

What's Next for the Green Guides? Insights from Commissioner Holyoak's Remarks at CPG

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Green marketing is very much in vogue, and so is suing companies over their green marketing. If you want to avoid those suits, you should generally start by looking at the FTC's Green Guides. But a lot has changed since the Green Guides were last updated in 2012, so they don't always provide clear answers to today's questions. In 2022, the FTC started the process of updating the Green Guides, but the new version hasn't come out yet. What can we expect under the new administration?

FTC Commissioner Melissa Holyoak was one of the keynote speakers at last week's Consumer Brands Association annual CPG Legal Forum. During her presentation, Commissioner Holyoak touched on the status of the Green Guides. She highlighted that there have significant technological improvements since the Green Guides were updated in 2012 and noted that any updates need to take those improvements into account, as well as leave room for technological updates that will likely happen in the future.

In the context of environmental claims, Commissioner Holyoak said the FTC's focus needs to be on what consumers understand a claim to mean. She also emphasized that the Green Guides are not law and can't serve as a substitute for what a consumer understands a claim to mean. She supports updating the Green Guides, as long as that distinction is retained. Commissioner Holyoak also noted that the FTC must also balance its enforcement of Section 5 with a consideration of whether it is impeding innovation or hurting competition.

Bottom line, we are not holding our breath on these updates coming any time soon. When (and if) they do come, hopefully Commissioner Holyoak's perspective will result in Guides that clear up some of the gray areas that currently exist in the world of green marketing and do so in a way that provides flexibility for companies.