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April 24, 2023

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue
NW Washington, DC 20580

RE: Green Guides Review, Matter No. P954501, 87 Fed. Reg. 77766 (Dec. 20, 2022)

Dear Commissioners,

On behalf of Public Citizen, we appreciate this opportunity to respond to the Federal Trade Commission's Request for Comment concerning whether the Commission ought to modify the Green Guide's provisions on deceptive marketing claims relating to carbon offsets and corporate net-zero claims.[1] The answer is a resounding yes.

Corporations today are using claims regarding carbon offsets to win over consumers who prefer products and services that reduce harm to the climate.[2] In addition, they are making bold claims regarding emissions reductions, often couched as pledges to go "net zero" by 2050. Unfortunately, as the demand for carbon offsets grows, so too does evidence of rampant fraud in offset markets, which means that representations to consumers regarding offsets are deeply misleading at best. Furthermore, since many corporations use offsets to substantiate their claims regarding net-zero goals, their net-zero claims are misleading as well. Worse than merely failing to reduce carbon emissions, many offsets have the opposite effect in practice: They are used to justify additional emissions.

Watchdog groups have been raising these concerns for more than two decades, and now regulators such as the Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) are taking note. In a recent speech, CFTC Commissioner Christy Goldsmith Romero said it plainly:

> [T]he Commission [should] increase law enforcement resources and expertise to combat greenwashing and other forms of fraud. In order to promote resilience to climate risk, there must be integrity in our markets and in the products used to manage climate risk. *You will note that I just called greenwashing fraud*. There is no standard definition of greenwashing. As a 20 year federal law enforcement official, I take the position that greenwashing is one type of fraud. *Greenwashing could include false or misleading*

[1] Please note that this comment limits its recommendations to deceptive marketing claims relating to carbon offsets and net zero; not to other categories contemplated by the Request For Comment.
[2] For the purpose of this comment, we use the term "offsets" to mean any environmental commodity representing a specified amount of carbon dioxide emission reductions, abatement or removal.

representations about … the amount of greenhouse gas emissions removed or reduced.[3]

Consumers increasingly vote for the climate with their pocketbooks, and they are often prepared to pay a premium to do so. It is essential that consumers are not misled by marketing that promises climate benefits; the claims must be true and verifiable. At bottom, consumers should get what they pay for. The history of carbon offsets, and their growing use to buttress net-zero emissions claims, suggests that consumers are getting cheated.

The Commission should modify the Green Guide provisions on carbon offset and net zero claims by making the following changes:

- *Amend Green Guides § 260.5 (a) to name all parties in the offsets value chain, including project developers, retailers, brokers, and corporations marketing carbon offsets to consumers. The current term "seller" is insufficient to reflect current market realities, particularly the fact that most offsets today are marketed to consumers by corporations striving to boost their green appeal.*

- *Add to § 260.5 a requirement that offsets marketers include a clear disclaimer that the climate benefits of carbon offsets cannot be guaranteed, or prohibit offsets marketing claims more generally due to the complex and detailed disclaimers required.*

With respect to net zero marketing claims, the Commision should protect consumers by:

- *adding to § 260 a requirement that net-zero claims have adequate substantiation including (1) comprehensive and actionable timelines with short-, medium-, and long-term goals, (2) reduction of all greenhouse gas emissions, including scope 1, 2, and 3 emissions, as well as emissions facilitated through financing, and (3) require offsets only as a last resort for emissions beyond value chain mitigation and require high verification of purchased offsets that create additionality and permanence; and*
- *adding to § 260 a requirement that climate-related advertisements include a disclosure that provides adequate substantiation of claims.*

These recommendations are discussed in detail below. In addition, the Commission should use the full extent of its enforcement powers to hold deceptive marketers to account and to expand its citizen complaint program so that consumers harmed by unscrupulous marketers can redress their grievances.

The carbon offsets market is suffering an integrity crisis that puts consumers at risk.

