

NOTES

MAKING THE BRAND: USING BRAND MANAGEMENT TO ENCOURAGE MARKET ACCEPTANCE OF FORESTRY CERTIFICATION

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Forestry certification seeks to lessen the environmental impacts of private forestry management practices by providing information to consumers. Certified producers attach a uniform label to their wood products to assure buyers that the products were produced in a sustainable manner. In the United States, forestry certification has existed for more than a decade, yet industry participation in such programs remains low. This Note argues that low industry participation results from a lack of consumer demand for certified forestry products and the failure of certification stakeholders to address this lack of demand. While there are many obstacles to increasing consumer demand, this Note suggests that brand management concepts taken from the field of marketing can help tackle these challenges and, in turn, help increase market acceptance of forestry certification in the United States.

INTRODUCTION

In 1999, U.S. environmental groups appeared to be making headway in their battle for sustainable forestry practices. The Home Depot, a major U.S. retailer, adopted a purchasing policy that gave preference to wood products certified by the Forestry Stewardship Council (FSC).¹ The FSC is an independent body that develops forestry standards and accredits organizations that certify forestry products as having been produced in an environmentally sensible manner.²

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¹ BENJAMIN CASHORE ET AL., GOVERNING THROUGH MARKETS: FOREST CERTIFICATION AND THE EMERGENCE OF NON-STATE AUTHORITY 111–12 (2004).

² E.g., Teresa Hock, Note, *The Role of Eco-Labels in International Trade: Can Timber Certification Be Implemented As a Means to Slowing Deforestation?*, 12 COLO. J. INT'L ENVTL. L. & POL'Y 347, 359 (2001).

Although The Home Depot's policy made headlines,³ it had little effect on timber companies: They continued business as usual.⁴

The Home Depot policy resulted from a sustained effort by environmental groups to pressure the retail giant to support forestry certification,⁵ but the highly fragmented U.S. market for forestry products⁶ impeded The Home Depot's ability to influence the adoption of certification on its own.⁷ Ultimately, the policy had almost no effect on the number of U.S. timber companies seeking FSC certification.⁸

Forestry certification is a market mechanism for improving industry practices.⁹ Specifically, forestry certification can be categorized as a reflexive law regime—a regime that seeks to change

³ See, e.g., Patti Bond, *Home Depot to Halt Selling Scarce Wood*, ATLANTA J.-CONST., Aug. 27, 1999, at 1E (reporting decision and protests by environmental groups leading up to it); James Brooke, *Loggers Find Canada Rain Forest Flush with Foes*, N.Y. TIMES, Oct. 22, 1999, at A8 (casting The Home Depot's decision to phase out sale of wood from endangered forests as major victory for boycott campaign against companies logging old-growth forests); *Home Depot Will End Sales of Endangered-Wood Items*, ST. LOUIS POST-DISPATCH, Aug. 27, 1999, at C2 (similar). Even before The Home Depot announced its policy in 1999, the emerging practice of certifying wood products was already drawing media attention. See, e.g., Robert Bryce, 'Green' Lumber Ties Forest Products, *Environmentalists*, CHRISTIAN SCI. MONITOR, Apr. 12, 1994, at 9 (profiling fledgling green certification industry); Peter Knight, *Business and the Environment: Timber Watchdog Ready to Bark—The Launch of the Forest Stewardship Council*, FIN. TIMES, Oct. 6, 1993, at 18 (announcing creation of FSC); Karen Malamud Koenig, *Green Labeling Taking Root*, WOOD & WOOD PRODUCTS, Mar. 1994, at 107, 107 (citing The Home Depot as "first mass merchant to promote green lumber products").

⁴ By implementing FSC standards into its wood purchasing policy, The Home Depot hoped "to drive the industry to a higher standard." Julie Wormser, *Timber Industry's SFI Pure Greenwash*, BANGOR DAILY NEWS (Me.), Mar. 9, 2000, at 13. Yet the vast majority of suppliers rejected the FSC certification process and resisted participation. Benjamin Cashore et al., *Forest Certification (Eco-Labeling) Programs and Their Policy-Making Authority: Explaining Divergence Among North American and European Case Studies*, 5 FOREST POL'Y & ECON. 225, 232 (2003).

