Institute for Agriculture & Trade Policy

April 21,2023

Federal Trade Commission

Re: Green Guides Review, Matter No. P954501 https://www.federalregister.gov/documents/2022/12/20/2022-27558/guides-for-the-use-of-environmental-marketing-claims

The Institute for Agriculture and Trade Policy (IATP) thanks the Federal Trade Commission (FTC) for this opportunity to comment on updating the Guides for Use of Environmental Marketing Claims, also known as the Green Guides. IATP is a 37-year-old nonprofit organization based in Minnesota that works locally, nationally and internationally for fair and sustainable food and farm systems. IATP has focused on the intersection between climate change and our food system for more than two decades and has tracked closely corporate marketing claims related to climate change.

Corporate marketing claims on climate change have become much more common since the FTC last updated the Green Guides in 2012. There are currently a wide range of climate marketing claims that include terms and jargon (such as "climate neutral," "zero carbon" and "net zero") that most consumers are unfamiliar with. These climate marketing claims are increasingly being used by agribusiness and food companies. There are currently no clear rules and standards to ensure consumers understand what many common climate claims mean and which are credible.

The FTC's decision to update the Green Guides comes at an opportune time. As countries around the world implement the Paris Climate Agreement, many are developing new rules and guidance about climate marketing claims, including in the European Union[1] and the United Kingdom[2]. By updating the Green Guides, the FTC can set strong guidelines on climate claims for companies operating in the U.S. (which would also influence global companies operating elsewhere), and set a high bar for governments around the world establishing similar rules.

The Green Guides implement Section 5 of the FTC Act on environmental advertising and labeling claims. Section 5 "prohibits deceptive acts and practices in or affecting commerce. A representation, omission, or practice is deceptive if it is likely to mislead consumers acting reasonably under the circumstances and is material to consumers' decisions." Under the

[1] European Commission. Proposal for a Directive on Green Claims. March 22, 2023. https://environment.ec.europa.eu/publications/proposal-directive-green-claims_en

[2] Advertising Standards Authority. Updated Environmental Guidance: Carbon Neutral and Net Zero Claims in Advertising. February 10, 2023. https://environment.ec.europa.eu/publications/proposal-directive-green-claims_en

current Green Guides' General Principles[3] for all environmental marketing "qualifications and disclosures should be clear, prominent, and understandable"; and an "environmental claim should not overstate, directly or by implication, an environmental attribute or benefit."

With these comments, we also ask the FTC to consider how "deceptive" climate claims are also "unfair" (Section 5a of the FTC Act) in that they provide clear advantages to companies making deceptive environmental claims over companies making verifiable, credible environmental claims.

Many current climate claims in consumer marketing violate the core Green Guide General Principles. Too often, climate claims: 1) do not reflect measurable emission reductions from the company's current (not future) operations, including supply chains; 2) espouse emissions reductions that are not certified by an independent, transparent and credible third party, with ongoing monitoring; 3) rely on carbon offsets or removals that are not scientifically credible and lack integrity.

IATP's comments focus on several of the Section 3 "Issues for Comment" as presented in the federal register notice. These comments outline why we believe an update to the Green Guides is needed, what consumer expectations are for climate-related marketing claims, how food companies currently use deceptive marketing terms, and how the use of carbon offsets as a basis for climate claims is deceptive. We make a few final points on the use of the marketing terms "sustainable" and "renewable energy" where developments since 2012 warrant an update. In the below comments, we point to the relevant parts of Section 3, prior to each comment.

A (1), (2): The need for Green Guides and proposed modifications to benefit consumers.

The climate crisis requires strong, immediate action to sharply reduce emissions from all actors, including governments, the private sector and consumers. The latest reporting from the National Oceanic and Atmospheric Administration (NOAA)[4] indicates the planet is entering uncharted territory as greenhouse gases rose rapidly in 2022. The Intergovernmental Panel on Climate Change (IPCC) synthesis report[5] issued in March warned, "There is a rapidly closing window of opportunity to secure a liveable and sustainable future for all (*very high confidence*). The choices and actions implemented in this decade will have impacts now and for thousands of years (*high confidence*)."