A growing swath of consumers understand that there is no time left for false solutions to the climate crisis. Despite the proliferation of new cases of fraud and abuse in the carbon offsets

[3] CFTC Commissioner Goldsmith Romero, A Thoughtful Approach to the Daunting Challenge of Climate Financial Risk (March 7, 2023) (emphasis added).

market, Morgan Stanley just issued a forecast that the voluntary carbon offset market will grow from $2 billion in 2020 to around $250 billion by 2050.[4] This is deeply troubling from a consumer protection standpoint (and a climate standpoint).

Increasingly, fossil fuel companies are relying on carbon offsets to justify their transition to clean energy without making material emissions reductions. In November 2021, the Financial Times reported "a surge in the use of carbon credits for hydrocarbon products" often marketed as "carbon neutral." Among the companies engaged in this marketing is Shell Oil, which claims on its website that it compensates for emissions from its lubricants and other products with "externally-verified" offsets. Yet the Verra offsets registry—which issues two out of every three offsets in the global markets, and which issued Shell's offsets in this case—makes no attempt to ensure that its customers balance their emissions with carbon removals.

Significant concerns exist about the efficacy of relying on nature-based offsets, such as forests and wetlands, as sinks of greenhouse gasses. These include the exaggeration of the level of additional carbon emissions actually avoided,[5] the limits on the level of emissions that can reasonably be sequestered,[6] and the challenges of preventing emissions from being returned to the atmosphere at a later date.[7]

A January 2023 investigation by *The Guardian* found that "more than 90% of [the Verra registry's] tropical forest offset credits – among the most commonly used by companies – are likely to be 'phantom credits' and do not represent genuine carbon reductions."[8] Similar concerns have been documented in the peer-reviewed literature concerning forest offset programs operating in North America.[9]

The FTC has clear authority to protect consumers from deceptive marketing claims based on carbon offsets.

Section 5 of the FTC Act (15 U.S.C. § 45) prohibits "unfair or deceptive acts or practices," and the FTC has interpreted this prohibition in its Policy Statement on Deception as prohibiting any representation, omission or practice that is:

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[4] Morgan Stanley, Where the Carbon Offset Market Is Poised to Surge (April 11, 2023).
[5] Dr. Charles D. Canham, Rethinking forest carbon offsets, Cary Institute of Ecosystem Studies, (May 19, 2021).
[6] Doreen Stabinsky, Chasing Carbon Unicorns: The Deception of Carbon Markets and Net Zero, Friends of the Earth International (Feb. 2021).
[7] 9 Debra Kahn, Wildfires rage and a tool to combat climate change goes up in smoke, POLITICO (July 27, 2021).
[8] The Guardian's reporting was based on two published academic studies and a scientific preprint: West et al., Overstated carbon emission reductions from voluntary REDD+ projects in the Brazilian Amazon, Proceedings of the National Academy of Sciences (Sept. 14, 2020); Guizar-Coutiño et al, A global evaluation of the effectiveness of voluntary REDD+ projects at reducing deforestation and degradation in the moist tropics, Conservation Biology (Sept. 8, 2022); West et al., Action needed to make carbon offsets from tropical forest conservation work for climate change mitigation (Jan. 2023).
[9] *See*, *e.g.*, Badgley et al., Systematic over-crediting in California's forest carbon offsets program, Global Change Biology (Oct. 20, 2022).

- likely to mislead the consumer;
- considered from the perspective of the "reasonable" consumer; and
- material, i.e., likely to affect the consumer's conduct or decision with regard to a product or service.

The FTC's Enforcement Policy on deceptively formatted advertisements considers the "net impression" of advertisements on consumers. Thus, any qualifying information necessary to prevent deception must be "disclosed prominently and unambiguously" to overcome any misleading impression created. *See also* Green Guides, 12 C.F.R. § 260.3(a) ("to prevent deceptive claims, qualifications and disclosures should be clear, prominent, and understandable"); Digital Advertising Disclosures policy ("when practical, advertisers should incorporate relevant limitations and qualifying information into the underlying claim, rather than having a separate disclosure qualifying the claim").

