



Mr. David Vladeck, Director  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

April 11, 2011

Dear Mr. Vladeck,

We appreciate the important role the Federal Trade Commission plays in preventing deceptive business practices and the agency's recent attention to deceptive green advertising enforcement. We would like to take this opportunity to request that the Commission investigate the CBS-EcoMedia "EcoAd" program. We believe that this program, if revised, has the potential to offer great benefits to local environmental and energy saving projects. However, as currently configured, the EcoAd program will mislead the public and create confusion about the environmental attributes of companies and products that participate in this purported "sustainable media" effort.

On January 10, CBS-EcoMedia launched its EcoAd program, noting in its press release that the "New EcoAd Leaf Icon Will Brand Sustainable Advertising...."<sup>1</sup> The EcoAd program offers advertisers on CBS media, including network, local television, radio, outdoor and online outlets, the chance to purchase "sustainable media" that gives them "added value beyond traditional advertising." The "added value" promised by CBS is the inclusion in ads of the EcoAd logo, a green leaf surrounded by the text "eco ad."<sup>2</sup>

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<sup>1</sup> CBS Corporation press release, online at <http://www.cbcorporation.com/news-article.php?id=732> [accessed April 8, 2011]

<sup>2</sup> The logo is online at <http://photos.prnewswire.com/prnh/20110110/NY26982LOGO>

The concept of the EcoAd program is that a portion of the proceeds CBS earns from their “sustainable media” sales will go towards environmental and clean energy projects. CBS says that advertisers displaying the EcoAd symbol are merely signifying to viewers that they support such projects, and that the symbol does not suggest any environmental claims about the products or companies advertised. In response to questions about the program, EcoMedia (a wholly-owned division of CBS Corporation) President Paul Polizzotto said,

“The EcoAd simply states that if the leaf is seen on a CBS advertisement, that money from the ad is funding projects in a community. It does not state that the advertiser or the product is green... At EcoMedia-CBS, we are making one simple claim: That money from the ad is funding local projects. That’s it; that’s all it says.”<sup>3</sup>

But in promoting the launch of the program, Polizzotto (as quoted in the CBS-EcoMedia press release) told potential advertisers, “The power of the EcoAd leaf is extraordinary. When an ad features the leaf, it sends a powerful message to viewers that the brand is committed to both the environment and the communities they serve.”<sup>4</sup> However, the EcoAd green leaf symbol appears by itself, without explaining that it simply means that money from the advertisement is funding community environmental programs. From the consumer’s perspective, the message is that either the product being advertised or the company who purchased the advertisement has some positive environmental attribute. It does not appear that CBS intends to substantiate advertisers’ or their products’ environmental attributes, or to explain the meaning of the EcoAd symbol in the ads to viewers. Instead, the network says that their promotional materials explain how the EcoAd program works.

CBS also has failed to develop or post for public review criteria for advertisers or products that qualify for the EcoAd program. In promoting the program to potential advertisers, CBS suggests that no company or product that advertises with the network will be barred from participating, stating that “Any ad can be an EcoAd.”<sup>5</sup>

Further, the network’s Facebook page for the program states that, “The EcoAd icon does not imply any judgment, bias, labeling, or rating from EcoMedia-CBS...”<sup>6</sup> It is not clear how the network intends to develop guidelines that make no judgment,

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<sup>3</sup> Email to Jennifer Kaplan, appendix I

<sup>4</sup> Op sit, Note 1

<sup>5</sup> CBS Outdoor, online at <https://www.cbsoutdoor.com/media/specialty/ecoad.aspx> [accessed April 8, 2011]

<sup>6</sup> EcoAd Facebook page, online at <http://www.facebook.com/pages/EcoAd/151512461546937?v=info> [accessed April 8, 2011]

however the Facebook page also notes that “The finalized [EcoAd program] guidelines will be available for public viewing here soon.”<sup>7</sup>

We believe that CBS-EcoMedia’s EcoAd label violates Section 5 of the Federal Trade Commission Act (“FTC Act”), prohibiting “unfair or deceptive acts or practices.” The green leaf and “EcoAd” text clearly suggests to viewers that the products or services advertised provide environmental benefits, when there may be no basis for such a claim, and there is no explanation of the meaning of the EcoAd green leaf symbol accompanying the ads.

As such, the EcoAd program may deceive viewers, provide CBS with an unfair advantage over its competitors, and create an unfair advantage for companies and products participating in the program. The ads may deceive viewers who cannot know when there are no actual environmental benefits for the products or companies displaying the EcoAd logo. By providing an unsubstantiated environmental seal, CBS also gains a competitive advantage over other potential advertising outlets.

Further, the EcoAd program violates current FTC “Green Guides for the Use of Environmental Marketing Claims (“Green Guides”), and the revisions proposed by the agency last October. For example:

1. The EcoAd program violates guidelines that caution against making “general environmental benefit claims.” Current FTC Green Guides state that,

“It is deceptive to misrepresent, directly or by implication, that a product, package or service offers a general environmental benefit.... (B)road environmental claims should either be avoided or qualified, as necessary, to prevent deception about the specific nature of the environmental benefit being asserted.”

