Federal Trade Commission

or communities, the marketer does not need to qualify the claim.

§ 260.13 Recycled content claims.

(a) It is deceptive to misrepresent, directly or by implication, that a product or package is made of recycled content. Recycled content includes recycled raw material, as well as used, reconditioned, and re-manufactured components.

(b) It is deceptive to represent, directly or by implication, that an item contains recycled content unless it is composed of materials that have been recovered or otherwise diverted from the waste stream, either during the manufacturing process (pre-consumer), or after consumer use (post-consumer). If the source of recycled content includes pre-consumer material, the advertiser should have substantiation that the pre-consumer material would otherwise have entered the waste stream. Recycled content claims may—but do not have to—distinguish between pre-consumer and post-consumer materials. Where a marketer distinguishes between pre-consumer and post-consumer materials, it should have substantiation for any express or implied claim about the percentage of pre-consumer or post-consumer content in an item.

(c) Marketers can make unqualified claims of recycled content if the entire product or package, excluding minor, incidental components, is made from recycled material. For items that are partially made of recycled material, the marketer should clearly and prominently qualify the claim to avoid deception about the amount or percentage, by weight, of recycled content in the finished product or package.

(d) For products that contain used, reconditioned, or re-manufactured components, the marketer should clearly and prominently qualify the recycled content claim to avoid deception about the nature of such components. No such qualification is necessary where it is clear to reasonable consumers from context that a product’s recycled content consists of used, reconditioned, or re-manufactured components.

Example 1: A manufacturer collects spilled raw material and scraps from the original manufacturing process. After a minimal amount of reprocessing, the manufacturer combines the spills and scraps with virgin material for use in production of the same product. A recycled content claim is deceptive since the spills and scraps are normally reused by industry within the original manufacturing process and would not normally have entered the waste stream.

Example 2: Fifty percent of a greeting card’s fiber weight is composed from paper that was diverted from the waste stream. Of this material, 30% is post-consumer and 20% is pre-consumer. It would not be deceptive if the marketer claimed that the card either “contains 50% recycled fiber” or “contains 50% total recycled fiber, including 30% post-consumer fiber.”

Example 3: A paperboard package with 20% recycled fiber by weight is labeled “20% post-consumer recycled fiber.” The recycled content was composed of overrun newspaper stock never sold to customers. Because the newspapers never reached consumers, the claim is deceptive.

Example 4: A product in a multi-component package, such as a paperboard box in a shrink-wrapped plastic cover, indicates that it has recycled packaging. The paperboard box is made entirely of recycled material, but the plastic cover is not. The claim is deceptive because, without qualification, it suggests that both components are recycled. A claim limited to the paperboard box would not be deceptive.

Example 5: A manufacturer makes a package from laminated layers of foil, plastic, and paper, although the layers are indistinguishable to consumers. The label claims that “one of the three layers of this package is made of recycled plastic.” The plastic layer is made entirely of recycled plastic. The claim is not deceptive, provided the recycled plastic layer constitutes a significant component of the entire package.

Example 6: A frozen dinner package is composed of a plastic tray inside a cardboard box. It states “package made from 30% recycled material.” Each packaging component is one-half the weight of the total package. The box is 20% recycled content by weight, while the plastic tray is 40% recycled content by weight. The claim is not deceptive, since the average amount of recycled material is 30%.

Example 7: A manufacturer labels a paper greeting card “50% recycled fiber.” The manufacturer purchases paper stock from several sources, and the amount of recycled fiber in the stock provided by each source varies. If the 50% figure is based on the annual weighted average of recycled material purchased.
§ 260.14 Refillable claims.

It is deceptive to misrepresent, directly or by implication, that a package is refillable. A marketer should not make an unqualified refillable claim unless the marketer provides the means for refilling the package. The marketer may either provide a system for the collection and refill of the package, or offer for sale a product that consumers can purchase to refill the original package.

Example 1: A container is labeled “refillable three times.” The manufacturer has the capability to refill returned containers and can show that the container will withstand being refilled at least three times. The manufacturer, however, has established no collection program. The unqualified claim is deceptive because there is no means to return the container to the manufacturer for refill.