The Commission's guidance on carbon offsets needs to be updated in the Green Guides to reflect new market realities.

The carbon offsets market has evolved in ways that could not have been predicted when the Commission first drafted the relevant provisions a decade ago. Green Guides § 260.5 provides:[10]

> (a) Given the complexities of carbon offsets, sellers should employ competent and reliable scientific and accounting methods to properly quantify claimed emission reductions and to ensure that they do not sell the same reduction more than one time.
>
> (b) It is deceptive to misrepresent, directly or by implication, that a carbon offset represents emission reductions that have already occurred or will occur in the immediate future. To avoid deception, marketers should clearly and prominently disclose if the carbon offset represents emission reductions that will not occur for two years or longer.
>
> (c) It is deceptive to claim, directly or by implication, that a carbon offset represents an emission reduction if the reduction, or the activity that caused the reduction, was required by law.

When these provisions were drafted,the main concern was the sale of offsets to private consumers hoping to reduce personal climate impacts. This is evidenced by the language of subsection (a), which calls on "sellers" of carbon offsets to "employ competent and reliable scientific and accounting methods to properly quantify claimed emission reductions." A seller of

[10] Federal Trade Commission, Guides for the Use of Environmental Marketing Claims, 77 Fed. Reg. 62,122 (October 11, 2012). https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguides.pdf

carbon offsets in this context would most likely be a retailer such as Terrapass or South Pole, a broker or—in limited cases—the offsets project developer themself.[11]

However, today only a small subset of carbon offsets are sold directly to retail consumers: Most offsets are purchased *by corporations* and then used as a basis for climate-friendly claims to customers. This corporate marketing can further be divided into at least two categories: (1) a company uses offsets as a basis to market its climate commitments, such as a pledge to go "net-zero" by 2050; or (2) the company offers customers a chance to offset emissions linked to the customer's purchase of the company's products or services (for instance, an airline offers customers an option to purchase carbon credits to offset their own emissions).

Subsection (a) should be amended to include all parties in the offsets value chain that market to consumers, including offsets project developers, retailers, brokers, and corporations making carbon offsets claims to consumers.

Given that consumers stand to be duped by any one of these actors, Section 260.5 should name them all so that the highly concentrated market players upstream (including the registries, developers, and verifiers) cannot pass the buck to the players downstream (brokers, retailers, and corporations) and vice versa. A new California State Senate bill clarifies these different functions and provides a good model for the Commission to consider.[12]

Beyond updating the market players named in the Green Guides, the Commission should consider whether carbon offsets can *ever* deliver on their promise to produce real, verifiable, additional and permanent removals of greenhouse gas emissions.[13] The recent history of widespread fraud and negligence in the carbon offsets market suggests the answer is no.

Offsets marketing is deceptive per se because the climate benefits of carbon offsets are speculative.

Even assuming good faith on the part of parties in the carbon offsets value chain, the physics of climate change and the current state of sequestration technology combine to create an unworkable situation. Carbon dioxide persists for hundreds of years in the atmosphere.[14] Meanwhile, nature-based offsets such as afforestation carry no guarantees – a forest planted

[11] Additional actors in the offsets value chain are the developers of discrete offsets projects, the registries that issue credits based on those projects; and the "verifiers" that issue statements confirming the claims of project developers (e.g., Aster Global and many others). In sum, an offset project is designed by project developers, validated by an independent verifier, and recorded with a carbon offset registry which then issues carbon credits that retailers and brokers sell to customers.
[12] "Bill Text - SB-390 Voluntary Carbon Offsets: Business Regulation."Legislature.Ca.Gov. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB390.
[13] These are the defining principles for valid carbon offsets, without which the whole enterprise becomes meaningless. See ICVCM "Core Carbon Principles," https://icvcm.org/the-core-carbon-principles/
[14] Matthews et al. (2009), The proportionality of global warming to cumulative carbon emissions, *Nature* 549: 829-832; Archer et al. (2009), Atmospheric Lifetime of Fossil Fuel Carbon Dioxide, *Annual Review of Earth and Planetary Sciences* 37: 117-134; Pierrehumbert (2014), Short-Lived Climate Pollution, *Annual Review of Earth and Planetary Sciences* 42: 341-379.