“Example 1: A brand name like “Eco-Safe” would be deceptive if, in the context of the product so named, it leads consumers to believe that the product has environmental benefits which cannot be substantiated by the manufacturer.”<sup>8</sup>

Clearly, the “EcoAd” symbol on products or services that do not offer substantiated environmental benefits is deceptive in this sense.

2. Further, in explaining compliance with environmental marketing guides, FTC describes how symbols can deceive the public:

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<sup>7</sup> Ibid

<sup>8</sup> 16 C.F.R., Part § 260.7 - Environmental marketing claims, (a) General environmental benefit claims, online at <http://www.ftc.gov/bcp/grnrule/guides980427.htm>

“Environmental symbols or pictures also can convey to consumers that the product is environmentally superior to other products. If you use an environmental symbol or picture, make sure that you can substantiate the broad environmental claim. Otherwise, use clear and prominent qualifying language to limit the environmental superiority claim to the particular attribute(s) for which you have substantiation.”<sup>9</sup>

The CBS EcoAd program includes no qualifying language about the nature of the environmental benefits associated with the ad, which are not associated with the product or services advertised, but accrue only from funds donated to projects that are not even mentioned in the ads. The EcoAd green leaf symbol will clearly confuse and mislead viewers, who are likely to attribute environmental benefits to advertised products or services, where none may exist.

3. FTC’s current Green Guides also state that advertisers must clarify when environmental attributes refer to a product, its packaging, or a service:

“An environmental marketing claim should be presented in a way that makes clear whether the environmental attribute or benefit being asserted refers to the product, the product’s packaging, a service or to a portion or component of the product, package or service.”<sup>10</sup>

In the case of the EcoAd program, viewers will likely believe that there are substantiated environmental attributes relating to the products, packaging or services offered, when none exists. The ads do not clearly inform viewers that the EcoAd symbol does not signify any specific or general environmental benefits associated with the products, packaging or services advertised.

4. In announcing the launch of the EcoAd program, CBS noted that viewers could rely on the EcoAd symbol to be a “green stamp of approval.”<sup>11</sup> In the FTC’s press statement last October announcing its proposed Green Guides revisions, the agency specifically warned against such

“...unqualified certifications or seals of approval - those that do not specify the basis for the certification. The Guides more prominently state that unqualified product certifications and seals of approval likely constitute general environmental benefit claims, and they advise marketers that the

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<sup>9</sup> FTC, “Complying with the Environmental Marketing Guides,” online at <http://business.ftc.gov/documents/bus42-complying-environmental-marketing-guides>

<sup>10</sup> 16 C.F.R., Part § 260.6: General principles, (b) Distinction between benefits of product, package and service, online at <http://www.ftc.gov/bcp/grnrule/guides980427.htm>

<sup>11</sup> Op sit, note 1

qualifications they apply to certifications or seals should be clear, prominent, and specific.”<sup>12</sup>

Clearly, CBS is offering advertisers a “seal of approval” that does not meet the FTC’s Guides for substantiation, clarity or specificity, as apparently there are no qualifications accompanying the EcoAd symbol.

5. Finally, CBS has not developed or released criteria for companies or products participating in the EcoAd program, yet in a CBS promotional video, a spokesperson states,

“By having a third-party verifier, who will publicly state and verify that these projects happened and these benefits were achieved, both the advertiser and the public should be assured.”<sup>13</sup>

In this promotion, CBS seems to be conflating the “third-party verification” of qualifications of advertisers (which is not in place) with verification of the projects funded by the ad revenue. For the EcoAd program to be credible and not deceptive, the public needs to be assured that a third-party without a financial conflict has vetted the advertisers and products that display the EcoAd seal, based on publicly available, environmentally stringent criteria. CBS has no such process in place, and since “any ad can be an EcoAd,” it seems uninterested in creating such a process.

Based on these concerns, we respectfully submit this petition requesting that the FTC considers, at minimum, the following steps:

1. Investigate the CBS-EcoMedia EcoAd program for compliance with Section 5 of the FTC Act and the FTC Green Guides;
2. Issue a warning to CBS-EcoMedia outlining the deficiencies in the EcoAd program; and
3. Suggest revisions to the EcoAd program, including:
  - a. The addition of text accompanying any use of the EcoAd symbol by advertisers, to clearly and prominently alert viewers that the symbol does not specify any positive environmental attributes of companies or products advertised;
  - b. Development of criteria for evaluating advertisers and products for participation in the EcoAd program, including publication, public comment, and revisions based on comments; and

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<sup>12</sup> Federal Trade Commission Proposes Revised "Green Guides", FTC press release, 10-06-2010, online at <http://www.ftc.gov/opa/2010/10/greenguide.shtm>

<sup>13</sup> “The EcoAd: A new mark identifying sustainable media,” CBS-EcoMedia video, 1:33-1:44, online at [http://www.youtube.com/watch?v=9wwdCW1f0FA&feature=player\\_embedded](http://www.youtube.com/watch?v=9wwdCW1f0FA&feature=player_embedded)

c. Oversight by an independent, third-party auditor that can verify whether companies or products seeking to use the EcoAd symbol meet the criteria.

