

**Consumers  
Union**

NONPROFIT  
PUBLISHER OF  
CONSUMER REPORTS

**TESTIMONY OF**

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**CONSUMERS UNION OF U.S. INC.**

**On**

**"ADVERTISING TRENDS AND CONSUMER PROTECTION"**

**Before the**

**U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION**

**SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT  
SAFETY AND INSURANCE**

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Good morning Chairman Pryor, Ranking Member Wicker, and distinguished members of the Committee. Thank you for providing me the opportunity to come before you today to share our perspective on deceptive marketing and advertising of green products. I am Urvashi Rangan, Ph.D. and Director of Technical Policy for Consumers Union, non-profit publisher of *Consumer Reports*<sup>TM</sup>. 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 both broad and specific challenges in defining fair green marketing practices, and we believe that the government, including the Federal Trade Commission, has a very important role to play 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. Too often, consumers are presented with claims that sound better than they are (e.g. “carbon negative”), have minimal standards (e.g. “natural”) or no standards (e.g. “non-toxic”).

In contrast, consumers can also choose products with meaningful, certified labels. Of the certified label programs, the administration of the certification can vary, including by public, private, non-profit or for-profit organizations. 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 therefore is necessary and should be broadened. At the same time, the baseline for good marketing practices and minimum standards for common claims should 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 the may be an associated premium. The following is list of criteria and typical questions or issues we consider, with the first two (meaning and verification) as the most important:

1. **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?
2. **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
3. **Consistency:** in meaning across products (rating: yes / no)
  - does the claim mean the same thing across products that it is found?
4. **Transparency:** Are the standards and labeling organization information publicly available? (rating: yes / no)
  - is enough product information disclosed so claims can be analyzed effectively?
5. **Stakeholder input** -Were the standards developed with broad public and industry input? (rating: yes / no)
6. **Independence**—Were the decision making bodies within both the standard-setting and verification arms free from conflict of interest? (rating: yes / no)

Conflicts of interest do not automatically render an advertising or marketing claim false or misleading. However, when conflicts of interest are not fully disclosed, transparency is compromised in a way that can undermine even the most truthful claims.

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 setting<sup>1</sup>.

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

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

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

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), requiring 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 the government could help provide guidance for green marketing in five main areas including:

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

Voluntary, general claims like “natural,” “carbon negative,” “non-toxic,” or “free range,” have little to no definition and no verification. There should be minimum meaningful requirements that these claims should have to meet (and perhaps disclosures about what the claims do not represent). 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 in the marketing and advertising of green products regarding both who is making the claim and how the product achieves the claim. In order to reduce confusion between claims like “natural” and “organic,” consumers should be able to differentiate between voluntary claims made by the manufacturer from claims that require independent certification. The Federal Trade Commission's Green Marketing Guide should be updated to discourage or ban the new wave of vague, unsubstantiated claims in the marketplace, including those that are loosely addressed by other agencies, like “natural.” Other considerations for baseline practices could include verification requirements, accreditations (oversight of programs), and meeting minimum claim definitions.

**3. Mandate disclosure of basic product information**

Without basic information on products, it is impossible for consumers to make informed purchasing decisions, especially where additional green marketing claims are being made. We believe that all product categories, like cleaners, should be required to disclose ingredient information. There currently is no

requirement for cleaning labels to disclose all ingredients. Despite this fact, the green cleaning marketplace is filled with claims. We also believe that plastic recycling numbers should be required to be listed so consumers can recycle effectively and better differentiate among plastics offered, including consumers who wish to avoid BPA from polycarbonate plastic (e.g. #7 PC should be required).

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

Government-based green labeling programs should be independent, and represent 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 the minimum requirements set by law 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 product label claims straddle fall under multiple agency jurisdictions.

**5. Provide consistency in label meaning across jurisdictions**

Where policies lead to laws or regulations in one product area -- like the removal of certain phthalates from children's products under the jurisdiction of the U.S. Consumer Product Safety Commission -- Congress should take steps to ensure that other products, especially those with similar exposure profiles, also are required to meet similar standards. For example, in the case of certain phthalates, children's personal care products, such as lotion and baby wipes, should not be allowed to contain those specific phthalates. These steps would impart consistency to laws based upon important health and safety policy recommendations. In addition, it also will help to level the playing field for the use of green claims.

We appreciate the work of this Subcommittee to identify and address problems and challenges in green marketing. Consumers Union believes that the Federal Trade Commission has an important role in maintaining fairness in this market and that decisions made in one sector could benefit claims made in another.

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I thank the Chairman, Ranking Member Wicker, and the Committee for the opportunity to testify, and I look forward to any questions you may have.