today could be wiped out by a climate-fueled wildfire tomorrow, releasing all the carbon stored. Similar challenges plague offsets based on carbon removal and sequestration technologies, which remain excessively costly and unproven at scale.

If permanence is a core principle of a quality carbon offset, as all market actors agree, then there are simply no offsets on the market that can meet that bar. Science may one day deliver a solution, but it has not yet. It follows that even if there is no intent to defraud or deceive on the part of offsets marketers, there is inevitably deception *in fact*, because the current state of the market — both in terms of the kinds of offsets projects available, as well as the technical ability to monitor those projects over relevant timescales — is incapable of delivering on the promises made.

How can the Commission protect consumers against deceptive offsets claims?

Due to the problematic nature of offsets and offset markets, claims regarding offsets would require extensive disclosures to prevent them from misleading consumers. But those disclosures are too extensive and detailed to be practical as per the Commission's own guidance discussed below. Therefore, the FTC is left with two alternatives: (1) prohibit offset marketing claims that would require extensive disclosures (which at present are most if not all); or (2) require offset claims to include a disclaimer that benefits cannot be guaranteed.

A. The Commission could mandate a universal disclaimer for offsets claims.

A reasonable consumer looking at an offset claim on product packaging or a company website is unlikely to know about the scientific integrity issues that have emerged around key offsets criteria like permanence and additionality. Rather, a reasonable consumer would consider the general meaning of "offset" as to counterbalance one effect with another.[15] Indeed, the understanding in the industry is that an offset is a promise of a "tonne for a tonne;" every carbon credit represents a tonne of CO2 that was removed, reduced, or abated from the atmosphere.[16] As discussed above, offsets benefits cannot be guaranteed over the timescales relevant to the climate crisis and are thus deceptive per se.

One way to ensure consumers are not misled by offsets marketing claims is to mandate a universal disclaimer that offsets benefits cannot be guaranteed. The particular wording of such a disclaimer would be determined by the Commission but could approximate these examples: "Carbon offsets may not result in claimed emissions reductions or facilitation of climate goals," or "Carbon offsets may not be an effective tool to reduce greenhouse gas emissions."

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[15] The Cambridge Dictionary definition of offset is "to balance one influence against an opposing influence, so that there is no great difference as a result." https://dictionary.cambridge.org/us/dictionary/english/offset

[16] "Removed," "reduced," and "abated" are all special terms that deserve the FTC's attention. Some offsets claim to remove one tonne of emissions; others to reduce one tonne of emissions, and yet others to abate one ton of emissions. Arguably, only effective 'removals' of carbon dioxide should be eligible for offset status, since the other two categories - reduction and abatement - do not draw down emissions from the atmosphere, which is what is needed to truly offset a given emission.

B. The Commission's guidance also supports an effective ban on offsets marketing.

The Commission could also require marketers to include full and comprehensive detail about the offset claim, including scientific credibility concerns, in the advertisement itself. However, the extensive detail required to provide all the caveats and disclaimers that undergird a particular offset project could not reasonably be made clearly in this case. The Commission's guidance in this case is that the advertisement "should not be disseminated."[17]

> "If a disclosure is necessary to prevent an advertisement from being deceptive, unfair, or otherwise violative of a Commission rule, and it is not possible to make the disclosure clearly and conspicuously, then that ad should not be disseminated. This means that if a particular platform does not provide an opportunity to make clear and conspicuous disclosures, then that platform should not be used to disseminate advertisements that require disclosures. Negative consumer experiences can result in lost consumer goodwill and erode consumer confidence. Clear, conspicuous, and meaningful disclosures benefit advertisers and Consumers."[18]

