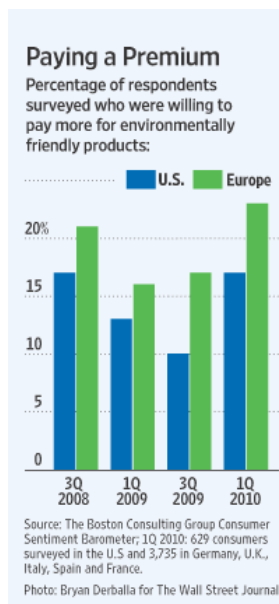


'Green' Goods, Red Flags

By Vanessa O'Connell APRIL 24, 2010

Wayne Koh likes products that are environmentally friendly and was willing to pay a little more for a household cleaner that had earned a "green" certification. Or so he thought.

When Mr. Koh learned the "Greenlist" label on SC Johnson's Shout and Windex products was created by the company itself, not awarded by an independent third party, he was angry enough to demand his money back—in court.



The lawsuit he filed is part of a rising tide of legal and regulatory actions aimed at products pitched as "environmentally friendly," as consumers and the Federal Trade Commission have begun challenging whether such claims live up to their billing.

Companies stand accused of, among other things, adding self-designed labels that imply their products have won some third-party seal of approval; touting products as "biodegradable" when there is little chance they would actually decompose in a landfill; and labeling rayon fabric—created from tree cellulose processed with a chemical that releases hazardous air pollutants—as made of bamboo, which is merely substituted for the wood fiber.

This backlash comes at a time when research shows consumers are willing to pay more for goods that save energy, pollute less or are made from natural materials, and businesses say eco-friendly products are potentially big money-makers.

About 17% of U.S. consumers said in a recent survey that they were willing to pay more for environmentally friendly products, up from 10% last fall and 13% a year earlier, according to The Boston Consulting Group. The increase is likely a result of the improved economic outlook, the consulting firm says.

At least four consumer lawsuits since 2007 have accused companies of using misleading advertising about products' environmental impact, and dozens of federal-enforcement and industry self-policing actions have occurred over the past 18 months.

In February, the FTC sent letters to 78 retailers, warning that labeling rayon a bamboo fabric is potentially misleading and could subject them to civil suits. The agency also has said any antimicrobial qualities of the plant don't survive the manufacturing process, and it challenged claims that such fabrics are biodegradable in a landfill. Additional letters or enforcement actions concerning bamboo could come soon, says James Kohm, associate director of the enforcement division at the FTC's consumer-protection bureau.

The pushback against green claims follows an explosion in environmental marketing for products ranging from laptop computers to bottled water, which the Obama administration has met with stepped-up efforts to expand oversight.

The FTC, which can prohibit statements likely to mislead a "reasonable consumer," didn't file any complaints about environmental claims during the Bush administration but has filed seven since President Barack Obama took office. Environmentalists hope for stricter guidelines on environmental marketing when the agency updates its "Green Guides," a set of recommendations unveiled in 1992. Those revisions could come later this spring.

"Everybody is trying to figure out what to do, because it's very confusing," said Morris Saintsing, co-owner of Bamboosa, a South Carolina textile maker which this month reached a final settlement with the FTC over charges that it misrepresented its rayon as a bamboo fiber that retained the antimicrobial properties of the bamboo plant, and that would biodegrade.



Bryan Derballa for The Wall Street Journal

On the recommendation of an industry watchdog, Clorox Co. recently switched to calling its Green Works Natural Cleaning Wipes "compostable" instead of "biodegradable."

The company denies wrongdoing but agreed not to make misleading claims, or statements it can't back up with scientific evidence.

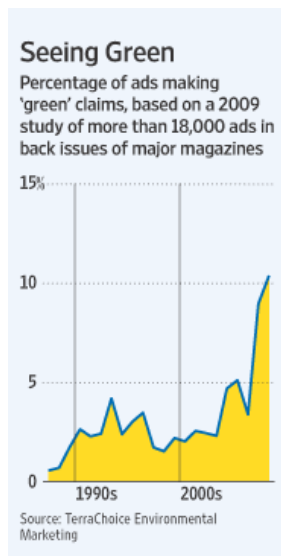
Brian Sansoni, a spokesman for the Soap and Detergent Association, which represents such companies as Procter & Gamble Co., Church & Dwight Co. and Colgate-Palmolive Co., said, "Responsible companies know to pay heed to the FTC Green Guides."

Consumers, meanwhile, are increasingly turning to the courts. Mr. Koh's suit against SC Johnson's "Greenlist" label is being watched closely by both plaintiffs and defense lawyers. Mr. Koh, who lives in Santa Cruz, Calif., and describes himself as someone who cares about the environment, said he and others paid about 50% more than they could have for rival products that didn't misrepresent themselves. The suit, which seeks class-action status, requests a refund of the purchase price to Californians who were allegedly misled by the Greenlist seal. He is also asking the court to prevent the company from using the label in what he calls a misleading manner.

A trial is scheduled for December. A similar case against Windex pending in federal court

in Milwaukee, Wis., seeks nationwide class-action status.

SC Johnson Director of Reputation Management Christopher Beard declined to comment on the suits but said Greenlist is its patented system to classify ingredients by their impact on the environment and human health. The system has helped the company to cut nearly 48 million pounds of potentially-polluting volatile organic compounds from its products in the past five years, and won the Presidential Green Chemistry Challenge Award from the U.S. Environmental Protection Agency, Mr. Beard said.



The two Windex cases could have more impact than similar litigation because they attack companies own eco-labels—using words or images which may give an impression of third-party endorsement where none exists, according to Scot Case, vice president at consulting firm

TerraChoice Group Inc. Mr. Case isn't involved with any of these cases.

The consumer suits signal "a turning point in corporate green claims," said Thomas P. Lyon, a professor of business economics and public policy at the University of Michigan's Ross School of Business, who hasn't been involved with parties on either side of the issue. Regardless of whether plaintiffs win, the cases put pressure on companies "to hone their green messages and make them more factual and credible," he said.

Three of the recent FTC enforcement actions were based on claims of biodegradability, including one against retailer Kmart, a unit of Sears Holding Corp.

The FTC challenged Kmart's contention that its American Fare paper plates are biodegradable, noting that most people's trash winds up in landfills where the plates stand little chance of degrading in any reasonable time frame. "We relied on the vendor's documents to substantiate the claim, and these plates are biodegradable in a backyard compost," a Sears spokeswoman said.

The other four cases dealt with the rayon-bamboo issues.

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