[3] Guides for the Use of Environmental Marketing. 77 FR 62124. October 11, 2012.

[4] National Oceanic and Atmospheric Administration. Greenhouse Gases Continued to Increase Rapidly in 2022. April 5, 2023. https://www.noaa.gov/news-release/greenhouse-gases-continued-to-increase-rapidly-in-2022

[5] Intergovernmental Panel on Climate Change. AR6 Synthesis Report Climate Change: Summary for Policymakers. 2023. https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf

The IPCC also highlighted the critical role of governments to spur action: "Effective climate action is enabled by political commitment, well-aligned multilevel governance, institutional frameworks, laws, policies and strategies…Clear goals, coordination across multiple policy domains, and inclusive governance processes facilitate effective climate action."

In a January 2021 Executive Order[6], the Biden Administration committed to taking a "whole of government approach" to responding to the climate crisis, including decisive actions across departments and agencies. For example, the Securities and Exchange Commission (SEC) will soon finalize rules[7] requiring publicly-traded companies to disclose their operational and supply chain exposures to physical risks from climate change and their climate-related transition risks (e.g. cost of credit and insurance) to investors, insurers and other interested parties within the SEC's long established financial disclosure regime. The rule also allows companies to report their climate related "opportunities," including new product lines, services, investments and operational efficiencies as part of their reported business plan to reduce the company's financial exposure to physical and transition risks.

The FTC update of the Green Guides complements the SEC rules by requiring that company marketing claims about its products and services are substantiated for consumers. By ensuring greater transparency and credibility of climate-related marketing claims, the FTC can also fulfill its mandate to prevent unfair competitive advantage that may result from deceptive marketing claims.

Unfortunately, there is growing confusion and skepticism in the marketplace on a wide variety of corporate marketing claims related to climate change. A recent analysis[8] of over 700 companies making "net zero" claims found that more than two-thirds had not provided details on how they would achieve that goal. An analysis by Carbon Market Watch[9] concluded that 24 of the world's largest companies were greenwashing in announced net zero plans, while largely continuing business as usual. Global polluters like Shell, Chevron, BP and

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[6] White House. President Biden Takes Executive Actions to Tackle the Climate Crisis at Hoe and Abroad, Create Jobs and Restore Scientific Integrity Across Federal Government. January 27, 2021. https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/?utm_source=link

[7] Security and Exchange Commission. SEC Proposes Rules to Enhance and Standardize Climate-Related Disclosures for Investors. March 21, 2022. https://www.sec.gov/news/press-release/2022-46

[8] Net Zero Tracker. Net Zero Stocktake 2022. June 13, 2022. https://zerotracker.net/insights/pr-net-zero-stocktake-2022

[9] Carbon Market Watch. Not Zero: New Report Exposes Greenwashing in Climate Plans of Top Global Corporations. February 13, 2023. https://carbonmarketwatch.org/2023/02/13/not-zero-new-report-exposes-greenwashing-in-climate-plans-of-top-global-corporations/

ExxonMobil boast about renewable energy investments, while increasing fossil fuel related emissions, another set of researchers found[10].

In the absence of a clear regulatory framework for climate marketing claims, organizations and citizens have resorted to the courts. At least 20 climate-washing cases have been filed before courts in the U.S., Australia, France and the Netherlands since 2016, while a further 27 cases have been filed before non-judicial oversight bodies (such as advertising standards boards), legal researchers report[11]. Experts expect the number of climate-washing cases will rise in the future without clear guidance and rules.

A (7),(8), B (1,D) Consumer perception and interest in climate-related marketing

There is growing evidence of consumer interest in climate-related food labeling. A February 2023 survey by McKinsey[12] found that consumers care about environmental sustainability claims and are willing to pay more for products that make such claims. Another survey[13] confirmed that consumers are willing to pay more for products with sustainability claims, but that they increasingly do not trust the companies making those claims.

