

February 2, 2024

Via email

Samuel Levine, Director
Bureau of Consumer Protection
Federal Trade Commission
Slevine1@ftc.gov

RE: Request to FTC to Amend Green Guides—Inclusion of Pre-Consumer Materials as “Recycled Content” Misleads Consumers of Animal Products

Dear Mr. Levine:

I am writing on behalf of People for the Ethical Treatment of Animals (PETA)—PETA entities have more than 9 million members and supporters globally—to urge the Federal Trade Commission (FTC) to amend its Guides for the Use of Environmental Marketing Claims (Green Guides) to increase transparency and address consumer confusion. Specifically, the FTC should amend its Green Guides to prohibit “recycled content” claims based on the use of pre-consumer, animal-based materials, such as leather, wool, and cashmere. Such claims are likely to mislead or deceive reasonable consumers who believe that “recycled content” means the animal product is made from previously-used materials, rather than new materials derived directly from the cruel slaughtering, shearing, plucking, or other mistreatment of animals.

Under current FTC guidance, companies can claim that their products are made from “recycled content” if they are comprised of pre-consumer or post-consumer materials. 16 C.F.R. § 260.13. Pre-consumer materials are those “that have been recovered or otherwise diverted from the waste stream . . . during the manufacturing process,” whereas post-consumer materials are recovered “after consumer use.” *Id.* For example, newly manufactured leather trimmings from making a briefcase that would ordinarily be discarded but were reintroduced into the manufacturing process to make leather watch bands would be considered pre-consumer materials. Conversely, yarns and textiles repurposed from clothing that consumers brought to collection centers would be considered post-consumer materials. FTC guidance indicates “[r]ecycled content claims may—but do not have to—distinguish between pre-consumer and post-consumer materials.” *Id.*

The FTC has long recognized that environmental marketing claims, like “recycled content,” have a strong tendency to deceive consumers because “[c]onsumers often cannot determine for themselves whether a product, package, or service is, in fact, ‘recyclable,’ ‘made with renewable energy,’ or possesses another environmental attribute that is being promoted.”¹ Because many consumers purchase animal-based

¹ Julie Brill, *Opening Keynote of FTC Commissioner Julie Brill*, FED. TRADE COMM’N 1 (Nov. 18, 2010), https://www.ftc.gov/sites/default/files/documents/public_statements/remarks-commissioner-julie-brill/101118promomarketingspeech.pdf.

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products with environmental *and* animal welfare concerns in mind,² recycled-content claims are likely to mislead consumers who purchase such products because they believe the products are akin to secondhand goods. As a result, many consumers likely believe their “recycled” products did not increase the demand for *new* materials, which requires killing and harming additional animals used for clothing and other products.

Recycled-content claims deceive and confuse consumers of animal products because animals are slaughtered for the purpose of using their hair, skin, and feathers. This means the “pre-consumer” definition is not entirely applicable to animal skins and fibers because they are coproducts of the meat industry and therefore encourage the killing and use of *more* animals, not less.³ Accordingly, ethical consumers who purchase “recycled content” to avoid supporting the cruel treatment of animals in the fashion industry are duped into doing the opposite by companies that use recycled content claims for pre-consumer materials made from animal skin and fibers.

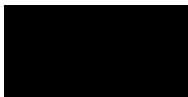
Allowing companies to use recycled content claims for pre-consumer, animal-based materials—and not requiring them to distinguish between pre-consumer and post-consumer materials—misleads and deceives consumers. For consumers relying on “recycled” claims to avoid supporting the cruel practices of the fashion industry, the use of pre-consumer materials has the same effect as the use of newly sourced materials—both types of materials stem from, and increase the demand for, animals languishing in steel traps, being skinned alive, or having their feathers ripped out of their sensitive skin in the name of fashion. This negates the intent of “recycled” claims, which is to indicate to consumers that the creation and purchase of recycled products *decreases* the demand for new materials.

The FTC recognizes that environmental marketing claims, like the one at issue, can easily deceive consumers. PETA urges the FTC to amend its Green Guides to prohibit “recycled content” claims for pre-consumer, animal-based materials to increase the transparency of “recycled” materials and avoid consumer confusion.

² See Reporterlinker, *Ethical Fashion Global Market Report 2023*, CISION PR NEWS (Feb. 23, 2023), <https://www.prnewswire.com/news-releases/ethical-fashion-global-market-report-2023-301753110.html> (“The main types of ethical fashion are fair trade, animal cruelty free, eco-friendly, and charitable brands.”); see also Danielle Wightman-Stone, *Consumers Turning Their Back on Animal-Derived Textiles*, FASHION UNITED (Aug. 03, 2021), <https://fashionunited.uk/news/fashion/consumers-turning-their-back-on-animal-derived-textiles/2021080356938>; *Survey Reveals Consumers Want to See Humane Certification on Chicken Packages to Help Ensure Humane Treatment*, AM. HUMANE (July 22, 2019), <https://www.americanhumane.org/press-release/survey-reveals-consumers-want-to-see-humane-certification-on-chicken-packages-to-help-ensure-humane-treatment/>.

³ Characterizing animal-based materials as pre-consumer materials suggests that these materials would otherwise be wasted when, in reality, animals are cruelly treated and killed to meet the demand for not only their flesh but also their skin, fur, and feathers. See e.g., Aynur Mammadova et. al., *Deforestation as a Systemic Risk: The Case of Brazilian Bovine Leather* (Feb. 3, 2022), <https://www.mdpi.com/1999-4907/13/2/233> (illustrating that the supply chain for animal flesh and skin is indistinguishable up until the animal skin is sent to a tannery and recognizing that cows are slaughtered to produce *both* meat and leather); see also Stephen G. Wiedemann et. al., *Application of Life Cycle Assessment to Sheep Production Systems: Investigating Co-Production of Wool and Meat Using Case Studies From Major Global Producers* (Jan. 28, 2015) (“Sheep are an important part of the global agricultural economy due to their multi-functional role in the production of meat, wool, milk and co-products (e.g. skins, tallow, blood and renderable products).”).

Very truly yours,



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