⁵ Environmental groups made a conscious decision to encourage widespread adoption of forestry certification in the United States by targeting retailers. CASHORE ET AL., *supra* note 1, at 105. This approach had yielded some success in Europe. See *id.* at 99–100.

⁶ The Home Depot, an industry leader, still has only a twelve percent share of the U.S. home improvement retail market. THE HOME DEPOT, INC., 2004 ANNUAL REPORT 16 (2005), available at http://ir.homedepot.com/downloads/HD_2004_AR.pdf.

⁷ The wording of The Home Depot's policy, which grants a "preference," not exclusivity, to wood from certified forests "wherever feasible," signals its awareness that a retailer cannot move such a fragmented market in the way environmental groups had planned. The Home Depot, Inc., Wood Purchasing Policy, http://corporate.homedepot.com/wps/portal/Wood_Purchasing (last visited July 22, 2006). In addition, the FSC's stringent standards, perceived political affiliations, and bureaucratic nature troubled the forestry industry. CASHORE ET AL., *supra* note 1, at 112.

⁸ CASHORE ET AL., *supra* note 1, at 112.

⁹ Market mechanisms, in contrast to traditional legal mechanisms such as command-and-control regulation and litigation, do not involve a government entity mandating certain behavior.

behavior through the provision of information.¹⁰ The Home Depot policy was ineffective in changing U.S. timber industry practices because targeting retailers—the underlying strategy of the environmental groups—ignored the importance of the end consumer¹¹ in a reflexive law regime implemented in a fragmented retail market. In such a market, real incentives to convert to certification arise only when consumers want to buy certified products and are willing to pay more for them.¹²

In the United States, consumer awareness of and demand for certified forestry products is dismal,¹³ and certification stakeholders such as environmental groups¹⁴ face several obstacles to increasing consumer demand. Consumers must pay more for certified products while receiving only the intangible benefit of environmentalist self-satisfaction in return. In addition, the standards for forestry certification are complex, and consumers may not understand just what message the forestry certification eco-label conveys. The situation may be

¹⁰ See Richard B. Stewart, *A New Generation of Environmental Regulation?*, 29 CAP. U. L. REV. 21, 127 (2001) (defining reflexive law).

¹¹ Throughout this Note, the term “consumer” refers to an individual purchaser, in contrast to an industrial or business purchaser.

¹² In comparing The Home Depot’s efforts with those of the British retailer J Sainsbury, James McAlexander and Eric Hansen observed that “[m]any U.K. consumers may not . . . recognize alternative product sources. [The Home Depot], however, currently has no other companies in the U.S. industry, retail home improvement or otherwise, to help it move suppliers towards forest certification and to cultivate consumer awareness and preference.” The authors’ observations were based on conditions in the mid-1990s. JAMES McALEXANDER & ERIC HANSEN, *J SAINSBURY PLC AND THE HOME DEPOT: RETAILERS’ IMPACT ON SUSTAINABILITY* (1999), <http://sfp.cas.psu.edu/homedepot.htm#home>.

¹³ See Roy C. Anderson & Eric N. Hansen, *The Impact of Environmental Certification on Preferences for Wood Furniture: A Conjoint Analysis Approach*, *FOREST PRODUCTS J.*, March 2004, at 42, 46 (“The majority of [undergraduate survey] respondents (78.7%) reported that they had never heard of forest certification prior to completing the questionnaire. Of those that were familiar with forest certification, they generally learned of it in other classes, rather than having bought CFPs [certified forest products] in the past.”); Cecelia Goodnow, *Changing the World, One Shopping Cart at a Time*, *SEATTLE POST-INTELLIGENCER*, Mar. 30, 2006, at E1 (noting that The Home Depot customers interviewed for recent documentary could not define certified wood).