More specifically on climate change, an International Food Information Council survey[14] found that consumers are concerned about climate change and that concern affects their purchases. A recent study[15] of consumers by Johns Hopkins University found that food labels indicating a high climate impact deterred consumer purchasing. The North American Meat

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[10] Li, Mei; Trencher, Gregory; Jusen Asuka. The Clean Energy Claims of BP, Chevron, ExxonMobil and Shell. PLOS One. February 16, 2022. https://doi.org/10.1371/journal.pone.0263596

[11] Setzer, Joana; Higham, Catherine. Global Trends in Climate Change Litigation: 2022 Snapshot. Grantham Research Institute on Climate Change and the Environment. June 2022. https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2022/08/Global-trends-in-climate-change-litigation-2022-snapshot.pdf

[12] McKinsey and Company. Consumers Care About Sustainability, and Back it Up With Their Wallets. February 6, 2023. https://www.mckinsey.com/industries/consumer-packaged-goods/our-insights/consumers-care-about-sustainability-and-back-it-up-with-their-wallets

[13] Sustainable Brands. Majority of US Consumers Say They Will Pay More for Sustainable Products. August 29, 2022. https://sustainablebrands.com/read/marketing-and-comms/majority-of-us-consumers-say-they-will-pay-more-for-sustainable-products

[14] Food Insight. Consumer Survey: Climate Change and Food Production. February 22, 2020. https://foodinsight.org/consumer-survey-climate-change-and-food-production/

[15] Johns Hopkins Bloomberg School of Public Health. Survey Finds That Climate Impact Labels on Sample Fast Food Menu Had Strong Effect on Food Selection. January 4, 2023. https://publichealth.jhu.edu/2023/study-finds-climate-impact-labels-on-sample-fast-food-menu-had-strong-effect-on-food-selection

Institute found in an annual survey[16] that about one-third of consumers who eat meat are looking for environmental claims and a portion explicitly want a lower climate footprint.

Most of the major meat companies in the U.S. use some type of climate-related marketing. For example, Tyson Foods has made "net zero" claims (by 2050)[17], and has a "Climate-Smart Beef" program[18], including a beef supply chain that claims to produce 10% less greenhouse gas emissions[19]. JBS prominently markets its net zero by 2040 commitment[20]. Other, food companies and restaurants are also making climate-related claims, such as restaurants Panera, Chipotle and Just Salad who highlight the climate footprint of their menu items[21].

While companies increasingly use climate-related labeling, there is also evidence that consumers are skeptical of these labels. A recent poll[22] found that a majority of Americans (64%) believe corporate pledges on climate change are just for appearances and that the companies won't stick to their promises. A recent survey commissioned by Changing Markets Foundation[23] found that more than 50% were concerned about corporate greenwashing on food labeling with terms like "carbon neutral", "climate positive", and "net zero." A 2022 survey for the Advertising Standards Authority[24] in the UK, found that British consumers believed "carbon neutral" claims implied that an absolute reduction in carbon emissions had

[16] Food Marketing Institute. Top Findings of the Power of Meat 2022. 2022. https://www.fmi.org/docs/default-source/research/power_of_meat_2022_top_10_final.pdf?sfvrsn=d49777ce_2

[17] Tyson Foods. Tyson Foods Targets 2050 to Achieve Net Zero Greenhouse Gas Emissions. June 9, 2021. https://www.tysonfoods.com/news/news-releases/2021/6/tyson-foods-targets-2050-achieve-net-zero-greenhouse-gas-emissions

[18] Tyson Foods. Our Path to Climate Smart Beef. Accessed: April 21, 2023. https://www.tysonfoods.com/climate-smart-beef-program

[19] Petrak, Lynn. Tyson Goes Brazen With New Beef Brand. Progressive Grocer. March 10, 2023. https://www.progressivegrocer.com/tyson-goes-brazen-new-beef-brand

