

New Green Claims Raise Red Flags

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In October, we [posted](#) that the FTC had proposed revisions to the “Guides for the Use of Environmental Marketing Claims,” more commonly known as the “Green Guides.” Among other things, the FTC’s proposed revisions address carbon offset claims and environmental certifications. In recent weeks, there has been legal actions on both of these issues.

A consumer recently filed a class action lawsuit against Fiji Water Company, alleging that Fiji falsely claims its bottled water is “carbon negative.” In addition, Fiji advertised: “we will continue to offset 120% of our emissions. That means that we are not only mitigating our environmental impact but also making up for a little bit of someone else’s.” The plaintiff alleges that consumers understand Fiji’s claims to mean that Fiji’s *current* operations remove more carbon from the atmosphere than they release into it. According the complaint, though, this is not true. Instead, Fiji uses a “discredited” accounting method called “forward crediting.”

This week, FTC announced a settlement with Tested Green over the company’s environmental certification program. According to the FTC, Tested Green advertised and sold environmental certifications while claiming to be the “nation’s leading certification program with over 45,000 certifications in the United States.” The FTC alleged, however, that Tested Green never tested any of the companies it provided with environmental certifications, and would “certify” anyone willing pay a certification fee. The agency charged that the company violated the FTC Act by providing the means to deceive consumers.

There has been an increased focus on green claims in light of the FTC’s announcement last year. Companies should carefully examine their claims to ensure that they are aligned with the FTC’s guidance and that they do not overstate potential environmental benefits.