¹⁴ In this Note, the term “stakeholder” refers to each party that is interested in encouraging the adoption of forestry certification programs. See Robert D. Mackoy et al., *Environmental Marketing: Bridging the Divide Between the Consumption Culture and Environmentalism*, in *ENVIRONMENTAL MARKETING* 37, 46 (Michael Jay Polonsky & Alma T. Mintu-Wimsatt eds., 1995) (“[T]o truly understand and evaluate a system, all stakeholders should first be identified.”). Certification stakeholders may include a variety of groups and individuals. Certification entities and environmental groups are the most prominent examples. In addition, members of the forestry industry have an interest in increasing participation in certification programs, as widespread adoption of voluntary certification programs may help the industry avoid mandatory government regulation. Industry participants include forest owners, wood product manufacturers, home builders, and retailers.

further complicated by potential consumer distrust of the certifying body.

Like the environmentalists, the scholarly literature on bolstering acceptance of forestry certification in the United States also focuses on influencing industry participants, rather than on influencing consumer demand for certified products.¹⁵ The paucity of current literature¹⁶ discussing how to increase consumer demand may be the result of an implicit assumption on the part of scholars that attempts to influence consumer demand are futile because of the obstacles noted above. Alternatively, academic literature may be misdirected, reflecting the fact that the FSC achieved success in Europe largely by pressuring retailers;¹⁷ observers of U.S. trends, therefore, have focused on explaining why such an approach has not succeeded in this country.¹⁸ Whatever the reason, opportunities to change consumer demand have been overlooked.¹⁹

This Note argues that forestry certification stakeholders should focus on consumers, using brand management concepts to increase consumer demand for certified goods. After all, an eco-label, in marketing terms, is simply a brand. This Note proposes a strategy of com-

¹⁵ See, e.g., Benjamin Cashore et al., *Legitimizing Political Consumerism: The Case of Forest Certification in North America and Europe*, in *POLITICS, PRODUCTS, AND MARKETS* 181, 194 (Michele Micheletti et al. eds., 2004), available at http://www.yale.edu/forestcertification/pdfs/2004/04_legitimizing_consumerism.pdf (excluding consumers from list of “core audiences, whose support is fundamental to the existence” of certification as nonstate, market driven governance system). Some researchers have attempted to quantify consumer demand for certified products, as well as the amount consumers are willing to pay for these products. See *infra* notes 103–12 and accompanying text. However, these studies focus on measuring consumer demand, not influencing it.

¹⁶ While there is not much “current” literature, in the early 1990s, many industries sought to turn a pervasive spirit of environmentalism into increased sales. See Jamie A. Grodsky, *Certified Green: The Law and Future of Environmental Labeling*, 10 *YALE J. ON REG.* 147, 149 & n.3 (1993) (describing survey results reflecting U.S. consumers’ interest in factoring environmental considerations into their purchasing decisions). Industry efforts at “green marketing” had a regulatory impact: The Federal Trade Commission published labeling guidelines in 1996 following a slew of unreliable claims. Guides for the Use of Environmental Marketing Claims, 16 C.F.R. § 260 (2006). Green marketing efforts also generated an increase in academic literature. See generally ENVIRONMENTAL MARKETING, *supra* note 14; JACQUELYN A. OTTMAN, *GREEN MARKETING* (2d ed. 1998); TOBY M. SMITH, *THE MYTH OF GREEN MARKETING* (1998). Some of this literature is used in this Note’s presentation of a model for a forestry certification marketing strategy.

¹⁷ See CASHORE ET AL., *supra* note 1, at 99–100, 146–49 (describing influence of pressure from “buyers groups” in United Kingdom).

¹⁸ Benjamin Cashore et al., *The United States’ Race to Certify Sustainable Forestry: Non-State Environmental Governance and the Competition for Policy-Making Authority*, 5 *BUS. & POL.* 3, 219, 226–27 (2003).