[20] JBS. JBS is Committing to be Net Zero by 2040. Accessed April 21, 2023. https://jbs.com.br/netzero/en/

[21] Kateman, Brian. Carbon Labels Are Finally Coming to the Food and Beverage Industry. July 20, 2020. Forbes. https://www.forbes.com/sites/briankateman/2020/07/20/carbon-labels-are-finally-coming-to-the-food-and-beverage-industry/?sh=168b2c237c03

[22] Heatmap. Poll: Americans Broadly Skeptical of Climate Pledges. March 23, 2023. https://heatmap.news/economy/poll-americans-broadly-skeptical-of-climate-pledges

[23] Changing Markets. Feeding Us Greenwash: An Analysis of Misleading Claims in the Food Sector. March 2023. http://changingmarkets.org/wp-content/uploads/2023/03/Feeding-Us-Greenwash_light.pdf

[24] Advertising Standards Authority. Climate Change and the Environment: Consumer Understanding of Environmental Claims. October 20, 2022. https://www.asa.org.uk/resource/climate-change-and-the-environment-consumer-understanding-of-environmental-claims.html

taken place, and felt deceived when told that "carbon offsets" were used to reach the goal. A Netherlands Authority for Consumers and Markets (ACM) survey[25] also found that terms such as "carbon-neutral" are not well understood and that consumers have little confidence in carbon-offset claims.

A (15) Claims not included in Guides: Climate Smart Agriculture

The marketing term "climate smart" poses a particular challenge for consumers, businesses and governments. This term recently received a boost when the U.S. Department of Agriculture announced its "climate-smart commodities" program in 2022[26]. The USDA defines a "climate smart" commodity as one that reduces greenhouse gas emissions or sequesters carbon. However, there is no standard or guidance for how much emissions need to be reduced, for how long (in forestry and agriculture carbon stored temporarily can later be released), and how the claim is verified or by whom. The USDA's program has funded 141 different climate smart agriculture projects, all with different definitions for what "climate-smart" means. Most major food companies are involved in one of the USDA "climate smart" commodity projects (Danone, Pepsico, Hershey, Nestle, Kellogg's, General Mills among others), and several are already marketing projects as "climate smart" (such as Tyson's Climate Smart Beef).

Consumers are left in the dark trying to understand "climate smart" food products and how much of a climate benefit has actually been achieved or for how long. There are dramatic differences between projects[27] the USDA has identified as "climate-smart." For example, a $95 million project led by the Iowa Soybean Association (with Cargill, Pepsico, and JBS as partners), will track fertilizer emissions and soil carbon sequestration on large-scale soy, corn, wheat and sugar beet farms. Another $560,000 project promotes agroforestry in the Adirondacks, that will develop a regional "climate smart" brand for timber, dairy, sheep, nuts and berries. The differences between these projects are enormous yet both have been identified as "climate smart."

We urge the FTC to monitor and seek clarifications from the USDA on its promotion of "climate smart" food products, without a meaningful definition, standard or monitoring. Under its current use, the term "climate smart" is not serving consumers nor is it sending clear signals to the market.

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[25] Authority for Consumers and Markets. ACM: Consumers Find Claims Regarding Carbon Offset Unclear. October 13, 2022. https://www.acm.nl/en/publications/acm-consumers-find-claims-regarding-carbon-offset-unclear

[26] U.S. Department of Agriculture. USDA to Invest 1 Billion in Climate Smart Commodities, Expanding Markets, Strengthening Rural America. February 7, 2022. https://www.usda.gov/media/press-releases/2022/02/07/usda-invest-1-billion-climate-smart-commodities-expanding-markets

[27] U.S. Department of Agriculture. Partnership for Climate-Smart Commodities Project Summaries. Accessed April 21, 2022. https://www.usda.gov/climate-solutions/climate-smart-commodities/projects

A (18) How other governments are responding to corporate climate claims

U.S. agriculture and food markets include participation of multinational companies. The FTC should consider how new Green Guide guidelines harmonize with other governments, particularly on climate claims, in order to avoid potential trade disputes. We urge the FTC's Office of International Affairs to engage with other major trading partners who are also putting into place new marketing guidelines.

