices evolve, like the elimination of toxic materials within a given production system or manufacturing that allows for the easiest recycling.

Consumers Union believes that that government could help provide guidance for green marketing in three main areas including:

1. Eliminating or better defining meaningless label claims in the marketplace

Voluntary, general claims like “natural,” “carbon negative,” “non-toxic,” “free range” have little to no meaning and no verification. There should be minimum meaningful requirements that these claims should have to mean (and perhaps disclosures about what they don't have to mean). The type of verification (or lack thereof) should also be disclosed on the product. In some cases, like “natural,” the term is so vague and difficult to establish standard meaning that prohibiting the use of certain label claims may also be necessary toward reducing green noise in the marketplace.

2. Setting baseline practices for all green marketing claims

We believe that the best labels meet all of our criteria for good labeling. However, there should be a floor established that ensures full transparency of label programs and products that are labeled with green claims. For example, ingredient lists, where relevant, should be fully disclosed. There currently is no requirement for cleaning labels to disclose all ingredients and yet, the green cleaning marketplace is filled with claims. Other considerations for baseline practices could include verification requirements, accreditations (oversight of programs), and meeting minimum claim definitions.

3. Hold government labeling programs to the high standards with regard to practice and standard setting and ensure independence of standards and verification

Government-based green labeling programs should be independent, represent the interest and input from a broad range of stakeholders. They should also have rigorous standards that evolve over time. Where a premium is associated, for example with Energy Star or Design for the Environment, standards required should have to go beyond legal requirements and only a certain small percentage of a product market should be awarded premium labels. As more of a production market can meet a particular claim, it should signal an indication that standards need to improve. Marketing claim programs should have appropriate accreditations, oversight and adequate verification. There should be full transparency of information including how individual products are certified, whether all product ingredients are disclosed to allow consumers to make the most informed purchasing decisions, especially where they are paying a premium. This is not currently the case for EPA's Design for the Environment label. The label should have consistency in meaning across product types, which may require multiple agency coordinated efforts when label claims straddle many product areas that fall under multiple agency jurisdictions.

One final note, where policies are established in one product area, like the removal of certain phthalates from children's products, should all children's products (e.g. personal care products) also be required to meet that standard? Imparting consistency to policy recommendations will also help level the playing field for the use of green claims.

We appreciate the attention of the sub-committee to address problems and challenges in green marketing. Consumers Union believes that the government has an important role establishing fairness to this marketplace and that decisions made in one sector could benefit claims made in another.