

FTC leads efforts to reduce 'greenwashing'

By Harvey Berman

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On Sept. 10, the Federal Trade Commission (FTC) [filed a lawsuit](#) in California to stop a company from making unfair and deceptive statements relating to certain "green" products. The FTC alleges that Lights of America Inc. made false statements relating to the sale to consumers of LED (light emitting diode) screw light bulbs.

LOA's promotional material, product labels, and brochures, are said to have included deceptive statements regarding the LED's light output as compared with incandescent bulbs, the light output in terms of lumens, and the number of hours the lamps will last. While properly manufactured LED bulbs do provide certain benefits over incandescent bulbs, not all products or services are created equal, and some items simply do not match up to claims about their environmental benefits or performance.

Deceptive advertising practices relating to LED's are just the tip of the iceberg given the magnitude of green marketing. In June of 2009, James A. Kohm, an FTC official

speaking on behalf of the FTC, told the Committee on Energy and Commerce, Trade and Consumer Protection for the U.S. House of Representatives that "there has been a virtual tsunami of environmental marketing... a diverse array of industry sectors are touting the "green" attributes of their products and services."

Unfortunately, as with any new phenomenon, there are also businesses that are misrepresenting "green" products and services. The practice of making unsubstantiated or misleading claims as to the environmental benefits of a product, service technology or practice is called "greenwashing."

Other examples of greenwashing which were the subject of recent [FTC](#) lawsuits include false or unsubstantiated claims that certain products were biodegradable, were made of bamboo, were manufactured using an environmentally friendly process or had anti-microbial properties. Most of these lawsuits have been settled with the offending

businesses agreeing to stop making false statements about their products and services.

In addition to FTC lawsuits, there are other efforts underway to minimize greenwashing. The FTC has issued various Guides for the Use of Environmental Marketing Claims (16 C.F.R. Part 260) which are at the center of the FTC's efforts to prevent greenwashing.

The Green Guides provide useful information to help marketers avoid deceptive or misleading practices. Because of the proliferation of green claims, on Oct. 6, the FTC released proposed revisions to the Guides to make them easier for companies to understand and use. A copy of the proposed revisions is available at <http://www.ftc.gov/opa/2010/10/greenguide.shtm>. The FTC is now seeking comments on its proposals.

To combat greenwashing, Enviro Media Social Marketing and the University of Oregon have teamed up to create the greenwashing index at <http://www.greenwashingindex.com/>. The index seeks to make the public aware of false or misleading environmental claims by allowing persons to rate false or misleading environmental advertising. The index is based on a five-point scale with "1" being

authentic, "3" being suspect and "5" being bogus.

Another effort to limit greenwashing was initiated by Terrachoice Environmental Marketing Inc. Terrachoice authored a report in 2007 entitled "The Six Sins of Greenwashing." This report found that 99 percent of marketing claims relating to green products were false or misleading.

The six sins are the sins of 1) the hidden trade-off, 2) no proof, 3) vagueness, 4) irrelevance, 5) lesser of two evils and 6) fibbing. This report is available at: http://www.terrachoice.com/Home/EcoMarketer/Issues/05_2008_Seventh_Lesson.

Other efforts to minimize greenwashing and to increase consumer confidence in green products and services include the creation of industry and governmental standards for green products and services, improved labeling and certifications and attempts by organizations to increase public awareness of the greenwashing problem and the need for verification of marketing claims.

Because the attributes of green products and services are sometimes difficult to verify, suspicious marketing claims involving any major purchase should be carefully scrutinized.

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