The European Union is currently drafting new rules to govern greenwashing. A 2020 European Commission analysis[28] found that 53% of examined environmental claims were vague, misleading or unfounded and 40% were unsubstantiated. In March 2023, the European Commission published its Green Claims Directive[29] designed to set common criteria against greenwashing and deceptive environmental claims, including climate-related marketing. The directive (proposed legislation to be adapted and enforced by EU Member States) requires companies to substantiate any climate claims through a lifecycle analysis with accompanying data and independent verification. It also includes additional informational requirements for climate-related claims reliant on offsets, including details on how much the claim is reliant on offsets, and the type of offset and certifier of the offset. The EU Commission's Green Claims Directive will still need to be approved by the EU Parliament and Council.

The Green Directive complements the EU's Unfair Commercial Practices Directive (UCPD), being revised by the EU Parliament and Council, which also focuses on corporate greenwashing practices. The current proposal – "Empowering Consumers for the Green Transition"[30] – also prohibits specific greenwashing practices.

In February 2023, Britain's Advertising Standards Authority published new rules[31] on corporate claims specifically for "net zero" and "carbon neutral." The ASA guidance recommends avoiding unqualified claims of "net zero" and "carbon neutral," and requires additional information for consumers describing the basis for these claims. Companies must be clear on whether and how much the product is reducing emissions, versus using offsets to meet the climate claim. Any claims based on a future goal must have a verifiable strategy to achieve them. Any claims related to offsets should include details about the offsetting scheme

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[28] European Commission. Commission Staff Working Document: Impact Assessment Report. March 30, 2022. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0085

[29] European Commission. Proposal for a Directive on Green Claims. March 22, 2023. https://environment.ec.europa.eu/publications/proposal-directive-green-claims_en

[30] European Commission. Empowering Consumers for the Green Transition. March 30, 2022. https://environment.ec.europa.eu/publications/proposal-directive-green-claims_en

[31] Advertising Standards Authority. Updated Environment Guidance: Carbon Neutral and Net Zero Claims in Advertising. February 10, 2023. https://www.asa.org.uk/news/updated-environment-guidance-carbon-neutral-and-net-zero-claims-in-advertising.html

they are using. The ASA has already ruled against climate claims used by retail banks, an airline and an oil and gas company.

France also has issued new rules[32] on "carbon neutral" advertising, requiring companies to prove such claims. Companies will be required to provide information about their emissions throughout the entire lifecycle of the product. South Korea has drafted a law to fine companies for deceptive climate-related claims[33].

B (1,E) Many climate claims lack transparency and mislead

In multiple reports and analysis of corporate climate plans over the last five years, IATP has found[34] that most meat and dairy companies that make climate-related claims are not counting the full scope of their emissions. Scope 1 emissions are defined as a company's direct emissions, Scope 2 are emissions tied to energy and fuel use for the company, and Scope 3 emissions include the company's full supply chain (usually the largest source of emissions). IATP's analysis found that most meat and dairy do not include their full Scope 3 emissions in any climate reporting. And many do not publicly report their Scope 1 and Scope 2 emissions at all.

In addition, many food companies often use a carbon intensity metric rather than an absolute emissions reduction metric in making climate claims.[35] Carbon intensity numbers represent emissions per unit of output. For example, emissions per gallon of milk produced. It is possible to reduce your carbon intensity but increase the company's overall climate emissions if you expand production. In our analysis of dozens of meat and dairy companies, all project to expand overall production into the future.

