



Regulatory Public Docket (7502P)  
Office of Pesticide Programs  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
1200 Pennsylvania Ave. N.W.  
Washington D.C. 20460-0001

Subject: Docket ID Number EPA-HQ-OPP-2007-1008

### **Statement of Interest**

Bayer CropScience LP (“Bayer”) is one of the world’s leading innovative crop science companies in the areas of crop protection, non-agricultural pest control, seeds and plant biotechnology. Bayer Advanced is a trade name of Bayer Environmental Science, a business group of Bayer. Bayer Advanced is a consumer products brand that holds a prominent reputation for consumer lawn and garden pest control solutions. Bayer Advanced products are available in major garden retailers and independent garden shops across the United States.

12/28/2007  
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### **Comments:**

Bayer supports efforts to eliminate any type of marketing that is false or misleading to the average consumer of pesticide products. However, Bayer believes that the scope of the proposed regulation is too broad and as such is fraught with unintended consequences which could inadvertently restrain truthful marketing efforts. Bayer believes that truthful endorsements have value and should continue to be allowed. While acknowledging EPA’s duty to regulate labeling which is false or misleading, Bayer believes that labeling which does not fall into these categories should continue to be allowed. As such, in the absence of statements which are false or misleading, EPA should continue to allow for third party endorsements as it has done in the past.

EPA has allowed third party endorsements of products for many years. A widespread example of this is products that are endorsed by the American Rose Society. Other examples include certification programs like the Soil and Mulch Council. In many situations there are testing requirements and other criteria that must be met before an endorsement

is granted, and in such cases documentation related to such can be submitted if requested. Bayer believes that any final PR Notice should only prohibit marketing which is on its face false or misleading to consumers, the most likely example of which is marketing which rises to the level of an implied safety claim.

EPA should only request additional information in cases where the agency believes that a proposed cause marketing claim (a "Claim") is on its face false or misleading to the average reasonable consumer of such product. In situations where EPA reasonably believes that a Claim is on its face false or misleading because of an implied safety claim, the additional information requested should be limited to studies that demonstrate that the Claim does not imply safety to the average reasonable consumer of that product.

In order to avoid having to make determinations of an organization's missions or status, EPA should not limit the types of organizations that registrants choose to help market their products as long as the underlying Claim itself is not on its face false or misleading.

The criteria for symbols permitted should again be judged by whether inclusion of that symbol alone makes a Claim false or misleading. EPA should publish a list of symbols that they believe would constitute false or misleading Claims and request comments on this list.

If EPA reasonably believes that a Claim could be false or misleading to consumers, it should consider disclaimer language to mitigate any potential for misunderstandings.

Public participation in the process should be limited to the presentation of studies or other validated information that expressly address whether a Claim is false or misleading.

Placing time limitations on these types of Claims would not be appropriate in many cases, as many of these organizations do not limit endorsements to a specific time period. Furthermore, these time limitations would vary depending on the organization and their policies. So long as an endorsement remains valid it should be allowed to remain. As such a strict time limitation would impose unnecessary restrictions on Claims.

Allowing Claims only on specific articles of labeling (hang tags, etc.) only has value if EPA clearly presents how these types of labeling differ from the labels themselves. We believe that currently EPA is treating all types of labeling equally and as such believe that this standard should remain.

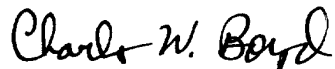
As to the issue of CBI, it would seem likely that any Claim on the labeling would not qualify. However, in the event that EPA requires submission of additional information to support a claim which it believes to be on its face false or misleading, such information may be considered CBI.

**Conclusion:**

**Bayer strongly encourages EPA to avoid restraining the truthful marketing of products. If EPA continues to feel that it must regulate labeling statements because of a specific Claim that was felt to be false or misleading, Bayer feels that the proposed PR Notice should be modified so that it only addresses labeling statements that could be interpreted as on their face as false or misleading, and not reverse policy on other types of labeling that have been approved by EPA for many years.**

Thank you for the opportunity to offer comments on this proposed rule.

Sincerely,



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