Adequate disclosures would require all relevant details regarding the carbon offset project, including accountability measures if the emissions removal or reduction goals are not realized. A recent bill in the California State Assembly would require the following disclaimers, for example:

(a) Details regarding the applicable carbon offset project including all of the following information:

- (1) The specific methodology used to estimate emission reductions or removal benefits.
- (2) The location of the offset project site.
- (3) The project timeline.
- (4) The date when the project started or will start.
- (5) The date when the emission reductions or removals started or will start.
- (6) The type of project.
- (7) Whether the project meets any standards established by law or by a nonprofit entity.

(b) Details regarding accountability if a project is not completed or does not meet the projected emission reductions or removal benefits, including, but not limited to, details regarding what happens under all of the following circumstances:

- (1) If carbon storage projects are reversed.
- (2) If future emission reductions do not materialize.
- (3) If past reductions are reversed.

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[17] FTC, ".com Disclosures: How to Make Effective Disclosures in Digital Advertising," March 2013: https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf

[18] *Id.* It bears noting that the Commission is explicitly considering digital advertising in this case but the logic applies to marketing of offsets generally.

(c) All data and calculation methods needed to independently reproduce the number of credits issued.[19]

The California bill would impose disclosure obligations on offsets sellers in the state to allow regulators to monitor compliance and provide baseline data for potential enforcement actions. It is not a truth-in-advertising bill, however, and the lengthy online disclosures are not designed to provide actionable data for a "reasonable consumer."

In contrast, FTCA Section 5 is clear that an advertising claim is subject to a reasonable consumer standard. In seeking to make an everyday purchase, a reasonable consumer is unlikely to take the time to access a separate website and work through a comprehensive disclosure such as that required for offsets. It follows that the Commission should not allow offsets marketing in general in keeping with its own guidance.

In sum, the Commission could adequately protect consumers from deceptive carbon offsets claims in one of two ways: Either include a clear disclaimer that the benefits ascribed to offsets cannot be guaranteed, or prohibit offsets marketing claims more generally due to the complex and detailed disclaimers required.

Market research shows net-zero claims are misleading and impact consumer behavior.

The use of offsets to demonstrate progress towards the goal of "net-zero" emissions is inherently deceptive. Yet, companies are increasingly using offsets to evidence their progress towards compliance with the Paris Agreement's prescription for global actors to achieve "net-zero" emissions by 2050. The use of ambiguous climate change-related advertising claims such as "net-zero" or "carbon neutral," often unsubstantiated and lacking integrity, are confusing and deceptive to consumers.

Recently, the UK's advertising watchdog published findings that consumers are routinely confused by corporate climate marketing claims. Carbon offsetting claims in the context of net-zero or carbon neutral claims were the primary source of confusion and misunderstanding:

> There was an assumption by some that the claims referred to a direct reduction of carbon emissions. People tended to feel misled when they learned that companies were often relying on offsetting, either partially or wholly, rather than directly reducing carbon emissions.[20]

[19] This list is derived from a new California State Assembly bill, AB 1305, that would mandate any business selling offsets to post comprehensive disclosures on climate offsetting projects on their public website. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB130

[20] "Climate change and the environment - consumer understanding of environmental claims," Advertising Standards Association, October 20, 2022: https://www.asa.org.uk/resource/climate-change-and-the-environment-consumer-understanding-of-environmental-claims.html

This supports a commonsense expectation by consumers that when a company commits to substantial emissions reductions, whether as part of a net-zero plan or otherwise, those reductions are the company's own. Moreover, even if consumers understood the difference between a company buying offsets and directly reducing emissions, claims regarding offsets are, themselves, misleading for the reasons discussed above. For this reason, companies making net-zero claims are rarely on a path to reduce emissions to meet science-based targets. Consumers reasonably assume that marketers have grounds for climate-related claims that the consumers might not fully comprehend. The FTC must provide clear and robust requirements to ensure that "net-zero" and "carbon neutral" claims are not misleading.

