



# Federal Trade Commission

---

## FTC Chairman Deborah Platt Majoras' Statement Carbon Offset Workshop Opening Remarks January 8, 2008

Good morning, and welcome to the Federal Trade Commission's Carbon Offset Workshop. From the sun belt -- to the rust belt -- to the beltway, consumers are showing increasing interest in environmental issues. Importantly, this interest may be influencing their purchasing decisions – in a recent *USA Today*/Gallup poll, more than 8 in 10 Americans said a company's environmental record should be an important factor in deciding whether to buy its products.<sup>1</sup>

Businesses have taken notice, and in the past year, there has been a virtual explosion of green marketing. NBC devoted an entire week to green programming, the current issue of *Good Housekeeping* includes a piece on "How to Buy Green (and not get fooled)," other magazines like *Vanity Fair* have released green issues, and retailers like Wal-Mart and Home Depot have launched green product lines.

In response to this rise in green marketing, we have accelerated our review of the FTC's Green Guides, which were first issued in 1992 and updated in 1998. For some of you, today's workshop may be your first exposure to the Federal Trade Commission. So let me briefly address who we are and what we do. Our two fundamental missions are to promote and safeguard competition and to protect consumers. We are a relatively small agency that tackles a

---

<sup>1</sup> Patrick O'Driscoll and Elizabeth Weise, "Green Living Takes Root, But Habits Die Hard," *USA Today*, April 19, 2007, page A1.

wide range of prominent consumer protection issues: from spam and spyware to mortgage fraud; media violence to mobile marketing; data security to debt collection. And of course we also run the National Do Not Call Registry.

In the advertising realm, our fundamental statutory tool is the FTC Act, which prohibits unfair or deceptive trade practices. For marketers, the basic rule to remember is that any material representation, omission, or practice is deceptive if it is likely to mislead consumers acting reasonably. In short, marketers must have a reasonable basis to support their advertising claims. Our job is not to substitute our judgment for that of consumers or to save them from bad choices; rather, it is to ensure that they obtain the truthful information they need to make their own choices. When markets function in this manner, consumers win – securing a broader selection of innovative products at lower prices.

In fulfilling our mission, we employ a variety of tools, including law enforcement, consumer education, business guidance, market research, and the encouragement of sound self-regulatory programs. Over the years, our work in the energy and environmental fields underscores this multi-tiered approach. We have challenged deceptive practices in court, published information to help consumers make informed, green purchasing decisions, and promulgated rules and guides to make the rules-of-the-road clear for businesses. We also encourage well-constructed industry self-regulatory programs as a way to complement the Commission’s own efforts. The FTC’s Green Guides apply the FTC Act to environmental advertising and marketing practices and offer marketers general principles on how to avoid making misleading claims. The Guides also provide guidance to marketers on using specific claims such as “environmentally friendly,” “recyclable,” and “compostable.” Since the Guides

were last revised in 1998, the marketplace has experienced the increased use of these terms to promote the green attributes of products, packaging, and manufacturing processes, as well as the introduction of new terms such as “sustainable,” “bio-based,” “cradle-to-cradle,” and “carbon neutral.” Given the dynamic nature of the green marketplace, it is important that the Guides respond to today’s challenges and to current consumer perceptions of environmental claims. After all, consumers now have the option to purchase and use products that were unforeseen 15 years ago when the FTC first developed the Guides, and consumer perceptions of old green claims may have evolved significantly over time. A robust review of these Guides will allow us to explore emerging consumer protection issues and provide better direction to green marketers.

As is usual in reviewing a rule or guide, the FTC is seeking public comment on the continuing need for the Guides and their economic impact, the effect of the Guides on the accuracy of various environmental claims, and the interaction of the Guides with other environmental marketing regulations. Given the explosion in the role of green marketing, however, we also have decided to hold a series of public workshops on emerging green marketing issues. We have found that public workshops provide us with an effective and open way to take in and test the perspectives of various experts and stakeholders. Today’s event, the first in the series, focuses on “carbon offsets” and “renewable energy certificates” or RECs, which are among those new products not addressed specifically by the Green Guides.