We would welcome the opportunity to meet with you to discuss our concerns with the EcoAd program. Thank you for consideration of this petition.

Respectfully submitted,

Michael Green  
Center for Environmental Health

Jennifer Kaplan  
Ecopreneurist.com

Erich Pica  
Friends of the Earth

Rebecca Tarbotten  
Rainforest Action Network

## Appendix I

Email from Paul Polizzotto (via Shannon Jacobs) to Jennifer Kaplan,  
January 13, 2011

From: **Jacobs, Shannon L** <[SLJacobs@cbs.com](mailto:SLJacobs@cbs.com)>  
Date: Thu, Jan 13, 2011 at 2:12 PM  
Subject: FW: Follow-up  
To: jennifer kaplan <[jennifer@greenhance.com](mailto:jennifer@greenhance.com)>

Jennifer- Below is an email Paul has for you. He had also attached a 14 page deck but I'm just not comfortable sending it. What I will do now is see if I can get approval to just send you the relevant language.

Sorry for the delay...I hope to get the language to you soon.

Shannon

**From:** Polizzotto, Paul **Sent:** Thursday, January 13, 2011 4:52 PM

**To:** Jacobs, Shannon L  
**Subject:** Re: Follow-up

Dear Jennifer, Thank you for taking the time to speak with us yesterday and allowing us the opportunity to describe our innovative service for advertisers to leverage their ad spends to fund environmental projects in local communities. I also appreciate your willingness to provide input into the EcoAd Program Guidelines. We are striving to make the EcoAd service mark something that the American public can trust for its clarity of mission, transparency, authenticity and third party verification.

We are excited by the response that we have received from the environmental community, local governments, and corporations for our innovative business model. Our objective with the EcoAd is to change the quality of people's lives through advertising - that is going to be placed in any case. It seemed so wasteful to me to watch nearly 300 billion dollars go off into the ether after an advertisement is executed across the media platform. So, I set out to do something about it.

The simplicity of the EcoAd is clear; it states what it does. Here is the voiceover from the spot:

***What if the commercial you were watching could put people back to work, save taxpayer money, even help the environment? Now it can. Because when you see this symbol on CBS advertisers, you'll know that it contributed to green initiatives in your community. Just look for the leaf.***

The EcoAd simply states that if the leaf is seen on a CBS advertisement, that money from the ad is funding projects in a community. It does not state that the advertiser or the product is green. It doesn't state that the corporation is carbon neutral, or that the produce was grown locally, or anything else. It just states what the **AD** is doing. I have attached the first draft of the methodology we use to source, select, oversee implementation, measure performance and third party verify the jobs, taxpayer savings and carbon emission reduction from our projects. You will see that we take our responsibility to the corporate advertiser, local communities, and the environment very seriously. We are working with the most credible and experienced

environmental organizations in the world to assure the transparency, authenticity and effectiveness of our program. □ □

Now for the challenge of establishing a mark that the American public can understand. You and I agreed yesterday that US EPA's Energy Star label was one that people generally understand and have confidence in. Now, of course the Energy Star program has its critics. However, one clear differentiation is that the EcoAd service is not a label. Energy Star is a consumer guide and a rating system of products and buildings. The EcoAd service is neither a consumer guide or rating. It is an indication of the advertiser's participation in the EcoAd Program. At EcoMedia-CBS, we are making one simple claim: That money from the ad is funding local projects. That's it; that's all it says. And because the projects are local, the consumer or viewer can see for themselves in their own communities that we did indeed fund projects. We also have the advantage, as a media company, that we have media inventory and a massive captive audience to tell consumers and viewers that EcoAds fund projects. □ □

Now here is where we have a greater challenge than Energy Star. Energy Star as I have been saying, didn't set broad standards for the companies that ultimately use their rating label. They don't turn away companies that are being sued for environmental violations, or have huge environmental clean up efforts that go unaddressed etc. We on the other hand, do have standards for the corporations that we work with. Now just like Energy Star, many in the environmental community will say they aren't strict enough, in fact wouldn't feel any corporations actually earning a profit shouldn't be able to use the EcoAd symbol. Or perhaps the opposite is true. Maybe because of our 10:1 leverage - where every dollar of advertising is creating a dollar worth of environmental benefit, perhaps the environmental community would say, "get all of the \$300 billion you can get!". Regardless, attached are our draft standards. □ □

Thanks for your interest in our program and I look forward to the chance of working with you in the future. □ □

All the best, □ □  
Paul □ □

Paul Polizzotto | **President** □ □ **EcoMedia** - A CBS Company □ **919 Manhattan Avenue, Suite 100** □ **Manhattan Beach, CA 90266** □ **Tel:** 310.374.8212  
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