Key Environmental Compliance Issues Facing the Beauty Industry

Eco Well Sustainable Beauty E-Summit

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March 6, 2022





Introductions

Beauty and Personal Care Product Lifecycle

Climate and ESG Reporting Across Supply Chain

Plastic Packaging Legislation

Legal Requirements for Green Marketing

Extended Producer Responsibility



Compliance Across the Beauty & Personal Care Product Lifecycle $\overline{\bigcirc}$ \bigcirc Manufacturing Warehousing & Product **Responsible** Product Sale & Use End-of-Life Sourcing & Importing **Transportation** Compliance Issues Hazardous Waste **Conflict Minerals** Facility Permitting Dangerous Product Safety Market Access Recalls Goods Disposal Other Minerals Chemicals Enforcement Green Marketing Material Restrictions EPR and Management Packaging Human Rights and Prop 65 and Litigation Eco Design Anti-Disposal Labor Product Specs & **Reverse Logistics** other Warnings Laws Testing Energy Efficiency Hazardous Materials Procurement Responsible Supplier **Recycled Content** Workplace Packaging Recycling Certifications Requirements Safetv Requirements **Basel Convention** OSHA Labeling **Circular Economy** (Micro)Plastics **Climate Change, Disclosures, and ESG**



Multipliers: more products x more countries x more regulations

A Closer Look: Climate and ESG Reporting Trends



Mandatory climate and ESG reporting on the rise, especially for Scope 3 emissions and human rights

- SEC regulations governing mandatory climate disclosure
- State bills and new laws
 - CA Climate Corporate Accountability Act
 - CA Transparency in Supply Chains Act
 - Supply chain transparency bills targeting fashion industry (NY, WA)

Increasing Investor, NGO, and Customer Pressure



Plastic Packaging Compliance Considerations

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Increased regulatory developments banning single-use plastic (SUP)

Ecodesign and recycled content mandates for plastic packaging

Import of recycled materials and accessing global feedstock • New legally binding international agreement on plastics

Microplastics (not just packaging!)

• Statewide Microplastics Strategy in California



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Recycled Content Mandates

- Establishes minimum recycled content standards for products and packaging
- Effort to improve the market for recyclables
- Impacts manufacturers and retailers





Recycled Content Mandates: Examples

New Jersey

- Packaging products including plastic containers
- Increases over time from 10% to 50%
- Compliance deadlines
 begin in 2024

Washington

- Includes bottles for household and personal care products
- Increases over time from 10% to 50% (varying by product)
- Compliance deadlines
 begin in 2024

Connecticut

Recycled content requirements for products sold in the state to be developed by December 1, 2022.

California

AB 478 Proposed 30% post-consumer recycled plastic by 2030



Green Marketing and Recyclability Claims

Environmental Marketing

- FTC watches the content of marketing materials
- Green Guides provide direction on use of environmental claims
 - Update expected in 2022
- Claims must be substantiated





Categories of Claims to Watch For

General Environmental Benefits

Vague terms like "sustainability" or "eco-friendly" "Recycling" "Compostable" "Degradable" "Free Of" "Non Toxic"

Also applies to environmental graphics





Recyclable

Degradable/Compostable

Non-Toxic/Free Of

Certification or Seals of Approval

Green Certification Examples

Good Example



Biodegradable Recyclable Compostable

If this seal is accurate, it's **not deceptive** because it lists the specific attributes that form the basis for the product's certification.

In the FTC's Green Guides, Section 260.6, example 7, there is an example for when it is impractical to clearly list all applicable attributes adjacent to the seal itself.

Bad Example



This seal may be deceptive because it does not convey the basis for the certification. It is highly unlikely that marketers can substantiate all the attributes implied by general environmental benefit claims. That's why marketers should only use environmental certifications or seals that convey the basis for the certification.



Successful Claims

Make narrower, more specific claims ("qualified" claims)

Disclose details clearly and prominently – make sure consumer can understand (avoid fine print and careful with hyperlinks)

Considered deceptive to represent or imply that there is a significant env. benefit if on balance, the benefit is negligible.

Avoid claims of benefits if not also disclosing an obvious or important environmental impact

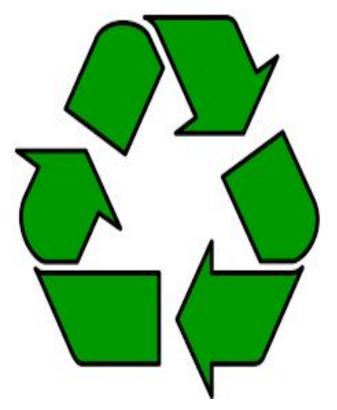
Clearly identify which materials are recyclable, compostable, etc. and which are not, particularly when products contain multiple materials

Back up claims with science and maintain back up material



California SB 343

- Limits use of chasing arrows symbol or the term "recyclable"
- 60% of material and form of product can be recycled in at least 60% of the population in CA; and
- Material has a demonstrated recycling rate of at least 75%





Extended Producer Responsibility (EPR) Laws

- EPR laws hold packaging producers accountable for costs associated with managing material in waste and recycling stream – often through contributions to a Producer Responsibility Organization (PRO)
- First State EPR Packaging Bills to Pass
 - Maine (2021)
 - Oregon (2021)
- More to come?





Thank You!



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Key Areas of Service for the Beauty Industry

Chemical Regulation

- Product approvals for chemicals (TSCA, FIFRA, REACH)
 Pesticides and biocides in textiles
 Exposure assessments, warnings (CA Prop 65)
 PFAS issues (coatings, weather protection)
 Plastics, microplastics
- Market-access, material restrictions (RoHS)

International

International network of local counsel and technical environmental consultants
Multilateral environmental agreements
China Roundtable
Lawyers fluent in Spanish, Portuguese, Chinese

Facilities and Retail

Air, energy, water, waste compliance
Environmental compliance program design, training
Project development and permitting
Worker safety, emergency response, safety audits
Environmental due diligence in transactions

Toxic Tort & Product Liability

- Federal and state agency enforcement defense
- Experience with complex scientific issues related to property damage and/or personal injury claims

ESG & Sustainability

GHG emissions, climate disclosures
ESG benchmarking, reporting, risk evaluation, enforcement defense
NGO interaction strategies, corporate partnerships
UN Sustainable Development Goals

Responsible Sourcing & Product Stewardship

Supply chain due diligence, disclosures
Forced labor/human rights, conflict minerals

 Agriculture product stewardship (seed importation, hybridization, quality)
 Sustainable packaging

Environmental Marketing & Ecolabels

• "Green" marketing (FTC Green Guides), training

 Organic and other agricultural certifications, defense against challenges
 Voluntary initiatives

Waste & Circular Economy

 State and federal regulations (RCRA, CalHWCA)
 Regional and global recycling programs

• Trans-boundary movement of waste