¹⁹ But see CASHORE ET AL., *supra* note 1, at 23 (“While some assert that non-state market-driven governance is successful when individual consumers purchase certified products, all that is really needed for non-state market-driven dynamics to exist is that there is some demand along the supply chain.”).

municating not only the literal meaning, but also the consumer value of the certification brand. Stakeholders must better distill the complex information that a certification label conveys and must express what the consumer receives in return for the higher price he or she pays for a certified product. This Note also discusses a strategy for targeting the appropriate consumers and developing industry and environmental group partnerships to express a single brand message.

Part I provides background on the forestry industry and forestry certification in the United States.²⁰ Part II places forestry certification in the context of reflexive law principles and certification regimes generally. Part III summarizes the obstacles to consumer demand for certified forestry products. Part IV then presents some basic principles of brand management and uses these principles to formulate a branding strategy for forestry certification programs. This Part concludes that, while more detailed research is necessary to articulate a comprehensive marketing plan, using brand management concepts could help increase market acceptance of forestry certification.

I

HISTORY OF FOREST CERTIFICATION

A. *The Problem of Forestry Practices*

The harmful effects of forestry practices on the environment have been well documented in recent years. Excessive harvesting can have wide-ranging ecological consequences, including global climate change and negative impacts on biological diversity.²¹ Production

²⁰ Unlike much of the research surrounding forestry certification, which has focused on the international consequences of certification, this Note examines the U.S. market in isolation. For a general discussion of certification in the international context, see Ronnie D. Lipschutz, *Why Is There No International Forestry Law?: An Examination of International Forestry Regulation, Both Public and Private*, 19 UCLA J. ENVTL. L. & POL'Y 153 (2000–2001) (examining forestry certification as part of international system of forestry regulation); Errol E. Meidinger, "Private" *Environmental Regulation, Human Rights, and Community*, 7 BUFF. ENVT. L.J. 123 (2000) (discussing environmental labeling programs in context of worldwide sustainable development); Elliot B. Staffin, *Trade Barrier or Trade Boon? A Critical Evaluation of Environmental Labeling and Its Role in the "Greening" of World Trade*, 21 COLUM. J. ENVTL. L. 205 (1996). (examining impact of environmental labeling on world trade). This Note focuses on the U.S. market for several reasons. First, the goal of this Note is to analyze the probable market effects of forestry certification, and isolating a particular market makes the analysis of market effects more manageable. Second, examining forestry certification in an international context raises a number of trade issues. Focusing on the U.S. market allows for an analysis of issues apart from these international trade concerns. Third, as discussed in this section, the U.S. market is characterized by high domestic consumption; thus, treating the U.S. market as an endogenous system is appropriate.

²¹ I.J. Bourke, *International Trade in Forest Products and the Environment*, UNASYLVA, 1995/4, at 11, available at <http://www.fao.org/docrep/v7850e/v7850e03.htm>.

processes can also cause significant soil erosion,²² which impacts water quality by increasing the level of sediment in streams.²³ In addition, transportation processes for forestry products can have polluting effects.²⁴

A possible solution to these problems exists in the form of sustainable forestry practices, “[f]orest management practices that provide goods and services from a forest ecosystem without degradation of the site quality, and without a decline in the yield of goods and services over time.”²⁵ Sustainable forestry is connected to “stewardship forestry,” which involves managing forests with the goal of providing “biodiversity, wildlife habitat, carbon sequestration, [and] water quality,” in addition to commercial products.²⁶

While sustainable forestry practices provide long-term environmental benefits, such practices may impose significant short-term costs on the forestry industry. Further, forestry product producers often do not absorb the costs of harmful forestry practices. These factors lead to a market failure as producers and consumers fail to internalize the environmental costs of harmful forestry practices,²⁷ and producers, therefore, experience little incentive to move to sustainable forestry.