Carbon offsets and RECs are separate, yet closely related products in the green marketplace. As many of you know, carbon offsets, which are available for purchase, frequently serve as the basis for claims that greenhouse gas emissions are reduced. These offsets are memorialized in credits or certificates that purportedly represent measurable reductions in

greenhouse emissions accomplished through activities such as methane capture or tree planting. RECs, on the other hand, serve as a new means to market renewable energy. RECs represent the renewable attributes of electricity from wind, solar, and other renewable energy sources and are sold separately from the electricity produced. As is the case with carbon offsets, companies and individuals can purchase RECs to offset emissions associated with their own activities. In an effort to become “carbon neutral,” many purchasers seek to obtain enough offsets to match their emissions.

The term “carbon neutral” recently has received a lot of attention. Indeed, early last year, the New Oxford American Dictionary added the word “carbon neutral,” having named it the 2006 “word of the year.” Last year, consumers also watched a “carbon neutral” Superbowl, Academy Awards telecast, and NASCAR race. Interest in carbon offsets and RECs, however, has not been limited to football fans, Oscar winners, and racing enthusiasts. According to a recent *Business Week* article, the market for carbon offsets in the U.S. could be as high as \$100 million. And *The New York Times* reported that the number of offsets sold by online retailers grew by more than 42 percent from 2005 to 2006 and continued to grow at a steep rate in 2007. The sale of carbon offsets and RECs, if marketed truthfully, could provide interested consumers the opportunity to participate in the market for products and services that may reduce emissions.

To explore the consumer protection issues raised by this emerging market, throughout the day, experts from environmental organizations, industry, government, and academia will address the technical and marketing issues posed by carbon offsets and RECs. These experts will discuss a wide range of issues related to these products, including efforts by a variety of organizations, in the U.S. and internationally, to develop methods for substantiating these claims, as well as

new and ongoing self-regulatory and certification efforts. We hope that our discussions today play an important role in furthering our collective understanding of the challenges presented by the marketing of these products and how to meet these challenges.

For example, unlike tangible goods, such as cars or breakfast cereal, carbon offsets and RECs do not offer consumers an easy way to verify that they have received the product for which they paid. Many of the projects funded by the sale of RECs or carbon offsets occur in places remote from consumers, whether that activity is planting trees in another country or subsidizing wind-powered energy across the United States. Moreover, even if consumers could see the project in action, most of us would have great difficulty confirming that our offset purchase actually funds that particular project or that the project would not have happened without our purchase, or for that matter, that the project actually reduces atmospheric carbon in the amount claimed. Simply put, there is a heightened potential for deception.

In addition, these new products raise questions of consumer interpretation. For example, when consumers buy offsets or RECs, do they know what they are purchasing? How do they interpret express claims about the general environmental benefits of these products? And what implied claims do consumers take away from the marketing for carbon offsets and RECs?

And, of course, substantiating claims for RECs and offsets may pose challenges for marketers. Marketers first must ensure that both their express and implied claims are based on competent and reliable evidence – if you say that your product offsets a certain amount of atmospheric carbon, then it should do just that. Additionally, even when the science is sound, other substantiation issues may arise. For example, sales of carbon offsets and RECs may involve multiple transactions and a variety of different entities. Inadequate tracking and

verification systems could lead even those sellers acting in good faith to inadvertently sell the same product more than once. Unfortunately, these realities also could create opportunities for bad actors to deceive consumers.

Today, we will explore these and other issues in order to determine the best way for the FTC to protect consumers in these burgeoning markets. A deeper understanding of these issues not only will help us combat fraud in the future, but also will help us provide guidance to marketers seeking to make truthful claims for their products, as well as guidance to consumers in making purchasing decisions. Consistent with our past efforts on green matters, we do not plan to develop environmental performance standards. The FTC does not have the authority or the technical expertise to address issues of environmental or energy regulation. Nor are we in the business of mandating environmentally preferable practices. Instead, the FTC's efforts will focus on our traditional consumer protection role, addressing deceptive and unfair practices under the FTC Act. As part of this effort, we are seeking to determine whether additional FTC guidance is warranted and, if so, what that guidance should be. In addition, we will be exploring ongoing self-regulatory activities in the form of certification programs and other efforts involving voluntary standards.

With the impressive group assembled here today, I am confident that we will leave better informed than when we arrived. Again, I would like to welcome all of you and thank all of the panelists for their contributions to what we expect will be a productive and enlightening day.

