



UNITED STATES OF AMERICA  
**FEDERAL TRADE COMMISSION**  
WASHINGTON, D.C. 20580

Office of the Secretary

**VIA Email**

May 30, 2013

Marine Stewardship Council  
Program Improvements  
standards@msc.org

**RE: Marine Stewardship Council's Fishery Standards Review**

To the Program Improvements Manager:

In response to the Marine Stewardship Council's ("MSC") request for public comments as part of its current fishery standards review, the Federal Trade Commission ("FTC" or "Commission") submits the following comments. The FTC appreciates this opportunity to share the following information concerning the Commission's approach regarding environmental marketing claims. The Commission wants to take this opportunity, while the MSC is actively reviewing its certification process, to recommend that the MSC work to ensure that its "Certified Sustainable Seafood" label conveys truthful, non-deceptive information to consumers.

The Commission takes no position on the legality of the current MSC seal or on any future proposals, but emphasizes that the MSC's "Certified Sustainable Seafood" label, when used in the United States, is governed by and must comply with the Federal Trade Commission Act, 15 U.S.C. §§ 41 *et seq.* (the "FTC Act"). This letter is not intended in any way to imply that the MSC, or any of the licensees using its label, have, or have not, violated the FTC Act.

The FTC is charged under the FTC Act with preventing unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce. Truthful and non-deceptive information is necessary for the marketplace to function efficiently. The Commission and its staff have a longstanding interest in ensuring that environmental marketing claims do not deceive consumers. To that end, the Commission promulgated its Environmental Marketing Guides ("Green Guides") in 1992. As part of its comprehensive program to review all its rules and Guides, the Commission recently updated the Green Guides with particular emphasis on the use of third-party seals and certificates.<sup>1</sup> For example, the Commission has provided guidance regarding disclosure of material connections,<sup>2</sup> third-party seals as general environmental benefit claims,<sup>3</sup> and multi-attribute certifications.<sup>4</sup>

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<sup>1</sup> The Green Guides are available here: <http://www.ftc.gov/os/2012/10/greenguides.pdf>. The Green Guides' Statement of Basis and Purpose is available here: <http://www.ftc.gov/os/fedreg/2012/10/greenguidesstatement.pdf> (the "Statement of Basis and Purpose").

<sup>2</sup> See Green Guides § 260.6. See also Statement of Basis and Purpose § IV.C.3.

<sup>3</sup> See Green Guides §§ 260.4 and 260.6. See also Statement of Basis and Purpose §§ IV.A. and IV.C.

<sup>4</sup> *Id.*

When they convey truthful and non-deceptive information, certification seals, such as the MSC seal, and others like it, can play an important role in helping consumers identify seafood with desirable environmental benefits. As your public inquiry recognizes, it is important to ensure that the standards for the MSC's seal are grounded in sound science, which should be objectively applied. It is equally important that the seal convey information that is truthful, and that does not deceive consumers. The Green Guides provide considerable advice on how to avoid such deception. Furthermore, as explained in the Green Guides and Statement of Basis and Purpose, under the FTC Act advertisers are responsible for both the express and implied claims taken from their advertisements. Therefore, the MSC seal, as well as its competitors' seals, should comport with the Green Guides.

The MSC, and any other third-party certifier, should consider consumer perception when developing or reviewing a certification system. If a certifier permitted practices that reasonable consumers found inconsistent with their interpretation of the seal, the certifier should change the seal or change the certification process to comport with that understanding. Therefore, the MSC review process should take into account how reasonable consumers will perceive the MSC seal at the retail level.

The FTC appreciates this opportunity to share this information with your organization.

By direction of the Commission.

Donald S. Clark  
Secretary

cc: Rupert Howes, MSC Chief Executive (via Email and FedEx)  
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