Forestry certification seeks to use information to remedy this market failure. Forestry certification is an environmental labeling, or eco-labeling, program: Producers attach a label to their products to convey information about the products’ environmental impacts to potential consumers. To increase the credibility of eco-labels, a certifier—often, but not necessarily, a third party—may confirm that the production method meets certain criteria.²⁸ Following a successful certification, a producer is licensed to use the certifier’s eco-label. In theory, consumers, armed with the information necessary to under-

²² John F. Munsell, *What Are Forestry Best Management Practices (BMP)?* (SUNY Coll. of Envtl. Sci. & Forestry, Environmental Information Series), <http://www.esf.edu/PUBPROG/forestmanage/default.htm> (last visited July 22, 2006).

²³ Dan Binkley & Thomas C. Brown, *Forest Practices As Nonpoint Sources of Pollution in North America*, 29 WATER RESOURCES BULL. 729, 729 (1993). Additional possible effects on water quality include changes in stream temperature and increases in concentrations of oxygen or nitrate. *Id.*

²⁴ Bourke, *supra* note 21, at 11.

²⁵ Pacific Forest Trust, Glossary, <http://www.pacificforest.org/about/glossary.html> (last visited July 22, 2006).

²⁶ *Id.*

²⁷ Bourke, *supra* note 21, at 12.

²⁸ Errol E. Meidinger, *Forest Certification As Environmental Law Making by Global Civil Society*, in SOCIAL AND POLITICAL DIMENSIONS OF FOREST CERTIFICATION 293, 308 (Errol Meidinger et al. eds., 2003), available at <http://law.buffalo.edu/homepage/eemeid/scholarship/FCGCSLaw.pdf>.

stand the environmental consequences of their choices, will choose to buy products with certified eco-labels, creating a market incentive for producers to supply such products.²⁹

*B. The Forestry Industry and Forestry Certification
in the United States*

The United States is one of the largest producers and consumers of forestry products in the world.³⁰ The majority of forestry products harvested and manufactured in the United States are consumed within the country, and the majority of U.S. consumption needs are met by domestic production.³¹ The factors that influence this demand for forestry products are diverse, but consumer purchasing is a key element. American consumers directly purchase paper products, building materials, and furniture. When consumers are not the initial purchasers of a forestry product, they are often the purchasers of aggregate products resulting from an industry's wood purchases, including, most notably, homes.³²

Excluding fuelwood,³³ total consumption of wood products in the United States is divided roughly equally between pulp and paper products and solid wood products.³⁴ Construction is the largest category of consumption for solid wood products, accounting for 65% of lumber, 85% of structural panels, and 37% of nonstructural panels consumed.³⁵ Within the construction category, new residential construction accounts for the greatest proportion of wood consumption.³⁶ While new residential construction includes single-family homes, multifamily buildings, and mobile homes, "[s]ingle-family houses dominate the new housing market and account for a large proportion

²⁹ Staffin, *supra* note 20, 209–10.

³⁰ JAMES L. HOWARD, FOREST SERV., U.S. DEP'T OF AGRIC., RESEARCH NOTE FPL-RN-0292, U.S. FOREST PRODUCTS ANNUAL MARKET REVIEW AND PROSPECTS 2001–2004, at 2 (2004), available at http://www.fpl.fs.fed.us/documnts/fplrn/fpl_rn292.pdf.

³¹ CASHORE ET AL., *supra* note 1, at 92–93 figs.4.1 & 4.2.

³² The ultimate reliance of the forestry product market on consumer purchasing is one of the factors that initially motivated certification bodies in the tropical timber context. See CASHORE ET AL., *supra* note 1, at 11 (explaining how late 1980s boycotts launched in response to tropical forest destruction led to first serious discussions of certification labeling).

³³ In 1998, fuelwood accounted for approximately thirteen percent of the total wood consumed in the United States. DAVID B. MCKEEVER, FOREST SERV., U.S. DEP'T OF AGRIC., GEN. TECHNICAL REPORT PNW-GTR-524, DOMESTIC MARKET ACTIVITY IN SOLID WOOD PRODUCTS IN THE UNITED STATES, 1950–1998, at 1 (2002), available at <http://www.fs.fed.us/pnw/pubs/gtr524.pdf>.

³⁴ *Id.* Solid wood products include products such as lumber and plywood. *Id.*

³⁵ *Id.* at 3 (citing figures for 1998).

