

Tony Subketkaew, Stephen Grant, Jeff Civins Author Corporate Compliance Insights Article

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PRACTICES Climate Change and Corporate Sustainability, Environmental Due Diligence, Corporate Governance, Corporate, Environmental, Social and Governance, Greenhouse Gases (GHG), Environmental, FDA Regulatory and Compliance, Advertising, Marketing and Promotional Law

Associate [Tony Subketkaew](#), Partner [Stephen Grant](#) and Counsel [Jeff Civins](#) authored an article in *Corporate Compliance Insights* titled “When It Comes to Climate Disclosures, SEC and FTC Speak Different Languages.” Read an excerpt below.

Expanded climate reporting will likely tempt marketing teams to try to capitalize on favorable climate performance as disclosed in reporting. But be warned: Disclosure language meeting the SEC’s reporting requirements does not necessarily meet the guidelines of the Federal Trade Commission (FTC).

Picture this: Acme Widgets decides to launch an advertising campaign highlighting its efforts to be more environmentally friendly. Thinking it would be low-risk, the marketing team pulls climate-related language from the annual report running it verbatim as ad copy:

“All of the packaging used by Acme Widgets is recyclable, and Acme Widgets has set a goal of using recycled materials only in its products by 2030.”

This ad copy is then sandwiched between two romance-copy statements on Acme Widgets product labels:

“At Acme Widgets, we care about the environment. All packaging used by Acme Widgets is recyclable, and Acme Widgets has set a goal of only using recycled materials in its products by 2030. Each purchase of an Acme Widget product helps ensure a cleaner planet for future generations.”

Weeks after the first batch of products with this new label text hits store shelves, Acme Widgets receives a warning letter from FTC alleging that the company’s marketing claims are unlawful.

What Went Wrong?

Just because disclosure language satisfies reporting requirements under SEC regulations, that does not necessarily mean the same language is acceptable as an environmental marketing claim under FTC regulations. Even though the text is unchanged, the context in which it is presented and the purpose for which it is used determines whether the SEC or the FTC has jurisdiction.

Excerpted from *Corporate Compliance Insights*. Read the full article [here](#).