

FTC Sends "Wake-up Call" About Green Marketing Claims

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If your company uses terms like "green," "sustainable" or "environmentally friendly" to market its products, consider yourself warned. On February 3, the Federal Trade Commission issued a self-described "wake-up call to all companies, regardless of their size" about making false or misleading green marketing claims, a practice often called "greenwashing."

The FTC's said that 78 companies nationwide have received letters warning that they may be breaking the law by marketing rayon textile products as "bamboo." Rayon is created from the cellulose found in plants and trees, including bamboo. The cellulose becomes rayon after chemical processing.

According to the director of the FTC's Bureau of Consumer Protection, "rayon is rayon, even if bamboo has been used somewhere along the line in the manufacturing process." In a letter sent to the 78 companies, the FTC advised them to review the labeling and advertising for the "textile products that are labeled or advertised as 'bamboo.'" Failure to correct improper labeling or advertising could subject the non-complying company to civil penalties of up to \$16,000 per violation.

This announcement follows a year of dramatically increased enforcement by the FTC in the area of green marketing. In 2009, the FTC filed four enforcement actions against companies selling rayon products that were misleadingly labeled and advertised as bamboo. The FTC also filed three enforcement actions against companies making claims that their products were "biodegradable." In comparison, not a single action was filed by the FTC regarding environmental claims during the previous eight years.

If you have questions about green marketing, contact Janet Ramsey, a partner at Warner Norcross & Judd LLP who practices in the area of advertising and marketing law, at 616.752.2736 or jramsey@wnj.com.