

Responsible Marketing:

Check the label!

WE ALL LIKE TO THINK WE'RE DOING OUR BEST FOR THE PLANET AND GOING GREEN HAS NEVER BEEN SEEN AS MORE IMPORTANT THAN RIGHT NOW. BUT FOR CONSUMERS IT CAN BE A MINEFIELD TRYING TO NEGOTIATE WHAT'S REAL AND WHAT'S NOT, IN THE WORLD OF LABELLING AND MARKETING SPIN. SO TOO, FOR COMPANIES IN TODAY'S ECOLOGICALLY SENSITIVE MARKETPLACE.

On the one hand, you need to push the marketing boundaries; packaging needs to be distinctive in order to get the consumer to buy and buy again.

On the other hand though you need to ensure that what's on the label is 100% accurate. How do you think consumers would react if it turns out that the claims on your label are potentially misleading? The results could be catastrophic.

This issue is particularly important in the accommodation industry. Hotels and motels are keen to stock environmentally friendly products to impress quality assurer Qualmark, while also satisfying consumer demand, which arguably is at an all time high for such products.

So, what happens if the claims on a product's label turn out to be misleading? Is the accommodation provider liable, and if not, should they take any responsibility at all for misleading the consumer, or should it fall totally at the hands of the manufacturer and/or the distributor?

Recently, *Accom Management Guide* reported that in New York, a boutique hotel lost a multi-million dollar court case brought by a guest, who alleged that his wife became debilitated from sleeping on what was claimed by the hotel, as anti-allergen bedding.

The judge found the hotel had labelled the bedding based only on a supplier's claim and had not conducted sufficient due-diligence to guarantee the claims were accurate.

The decision has sparked huge discussion among accommodation providers in the USA. Should it here in New Zealand? Well the answer is yes, and for good reason. It might surprise you to know, that similar misleading labelling instances are happening right under our noses with alarming regularity.

The Commerce Commission has been looking at this issue as a whole and in late September 2010, it started proceedings against two



companies for making potentially misleading environmental claims about plastic bags, products that are heavily marketed to the hotel and motel industry. Three years down the track, both cases are still moving through the court system, although one company, Pacrite Ltd, has pleaded guilty to 10 charges for breaching the Fair Trading Act and is due to be sentenced on August 29th.

The Commerce Commission also officially warned another five companies in 2010 for making potentially misleading green claims, including Fragrance Holdings, which marketed Earths Organics. Despite the name, the Commission found that the product contained only tiny amounts of organic ingredients, and its marketing had likely breached the *Fair Trading Act*.

In one of the most recent cases, drinks maker Charlies announced it was removing recycling claims from its water bottles, after investigations revealed they could not be efficiently recycled in New Zealand.

Within the hotel industry, the Commerce Commission has also had discussions with Concept Amenities, a multi-national company with its head office in Australia. The company specialises in hotel and motel toiletries and many of the products it sells in New Zealand claim that an additive to its plastic packaging called Ecopure makes it biodegradable.

But, after testing the additive, obtaining expert scientific opinion and even getting information from Concept Amenities itself, the commerce commission took the step of issuing a compliance advice.

"The Commission took the view that, on balance, the evidence we considered established that plastic treated with the Ecopure additive was unlikely to biodegrade in New Zealand landfills or be acceptable for recycling in New Zealand recycling plants," it said.

Despite repeated attempts, Concept Amenities did not respond to phone calls or emails for this story.

I wanted to know for example, if any Concept Amenities brands with the Ecopure additive were still being marketed in New Zealand, and if so what was on the label.

The company though has at least told the Commerce Commission that it will modify its labelling. But over four months after agreeing to change the packaging, many examples of labelling claiming to be biodegradable can still be found.

And then there's the issue of what other parties, if any, should take responsibility in this case? Concept Amenities for example, sells many of its products in New Zealand through distributors.

But when asked, The Starline Group Ltd, a New Zealand distributor of Concept Amenities products to a major hotel chain, refused all comment on this issue. Staples NZ Ltd, another distributor here, also failed to respond, despite initially saying it would.

What does this tell us? Shouldn't they also be just as responsible as the company they are buying the products from?

And then there are the accommodation providers themselves, which

scientific conclusions from the ASTM D5511 raw data – please reach out to me if you wish to receive a copy.

In addition, we ran *Gel Permeation Chromatography* tests on our post-test plastics as a way of supporting the science that EcoPure breaks down the polymers and as such allows the plastics to break down in landfill.

We feel confident marketing EcoPure globally as any claims made can be validated by expert test data.

That said, we respect the decision of the New Zealand Commerce

Commission in regards to New Zealand only and have acted in a timely manner to meet their requests.

Products arriving into New Zealand no longer refer to being biodegradable or recyclable on their packaging with the artwork changed many months ago.

Two key organisations in the hotel and motel industry did respond though.

In a statement, Tim Keeling, the general manager of Qualmark, New Zealand Tourism's official quality assurance organisation, said that while it "does not apply specific resource to validating the biodegradability claims of particular products, where a Qualmark accommodation provider is found to be intentionally misleading consumers, Qualmark may undertake compliance advice to ensure this quality issue is appropriately addressed."

One company that was also happy to offer some feedback was Health Pak Ltd, a New Zealand based manufacturer of hotel and motel products and a key player in the packaging industry for over 50 years.

Managing director Toby Whyte stated that they are well aware of many of the environmental additives and claims in the marketplace, especially within the hotel and motel industry.

"The problem with many environmental packaging claims being made is that the demand for them within the hotel industry is so high, people are too willing to believe. We've trialed all the additives you can imagine in our plastic bottles from oxo-degradables, to landfill solutions, to compostable plastic, but until they are proven to work or able to be processed in New Zealand, recycling still remains the best environmental solution," he said.

So where to from here?

Despite all of these cases, and clear instructions on the commerce commission website on how companies need to be specific when making environmental claims, clearly the message simply isn't getting through.

It seems that currently if companies can get away with false claims, they will continue to do so. There is such a strong demand for environmental products, especially within the hotel and motel sector, that many push the boundaries in order to gain easy sales. Hotels and motels need to be mindful of what they are buying and not taking these products simply at face value. ■

By Glen Larmer, Roaring Media

Right of Reply:

DEAR GLENN, THANK YOU FOR SHARING YOUR CONCERNS ABOUT MISLEADING PRODUCT CLAIMS. I APOLOGISE THAT YOU WERE UNABLE TO GET THROUGH TO CONCEPT AMENITIES FOR COMMENT.

Concept Amenities has utilised the EcoPure additive for almost 5 years and were innovators in biodegradable plastic tubes and bottles in the guest amenity industry globally.

Many hotel guest amenity companies throughout the world have now followed our lead and also use EcoPure in their plastic packaging.

Prior to marketing EcoPure, Concept Amenities conducted the ASTM D5511 test which is the *Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials Under High-Solids Anaerobic-Digestion Conditions*.

We conducted this test twice, with the second test being conducted over 110 days (the normal test only requires 20 days) with great results.

The test was conducted by Dr Ullman, NE Laboratories, CT, USA; a totally independent third party certified test laboratory.

Our test data is open to the public so that they may draw their own