Example 2: A store sells both new and used sporting goods. One of the items for sale in the store is a baseball helmet that, although used, is no different in appearance than a brand new item. The helmet bears an unqualified “Recycled” label. This claim is deceptive because reasonable consumers likely would believe that the helmet is made of recycled raw materials, when it is, in fact, a used item. An acceptable claim would bear a disclosure clearly and prominently stating that the helmet is used.

Example 3: A packaged food product is labeled “65% recycled.” The manufacturer advertised its printer toner cartridges “65% recycled.” The cartridges contain 25% recycled raw materials and 40% reconditioned parts. The claim is deceptive because reasonable consumers likely would not know or expect that a cartridge’s recycled content consists of reconditioned parts. It would not be deceptive if the manufacturer claimed “65% recycled content; including 40% from reconditioned parts.”

Example 4: A store sells both new and used automotive components. One of the items for sale in the store is a rebuilt transmission in accordance with industry practices, the dealer packages it for resale in a box labeled “Rebuilt Transmission,” or “Rebuilt Transmission (85% recycled content from rebuilt parts),” or “Recycled Transmission (85% recycled content from rebuilt parts).” Given consumer perception in the automotive context, these claims are not deceptive.

§ 260.15 Renewable energy claims.

(a) It is deceptive to misrepresent, directly or by implication, that a product or package is made with renewable energy or that a service uses renewable energy. A marketer should not make unqualified renewable energy claims, directly or by implication, if fossil fuel, or electricity derived from fossil fuel, is used to manufacture any part of the advertised item or is used to power any part of the advertised service, unless the marketer has matched such non-renewable energy use with renewable energy certificates.

Example 1: A container is labeled “handy refillable container.” In the same market area, the manufacturer also sells a large-sized bottle that consumers can purchase to refill the smaller bottles. The claim is not deceptive because there is a reasonable means for the consumer to refill the smaller container.

Example 2: An automotive dealer, automobile recycler, or other qualified entity recovers a serviceable engine from a wrecked vehicle. Without repairing, rebuilding, re-manufacturing, or in any way altering the engine or its components, the dealer attaches a “Recycled” label to the engine, and offers it for sale in its used auto parts store. In this situation, an unqualified recycled content claim likely is not deceptive because reasonable consumers in the automotive context likely would understand that the engine is used and has not undergone any rebuilding.

Example 3: A small bottle of fabric softener is labeled “refillable” without explanation. By itself, the symbol likely conveys that the packaging is both recyclable and made entirely from recycled material. Unless the marketer has substantiation for both messages, the claim should be qualified. The claim may need to be further qualified, to the extent necessary, to disclose the limited availability of recycling programs and/or the percentage of recycled content used to make the package.

Example 4: In an office supply catalog, a manufacturer advertises its printer toner cartridges “85% recycled.” The cartridges contain 25% recycled raw materials and 40% reconditioned parts. The claim is deceptive because reasonable consumers likely would not know or expect that a cartridge’s recycled content consists of reconditioned parts. It would not be deceptive if the manufacturer claimed “85% recycled content; including 40% from reconditioned parts.”

Example 5: A store sells both new and used sporting goods. One of the items for sale in the store is a baseball helmet that, although used, is no different in appearance than a brand new item. The helmet bears an unqualified “Recycled” label. This claim is deceptive because reasonable consumers likely would believe that the helmet is made of recycled raw materials, when it is, in fact, a used item. An acceptable claim would bear a disclosure clearly and prominently stating that the helmet is used.

Example 6: A packaged food product is labeled “65% recycled.” The manufacturer advertised its printer toner cartridges “65% recycled.” The cartridges contain 25% recycled raw materials and 40% reconditioned parts. The claim is deceptive because reasonable consumers likely would not know or expect that a cartridge’s recycled content consists of reconditioned parts. It would not be deceptive if the manufacturer claimed “65% recycled content; including 40% from reconditioned parts.”