The carbon intensity metric has come under recent scrutiny as part of the global Science Based Target Initiative, which works with companies to set credible emissions reductions targets. The 2022 Food, Land Use, and Agriculture (FLAG) guidance[36] from SBTI allows

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[32] RFI. France Clamps Down on Zero Carbon Advertising to Avoid Greenwashing. April 16, 2022. https://www.rfi.fr/en/france/20220416-france-clamps-down-on-zero-carbon-advertising-to-avoid-greenwashing

[33] Bray, Marianne. Asia and Australia Target Greenwashing as Companies Risk Penalties. Reuters. April 16, 2023. https://www.reuters.com/article/asiapac-climate-greenwashing/analysis-asia-and-australia-target-greenwashing-as-companies-risk-penalties-idUSL8N3672FQ

[34] Institute for Agriculture and Trade Policy. Emissions Impossible Series. Accessed April 21, 2023. https://www.iatp.org/emissions-impossible-series

[35] Sharma, Shefali; Lilliston, Ben. From Net Zero to Greenwash: Global Meat and Dairy Companies. Institute for Agriculture and Trade Policy. October 4, 2021. https://www.iatp.org/net-zero-greenwash-global-meat-and-dairy-companies

[36] Science Based Target Initiative. Food, Land Use and Agriculture Guidance. Accessed: April 21, 2023. https://sciencebasedtargets.org/sectors/forest-land-and-agriculture

companies to set emissions intensity targets, but they cannot result in flat or increased absolute emissions by the end of the five-to-ten-year target set period.

Another deceptive element of climate-related marketing are claims based on speculative technology that has yet to be developed. Many meat and dairy companies make “net zero” claims based on technologies, like special animal feed[37] or animals fitted for gas-capturing masks, that have yet to be developed, assessed and proven to reduce emissions.

A recent decision[38] by the industry-run National Advertising Division of the Better Business Bureau looked at net zero claims by JBS, the second-largest food company and the largest animal protein producer in the world. The NAD recommended that JBS discontinue these net zero claims, finding that they “reasonably create consumer expectations that the advertiser’s efforts are providing environmental benefits, specifically `net zero’ emissions by 2040, a measurable outcome” that it did not believe could be substantiated.

B (1) Climate claims based on carbon offsets lack integrity

“We must have zero tolerance for net-zero greenwashing. The absence of standards, regulations and rigor in voluntary carbon market credits is deeply concerning. Shadow markets for carbon credits cannot undermine genuine emission reduction efforts, including in the short term. Targets must be reached through real emissions cuts.” UN Secretary General, November 2022[39].

Several climate related claims, like “carbon neutral,” “carbon free” or “net zero” rely on carbon offsets to substantiate the label. Climate marketing claims based on offsets are deceptive to consumers by giving the impression that the product and its supply chain does not have emissions, and that those emissions are reduced based on questionable offsets.

Longstanding scientific questions about the validity of carbon offset credits are considerable and have grown since the 2012 Green Guides. Scientists have not yet answered fundamental questions about how much carbon can be sequestered in soil and for how long. The latest IPCC report[40] concluded that there is not a one-to-one relationship between precisely

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[37] Dutkiewicz, Jan; Hayek, Matthew. Want Carbon-Neutral Cows: Algae Isn’t the Answer. Wired. March 17, 2021. https://www.wired.com/story/carbon-neutral-cows-algae/

[38] Better Business Bureau, National Advertising Division. JBS Appeals National Advertising Division Recommendation to Discontinue “Net Zero” Emissions by 2040 Claims. February 15, 2023. https://bbbprograms.org/media-center/dd/jbs-net-zero-emissions

[39] United Nations. UN Secretary General’s Remarks at Launch of Report of High Level Expert Group on Net Zero Commitments. November 8, 2022. https://www.un.org/sg/en/content/sg/statement/2022-11-08/secretary-generals-remarks-launch-of-report-of-high-level-expert-group-net-zero-commitments-delivered