A Bloomberg investigation in November 2022 found that several global brands, including GE and Lyft, use the purchase of offsets to support claims of carbon neutrality.[21] But as discussed above, carbon offsets are unverifiable and fraudulent, providing little support to actual carbon reduction and net-zero goals.[22] The practice of offsetting has no place in a net-zero framework with integrity, which is why the Science Based Targets Initiative (SBTi) has prohibited them in its own model standard for effective net-zero plans. Despite this, most companies continue to heavily rely on carbon offsets to meet their net-zero goals. It is crucial for the FTC to ensure that climate-related advertising claims are credible and aligned with genuine efforts to achieve net-zero emissions. A first step would be prohibiting the use of offsetting to substantiate net-zero and carbon-reduction claims.

Without adequate disclosures to inform consumers that carbon offsets do not equate to a reduction or elimination of greenhouse gas emissions, climate change-related advertisements will continue to be misleading and affect consumers behavior based on faulty assumptions.

European regulators are already cracking down on deceptive "carbon neutral" and "net-zero" claims associated with carbon offsets. The Dutch Advertising Code Committee ruled that KLM's tagline – "Be a hero, fly CO2 zero" – could not be substantiated by its carbon-offset program.[23] The advertisement inaccurately portrayed to consumers that their air travel CO2 emissions could be effectively offset. In Sweden, the Patent and Market Court concluded that the dairy company Arla Foods misled consumers with its "net-zero climate footprint" statement by implying that production had zero carbon emissions or that purchasing carbon credits offset environmental impacts.[24] The National Advertising Division, an industry self-regulator, recommended that JBS, one of the largest meat and food producers, discontinue its "net-zero"

[21] Rathi, A. (2022) "Big Companies Claim 'Carbon Neutrality' Using Junk Carbon Offsets." Bloomberg.com,https://www.bloomberg.com/graphics/2022-carbon-offsets-renewable-energy/#xj4y7vzkg.
[22] Silverstein, K. (2021) "Not All Carbon Credits Are Created Equal. Here's What Companies Must Know." Forbes Magazine, https://www.forbes.com/sites/kensilverstein/2022/06/22/not-all-carbon-credits-are-created-equal-heres-what-companies-must-know/?sh=7f5d0c045328https://www.forbes.com/sites/kensilverstein/2022/06/22/not-all-carbon-credits-are-created-equal-heres-what-companies-must-know/?sh=7f5d0c045328.
[23] Baazil, D. (2022). Dutch Watchdog Rules KLM's 'Carbon Zero' Ad Is Misleading. Bloomberg.com, https://www.bloomberg.com/news/articles/2022-04-08/dutch-watchdog-rules-klm-s-carbon-zero-ad-is-misleading.
[24] Coyne, A. (2023). Swedish court bans Arla's net-zero advertising claim. Just Food, 6 February. https://www.just- food.com/news/swedish-court-bans-arlas-net-zero-advertising/.

advertising due to consumers expecting environmental benefits that could not be adequately substantiated. The FTC should follow suit.

Businesses are increasingly making climate-related commitments in line with science-based targets. While this trend is positive, the effectiveness of these goals are hindered by deceptive claims. Nearly all companies that have made net-zero claims will fail to achieve their intermediate goals by 2030. A report from the Climate Corporate Responsibility Monitor revealed that 24 of the world's largest global companies made net-zero commitments that were inadequate to reach net-zero emissions by 2050.[25] As the transition to a low-carbon economy accelerates, the substance of net-zero claims will become more important to consumers and stakeholders. The FTC has a crucial role to play in safeguarding consumers through its Green Guides by providing standards for transparency and integrity for climate change-related advertisements, including explicitly prohibiting the use of offsetting for net-zero and climate neutral claims.

The FTC should require disclosures for climate change-related advertising claims.