³⁶ *Id.* at 5.

of the timber products used.”³⁷ Wood used for residential upkeep and improvements is also an important part of the wood consumed in construction, accounting for 22% of lumber, 21% of structural panels, and 12% of nonstructural panels consumed in the country.³⁸ These figures suggest that consumer demand for new homes and for home improvement underlies a large portion of the total demand for wood products. While the end consumer may not be the direct purchaser of many of the products used in new home building and home improvement, consumer demand still shapes the buying choices of builders and contractors in these markets.

The regulatory environment for U.S. forestry is a two-tiered system which differentiates between federally owned and privately owned lands.³⁹ Federally owned forest lands are subject to an extensive set of federal regulations,⁴⁰ which environmental groups have used as a successful litigation tool, effectively eliminating commercial logging in federal forests.⁴¹ In contrast, privately owned lands are subject to minimal federal requirements, with regulatory responsibilities falling to individual states.⁴² The level of regulatory response by states varies by region.⁴³ In the Pacific Northwest, states have adopted comprehensive forest practice acts,⁴⁴ whereas in the South, agencies use “voluntary policy instruments” to influence forestry industry practices.⁴⁵ The forestry certification programs which began in the early 1990s have added another dimension to the management of forestry practices on privately owned lands.

Promoted by different interests, two systems of forestry certification have evolved in this country. In 1993, a number of environmental groups helped to create the FSC, which promulgates international for-

³⁷ *Id.*

³⁸ *Id.* at 17 (citing figures for 1998).

³⁹ CASHORE ET AL., *supra* note 1, at 96–97.

⁴⁰ *Id.* at 96.

⁴¹ *Id.*

⁴² *Id.* at 97.

⁴³ *Id.*

⁴⁴ *Id.* In fact, a 2001 comparison of the two prominent forestry certification standards, *see infra* notes 46–54 and accompanying text, and Oregon’s legal requirements concluded that, while the certification program requirements exceeded those of the State in some areas, Oregon law contained more detailed requirements for “regeneration, air and water quality, and fire control.” RICK FLETCHER ET AL., OR. STATE UNIV. COLL. OF FORESTRY, COMPARISON OF TWO FOREST CERTIFICATION SYSTEMS AND OREGON LEGAL REQUIREMENTS 9 (2001), available at http://www.sustainableoregon.net/documents/forestry/certification_comp.pdf. While a comprehensive state-by-state analysis is beyond the scope of this Note, the uneven regulatory history in the United States suggests that one would not find similarly stringent state regulations in areas outside the Pacific Northwest.

⁴⁵ CASHORE ET AL., *supra* note 1, at 97.

estry certification standards.⁴⁶ Early efforts to introduce FSC standards into the U.S. market were not well received:⁴⁷ Rather than accepting the FSC's standards, the forestry industry responded with its own certification system.⁴⁸ The American Forest and Paper Association (AF&PA), an industry group,⁴⁹ introduced its certification process, the Sustainable Forestry Initiative (SFI), in 1994.⁵⁰ The SFI program differs from the FSC's certification system in several key respects. The FSC certification program has broad goals, addressing "legal issues, indigenous rights, labor rights, multiple benefits, and environmental impacts surrounding forest management."⁵¹ In contrast, the goals of the SFI certification program are narrower in scope, focused exclusively on forestry management.⁵² The rules of the SFI

⁴⁶ R. FLETCHER ET AL., OR. STATE UNIV. EXTENSION SERV., FOREST CERTIFICATION IN NORTH AMERICA 2 (2002) (Series No. EC 1518), available at <http://academic.evergreen.edu/curricular/fts/downloadsw/fletcheretal2002.pdf> (revised 2006 version available at <http://extension.oregonstate.edu/catalog/pdf/ec/ec1518.pdf>). Initially, the FSC focused on tropical deforestation and efforts to boycott non-sustainably harvested tropical timber products. *Id.*

