

Ferris, Lawlor, Ketterer and Kleiman in Total Retail: Retail Leaders Weigh in on the FTC's Proposed Updates to the Green Guides

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Haynes Boone Partners [Tiffany Ferris](#) and [Joe Lawlor](#) and Associates Emily Ketterer and Ariella Kleiman authored an article in *Total Retail* providing a deep dive into the comments and highlight trends for what we can anticipate for the updated, final version of the Green Guides from the Federal Trade Commission, likely to be released later this year.

Read an excerpt below:

The Federal Trade Commission (“FTC”) is set to release an updated version of its Guides for the Use of Environmental Marketing Claims this year. These “Green Guides” — which haven’t been updated in over a decade — do not have the force of law but provide marketers with guidance on how to make properly substantiated and nondeceptive environmental advertising claims. Now that the FTC is ready to update its guidance, it has sought comments on its proposed revision and stakeholders have responded.

What do retailers want? Based on comments from leading retail industry organizations like the Retail Industry Leaders Association (RILA), National Retail Federation (NRF), and Footwear Distributors & Retailers of America (FDRA), retailers want more concrete definitions, a refrain from the creation of a Green Guides-based rule, and retailer safe harbors.

Retailers Want Definitions

One key topic for retail leaders was the need for new and updated definitions in the Green Guides. They advocated for deeper guidance on specific terms such as “degradable,” “recyclable,” and “regenerative,” as well as claims that haven’t yet been addressed by the FTC, including “organic,” “clean,” and “sustainable.”

Both the NRF and FDRA pointed out that the vagueness surrounding the term “sustainable” has greatly contributed to greenwashing. Over 200 commenters also stressed the need for guidance on “sustainable.” The FTC determined that it didn’t have sufficient evidence of consumer perception to offer guidance about “sustainable” claims in 2012, but there have been significant changes over the last decade that may allow the FTC to make a more educated determination of this definition in its updates to the Green Guides. Retailers should be cognizant and cautious that with more definitions might come more scrutiny. If the Green Guides revisions more clearly define all these terms, marketers must carefully evaluate whether any current or planned uses of them fit the newly defined bill.

To read the full article in *Total Retail*, click [here](#).