[40] Intergovernmental Panel on Climate Change. AR6 Full Report. March 2023. https://report.ipcc.ch/ar6/wg1/IPCC_AR6_WGI_FullReport.pdf

measured industrial sources of emissions and less scientifically certain (and less permanent) land-based carbon sequestration, including farmland sequestration. Contributing authors to the IPCC report wrote[41] that based on current climate science, "Results indicate that a CO2 emission into the atmosphere is more effective at raising atmospheric CO2 than an equivalent CO2 removal is at lowering it, with the **asymmetry increasing with the magnitude of the emission/removal."** (IATP emphasis) As CO_2 emissions and equivalent CO_2 removals increase, the degree of asymmetry increases.

Scientists have also concluded that climate change itself, through rising temperatures and the increasing frequency of extreme weather events, will slow or disrupt the soil's ability to sequester carbon on farms and forests over time.[42] The risk of severe weather events, whether drought or floods, also may affect agriculture and forestry offset projects[43]. Other recent science highlights the complexities and uncertainties of measuring soil carbon.[44]

Aside from the substantial scientific questions there is inconsistent and poor oversight of private, unregulated carbon offset credit markets around the world, including weak standards and verification. An assessment by CarbonPlan[45] of 14 soil carbon credit protocols in the U.S. concluded that "the lack of rigorous standards makes it hard to ensure good climate outcomes." A 2021 Congressional Research Service (CRS) report[46] on agriculture carbon credits within private markets identified multiple credibility weaknesses.

Many offset projects involve emissions avoidance, which do not actually reduce emissions in any way that can be objectively measured. Furthermore, avoidance project developers have a strong economic incentive to greatly overestimate emissions avoided.[47] The SBTI's

[41] Zickfeld, Kirsten et. al. Asymmetry in the climate–carbon cycle response to positive and negative CO_2 emissions. Nature Climate Change. June 21, 2021. https://www.nature.com/articles/s41558-021-01061-2

[42] Intergovernmental Panel on Climate Change. Sixth Assessment Report: Impacts, Adaptation and Vulnerability. 2022. https://www.ipcc.ch/report/sixth-assessment-report-working-group-i/

[43] Wu, Chau et. al. Uncertainty of US Forest Carbon Storage Potential Due to Climate Risks. Nature Geo Science. April 6, 2023. https://www.nature.com/articles/s41561-023-01166-7

[44] Berthelin, Jacques et. al. Soil carbon sequestration for climate change mitigation. European Journal of Soil Science. 2022. https://bsssjournals.onlinelibrary.wiley.com/doi/epdf/10.1111/ejss.13221

[45] Zelikova, Jane, et. al. A buyer's guide to soil carbon offsets. Carbon Plan. July 15, 2021. https://carbonplan.org/research/soil-protocols-explainer

[46] Congressional Research Service. Agriculture and Forestry Offsets in Carbon Markets: background and selected issues. November 3, 2021. https://crsreports.congress.gov/product/pdf/R/R46956

[47] West, Thales et. al. Overstated Carbon Emission Reductions From Voluntary REDD+ Projects in the Brazilian Amazon. PNAS. September 14, 2020. https://www.pnas.org/doi/10.1073/pnas.2004334117

corporate net-zero standard[48] disallows avoided emissions as counting towards emission reduction targets.

Due to the lack of effective monitoring and oversight, offsets are facing increasing scrutiny. A string of investigations into offset credit projects has revealed how many are ineffective in reducing emissions,[49],[50] that some appear to be outright fraudulent,[51] and others cause harm to local communities[52].

The many problems in the carbon offset market has led the UN's Net Zero Asset Owner Alliance, set up to spur climate action among investors, to ban the use of carbon offsets in emission reduction plans[53]. IATP has signed onto Green Guide comments led by the Sierra Club that go into depth on why current climate claims based on offsets are deceptive to consumers.