The FTC's Advertising Substantiation policy requires that marketers have adequate support for their advertising claims. When evaluating explicit or implicit claims in advertisements, marketers should have evidence to substantiate their statements since consumers expect a reasonable basis for the claims they encounter.[26] For "net-zero" and "carbon neutral," confusion around terminology, minimal industry standards, and a lack of integrity and transparency creates material misunderstandings for consumers.

To ensure marketers and consumers have sufficient information to assess the validity of net-zero claims, the FTC should require disclosures by companies that ensure "net-zero" and "carbon neutral" statements are substantiated. The FTC already has highlighted the importance of disclosures in its 2012 Green Guides, which state that "to prevent deceptive claims, qualifications and disclosures should be clear, prominent, and understandable."[27] Without a disclosure regime for "net-zero" and "carbon neutral" claims, the burden to ensure validity of each claim falls on the FTC's enforcement capacity, which is significantly resource constrained. Ultimately, the best way to protect consumers and stakeholders from deceptive climate change advertisements is to establish greater transparency through public disclosures surrounding the integrity and validity of "net-zero" and "carbon neutral" claims.

The FTC should outline unambiguous and verifiable requirements in its Green Guides for the terms "net zero" and "carbon neutral." To prevent deception, a company's net-zero statements should be aligned with a strategic plan, supported by understandable and clear metrics, and have evidence of reductions to greenhouse gas emissions. A recent UN report "Integrity

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[25] Day, T. et al. 2023. Corporate Climate Responsibility Monitor 2023. Germany. Retrieved from https://newclimate.org/sites/default/files/2023-04/NewClimate_CorporateClimateResponsibilityMonitor2023_Feb23.pdf on 18 Apr 2023. CID: 20.500.12592/1694n6
[26] "FTC Policy Statement Regarding Advertising Substantiation". 2014. Federal Trade Commission. https://www.ftc.gov/legal-library/browse/ftc-policy-statement-regarding-advertising-substantiation.
[27] 12 C.F.R. § 260.3(a).

Matters: Net Zero Commitments" provides a framework for disclosure requirements for "net-zero" claims: (1) provide comprehensive and actionable timelines with short-, medium-, and long-term goals, (2) account for the reduction of all greenhouse gas emissions, including scope 1, 2, and 3 emissions, as well as all emissions facilitated through financing, and (3) require offsets only as a last resort for emissions beyond value chain mitigation and require high verification of purchased offsets that create additionality and permanence.[28] The FTC should add a disclosure regime for terms like "net zero" and "carbon neutral" in the Green Guides to protect consumers from misleading advertisements that include ambiguous climate-related claims.

Conclusion

Claims that the climate impacts of a product or company are somehow "offset" by the purchase of a carbon credit are some of the most problematic marketing claims today. Many have challenged offsets as irreparably flawed due to fraud, verifiability concerns, low standards, and even lower oversight. Nevertheless, offsets are increasingly used to support corporate marketing claims regarding decarbonization and net-zero targets. If the corporate climate commitments are to have integrity, the FTC must be clear: Projects and schemes to offset personal and corporate emissions are incapable of delivering on their promise, particularly with regard to the "permanence" criteria. This cannot be cured. The use of offsetting in climate change-related claims, such as net zero and carbon neutral, are incompatible with achieving science-based targets. To ensure the transparency and integrity of advertisements, any marketing claims based on offsets should clearly disclose that claims do not have evidence of carbon reduction. The Commission is not expected to fix the carbon offset market, but it does have a responsibility to protect consumers from deceptive advertising related to offsets. Fundamentally, any advertising that does not include a hefty disclaimer is deceptive per se.

For questions, please contact Clara Vondrich at cvondrich@citizen.org and Mekedas Belayneh at mbelayneh@citizen.org.

Sincerely,

Public Citizen

[28] McKenna, C., et al. 2022. Integrity Matters: Net Zero Commitments by Businesses, Financial Institutions, Cities and Regions. Report from the United Nations' High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities.