



Federal Trade Commi



OPTIONS FOR HELPING THE MARKET WORK

OF THE ENVIRONMENT

ON BEHALF

COMMISSIONER

FEDERAL TRADE COMMISSION

before the

SECTION OF ANTITRUST LAW TRADE ASSOCIATION COMMITTEE

McMillan Intercontinental Hotel
Washington, D.C.

Friday, February 25, 2010 11:00 AM
I think the ETC should do in addressing the very important
arise from the "greening" of trade regulation. policy issues that

Another significant event was the formation in January,

by the EPA, the Office of Consumer Affairs and the FIC of a

from deceptive claims about the environmental attributes of

tion about environmental claims by extending its

providing information to a wide audience of consumers on such

to develop the... provide the... for... development... provide...

state for the... enforcement... Patent enforcement actions help illumi...

will apply the law in evaluating environmental claims. Commission

Commission accepted for public comment its first consent

manufacturer of agreement with a major national advertiser, a m...

attorney, General is...

ent activities are continuing

treated. The Commission's enforce

The general assumption is that guidelines are good, or at least benign. After all, they are intended to address

in some ways, cost live problems in the market. It is important to recognize, however, that guidelines themselves can result in the unintended imposition of costs.

attitudes. The staff brings to the discussion regarding

the Committee has considerable

the role of agents

benefits of requiring

experience with the interplay between government requirements and

nts also offered different opinions. The hearing participants
regarding how various claims should be regulated. For example,
ned that only "post-consumer waste" should be recycled while some parties argued
that "pre-consumer" material should be recycled. Others argued
that "pre-consumer" material is also recycled material.
of the disagreements that surfaced appear at least in Some

appropriate response. Indeed, we might take action that

truthful and nondescriptive representations that are it

beginning. In order to have a sound basis on which to develop

informed insight into how consumers think about them."

Let's start with a simple case and assume "recycled mater

for the moment that we are 100% certain that consumers think only

claims altogether rather than incur these costs. This, in turn,

consumer waste in might reduce their incentives to include post-cons

actual functional to... would be...
used of as trash if it were not reused? If so does this...
be considered recycled? ... mean that all reused material should be
es that scrap material that is... The proposal we received not
normal if have covered... recycled because the material would not
stream... Of course... this raises the question of how... the waste
the "cost of reuse"... what let us set that question aside...
... for the moment

For example, although I have only limited information on the

more recycled content in a product may not always be better
for the environment. Let me hasten to add that I am not here

1960's and again in the 1970's. I have assumed for many years

but I think we know in time to be open-minded in this context

and than at a recent conference on eco-labeling

ted that "There is nothing inherently good about analysis, no

Evolving science is only part of the challenge. Developing guidelines that are reasonably correct in all contexts is a

occur.

of benefit, might result. First, it might deprive consumers

a reduced incentive to reuse their manufacturing scrap and

previously reused materials, some of which were previously

reused materials, going to the manufacturer's plant that was pre-

viously reused materials, going to the manufacturer's plant that was pre-

another unintended effect is that the suggestion that

a firm should be allowed to make a claim of recycled content for

that means that the manufacturer's plant that was pre-

...in this process in the belief that the waste of
...the "waste stream" can be sold to another firm. The
...either
...firm might receive its own waste.

...this propo
...trading wa

prices without improving the environment.

Another proposal we have received involves restrictions on

...the use of the term "recyclable". The suc
...unre-

A more general concern is how robust guidelines would be --

based on the current state of knowledge, they would not contribute to the development of policies

that are based on beliefs regarding what is good for the environment

current when they are written. Those beliefs, however, can

stable.

to characterize them. Unfortunately, these conditions do not appear

...the binding market forces to work on behalf of the environment