⁴⁷ CASHORE ET AL., *supra* note 1, at 99–100. Benjamin Cashore, who has examined forestry certification internationally, attributes the early failure of the FSC in the U.S. market to two main factors. First, U.S. producers did not think that certification would have market benefits, primarily because there were initially no organized pressures on retailers or producers to sell or to create certified products. *Id.* Cashore contrasts this situation to that in the United Kingdom where an activist "buyers group" helped to hasten market acceptance. *Id.* at 100. Second, members of the U.S. forestry industry found the FSC standards to be unrealistic in light of the decentralized nature of the industry. *Id.* In the U.S. market, many small landowners provide wood to lumber and paper producers, making the FSC's requirement that the wood be monitored at each step in the chain of custody particularly onerous. *Id.*

⁴⁸ *Id.* at 101.

⁴⁹ *Id.* at 88.

⁵⁰ *Id.* at 12–13, 101.

⁵¹ Forest Stewardship Council, Principles & Criteria, http://www.fscus.org/standards_criteria (last visited July 22, 2006). These goals are expressed more specifically in ten principles and fifty-seven criteria. The ten principles address compliance with laws and FSC principles; tenure and use rights and responsibilities; indigenous peoples' rights; community relations and workers' rights; benefits from the forest (including economic, environmental, and social benefits); environmental impact (including maintaining "the ecological functions and the integrity of the forest"); management planning; monitoring and assessment; maintenance of high conservation value forests; and application of the principles to plantations. *Id.* Additionally, there are nine separate regional standards in the United States. Forest Stewardship Council, Regional Standards, http://www.fscus.org/standards_criteria/regional_standards.php (last visited July 22, 2006).

⁵² The SFI lists nine principles and thirteen specific objectives for program participants. The nine principles are sustainable forestry; responsible practices (including promoting "sustainable forestry practices that are both scientifically credible and economically, environmentally, and socially responsible"); reforestation and productive capacity; forest health and productivity; long-term forest and soil productivity; protection of water resources; protection of special sites and biological diversity; legal compliance; and continual improvement. THE SUSTAINABLE FORESTRY INITIATIVE, SUSTAINABLE FORESTRY

program are also more procedural in nature than those of the FSC program.⁵³ Both the FSC and the SFI accredit independent bodies to serve as certifiers.⁵⁴

The FSC and SFI certification programs continue to coexist in the United States, but statistics indicate that the SFI program is dominant. In 2002, approximately 12.1 million acres of land in North America were FSC certified.⁵⁵ In contrast, AF&PA claims that 150 million acres of forestland in North America are enrolled in the SFI program.⁵⁶ The presence of two competing programs affects consumer demand patterns and must be addressed by any branding strategy.⁵⁷

Forestry certification programs have existed in the United States for over a decade, yet “market acceptance” is still a distant goal. The unique structure of the U.S. forestry market presents numerous supply-side obstacles to forestry certification.⁵⁸ There are also important obstacles to developing consumer demand for certified products. These various factors combine to create a “chicken or egg” dilemma for certification proponents: “Distribution channels will not develop unless sufficient quantities of product are available and consumers demand it. Yet consumer demand appears to be stifled by a lack of product.”⁵⁹ While acknowledging this dependency, this Note focuses on demand-related obstacles with an eye toward how brand management strategies, examined in Part IV, can help increase consumer demand.

INITIATIVE: 2005–2009 STANDARD 3 (2004), *available at* <http://www.aboutsfb.org/general/PDFs/SFBStandard2005-2009.pdf>.

⁵³ CASHORE ET AL., *supra* note 1, at 13.

⁵⁴ Forest Stewardship Council, Certifiers, <http://www.fscus.org/certifiers> (last visited July 22, 2006); Sustainable Forestry Initiative, About SFI, <http://www.aboutsfi.org/about.asp> (last visited July 22, 2006).

⁵⁵ According to data collected by EarthTrends, 4.9 million hectares have been FSC certified in North America, equating to 12.1 million acres (based on author's calculations). EARTHTRENDS, EARTHTRENDS COUNTRY PROFILES: UNITED STATES 1 (2003), http://earthtrends.wri.org/pdf_library/country_profiles/for_cou_840.pdf.

