Environmental Law Institute
The Cutting Edge of Corporate Sustainability Disclosure: Scope, Metrics, Standards, and Ratings

Key Challenges in Sustainability Reporting

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Securities

- **TSC Industries, Inc. v. Northway, 426 U.S. 438 (1976)**
  - Defining "materiality" standards for disclosure obligations

- **February, 2010 SEC Guidelines**
  - Climate change may trigger disclosure obligations

- **2010 Dodd-Frank**
  - SEC must adopt procedures to require certain disclosures (e.g., conflict minerals) whether or not "material"

- **SASB, Formed July, 2011**
  - Mission: to develop/disseminate sustainability accounting standards that help companies disclose material information

Beyond Securities

- Ruiz. v. Darigold, No. 2:14-cv-01283-RSL (W.D. Wash.)
  - Complaint challenges claim in Dairy's CSR Report of an environment safe for cows, consumers and workers
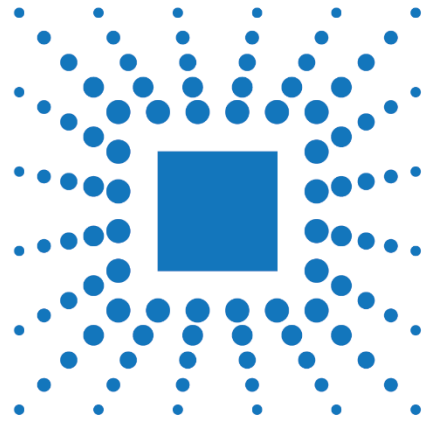
FTC on "Sustainable"

- FTC's Updated Green Guides with new guidance on seals/certificates, carbon offset, "free-of", non-toxic, and renewable claims,

- Declined to define "Sustainable"

- Consumer research showed people thought sustainable means durable

- FTC cautioned that advertisers using this term should define what is means and how it is being used

Bamboozling Customers

- FTC warning letters to retailers (2010), and settlements with manufacturers (2009) and resellers of bamboo textiles (2013)

- Concern with claims that bamboo fabrics were more green because they were made from sustainable rapidly growing bamboo that does not need pesticides

- Significant toxic chemical processing used to covert bamboo cellulose to rayon not disclosed

- FTC requires "rayon from bamboo" label, no overstating environmental benefits

SUSTAINABLE PURCHASING LEADERSHIP COUNCIL

We are collaborating to launch a shared program for guiding, measuring, and recognizing leadership in sustainable purchasing.

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