B (12) Guidance on Sustainability Claims

The Commission asks whether it should give specific guidance on how consumers interpret "sustainable" claims. IATP believes there is ample available information about consumers interest in "sustainability," particularly in the food sector, and its value as a corporate marketing term. In 2021, IATP joined a petition to the FTC[54] submitted by Food & Water Watch charging that global pork giant Smithfield was misleading consumers in its use of the

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[48] Science Based Target Initiative. SBTI Corporate Net Zero Standard Criteria. Version 1.1. April 2023. https://sciencebasedtargets.org/resources/files/Net-Zero-Standard-Criteria.pdf

[49] Greenfield, Patrick. Revealed: More than 90% of Rainforest Carbon Offsets by Biggest Certifier Are Worthless, Analysis Shows. The Guardian. January 18, 2023. https://www.theguardian.com/environment/2023/jan/18/revealed-forest-carbon-offsets-biggest-provider-worthless-verra-aoe

[50] Crezee, Bart; Gijzel, Ties. Showcase Project by the World's Biggest Carbon Trader Actually Resulted in More Carbon Emissions. Follow the Money. January 17, 2023. https://www.ftm.eu/articles/south-pole-kariba-carbon-emission?share=UvQJstwVr7vMM0PTh9vdNDASjy9uRki8IamZheOWDimRa3eD4xxNwhj9nb1eARA%3D

[51] Elgin, Ben. This Timber Company Sold Millions of Dollars of Useless Carbon Offsets. Bloomberg. March 17, 2022. https://financialpost.com/pmn/business-pmn/this-timber-company-sold-millions-of-dollars-of-useless-carbon-offsets

[52] Oakland Institute. Evicted for Carbon Credits. August 16, 2019. https://www.oaklandinstitute.org/evicted-carbon-credits-green-resources

[53] Reuters. Investor Group Bans Carbon Removal from CO2 Reduction Plans. January 31, 2023. https://www.reuters.com/business/sustainable-business/investor-group-bans-carbon-removal-co2-reduction-plans-2023-01-31/

[54] Food and Water Watch. FTC Petition on Smithfield Foods and Deceptive Claims. February 4, 2021. https://www.foodandwaterwatch.org/wp-content/uploads/2021/08/2021.02.03_Smithfield-FTC-complaint-filed.pdf

term “sustainable” in describing its production system, despite the company’s extensive track record of water and air pollution. That petition details numerous consumer surveys (including from Consumer Reports, Nielson surveys, Unilever and others) and Smithfield’s own materiality analysis to make the case that the FTC should clarify consumers expectations of sustainability marketing claims.

A (15) A Lack of Guidance on Renewable Energy Claims

IATP believes the FTC should update its guidelines on marketing related to renewable energy due to technological advances in the marketplace, in particular related to methane gas produced by large-scale concentrated animal feeding operations (CAFOs). Currently, food and energy companies are making marketing claims that gas from large CAFO manure is “renewable natural gas.” In fact, payments for CAFO-produced gas create perverse incentives for farmers to expand herds, which emit more methane greenhouse gas emissions, and more manure. Additionally, such operations are prone to manure spills that can contaminate waterways. The petition cited above regarding Smithfield’s claims of sustainability outlines the environmental and public health risks of CAFO manure gas production, which do not meet consumers expectations of “renewable energy.” IATP strongly urges the FTC to clarify guidance on renewable energy marketing claims to exclude methane gas produced CAFO manure.

We applaud the FTC for updating its Green Guides, and in particular its guidance related to climate-related marketing. Consumers clearly care about the climate and are willing to pay more for products with credible climate claims, but remain skeptical of current climate claims being made by companies. Companies are actively using a wide range of climate-related terms in their marketing that consumers do not fully understand. To prevent consumers from deceptive claims, and to prevent an unfair advantage for company’s making deceptive claims, it is critical that the FTC set new rules based on the Green Guides’ General Principles to ensure credibility and transparency in climate-related marketing.

If you have any questions or seek additional information regarding this comment, please contact IATP’s Ben Lilliston at: blilliston@iatp.org