⁵⁶ Sustainable Forestry Initiative, *supra* note 54. The data do not specify how much of this land is in the United States. *Id.*

⁵⁷ See *infra* Part IV.B.1.

⁵⁸ Supply-side obstacles include the high costs of certification and the difficulties of tracking a product through the entire supply chain. See *infra* notes 89–99 and accompanying text.

⁵⁹ ERIC HANSEN & JOHN PUNCHES, COLLINS PINE: LESSONS FROM A PIONEER, at 6–8 (Sustainable Forestry Working Group, Business of Sustainable Forestry Case Study No. 6, 1998), *available at* <http://sfp.cas.psu.edu/collins.htm#collinscase>; see also Lipschutz, *supra* note 20, at 175 (“[Certification systems] are somewhat akin to a moral code that fosters an environmental ‘civic virtue,’ hoping that a shift in consumer demand for such goods will lead to a commensurate shift in supply, thereby fostering ‘green markets.’”).

II

REFLEXIVE LAW PRINCIPLES AND THE GOAL OF FORESTRY CERTIFICATION

Like other eco-labeling programs, forestry certification fits within a category of legal instruments known as “reflexive law.” Reflexive law programs seek “to promote the internalization of environmental [or other] norms by firms and other organizational actors as opposed to directly controlling their external conduct.”⁶⁰ The provision of information, in this case regarding production processes, is central to internalization and is “integral to a reflexive law strategy.”⁶¹ The success of the regime rests upon individuals’ ability to process, and willingness to act upon, the information provided.⁶² While some reflexive law regimes rely upon the government to define information criteria,⁶³ government involvement is not central to reflexive law theory.⁶⁴ In the case of forestry certification, the certification standards are set by private organizations—the FSC and the SFI—and are entirely voluntary.

Because there is no state actor to force compliance, forestry certification will be most successful in effecting environmental change if (1) the market demands participation, and (2) forestry industry participants must seek certification to remain competitive.⁶⁵ Daniel Gifford, in his analysis of standard-setting regimes, refers to this situation as the point at which the certification standards become “mandatory in a *de facto* sense.”⁶⁶ Market forces will not make the standards mandatory unless consumers desire the information those standards communicate.⁶⁷

⁶⁰ Stewart, *supra* note 10, at 127.

⁶¹ *Id.* at 131.

⁶² *Id.* at 141.

⁶³ The Environmental Protection Agency’s Energy Star program is an example of a government-sponsored eco-labeling system. *Id.* at 137.

⁶⁴ See *id.* at 131 (noting that in reflexive law system, “government is less involved is [sic] setting targets and, often the program is voluntary”).

⁶⁵ See Staffin, *supra* note 20, at 209–10 (“[I]f the eco-labeling scheme is successful, the producer of the more environmentally harmful good will be forced to alter its [production method] or ingredients to create a more environmentally benign product in order to compete against the eco-label recipient in the same marketplace.”).

⁶⁶ Daniel J. Gifford, *Developing Models for a Coherent Treatment of Standard-Setting Issues Under the Patent, Copyright, and Antitrust Laws*, 43 IDEA 331, 335 (2003) (“A standard is mandatory in a *de facto* sense when the market demands compliance. . . . It is mandatory not because any authority requires conformity, but rather because the market demands conformity.”).

⁶⁷ See *id.* at 336. As Gifford notes:

When consumers want standards, standards enhance product value. Products that conform to safety or performance or interoperability standards are likely to have a greater value than products that do not conform. As a result, pro-

One reason consumers desire the information communicated by a standard is that the information is important to the consumer personally. Safety standards provide a strong example, because consumers seek safety assurances for reasons of self-preservation.⁶⁸ Forestry labels communicate information more removed from basic needs, that is, of a “higher order” than basic safety information.⁶⁹ The more ambiguous nature of the consumer need met by forestry certification may pose an obstacle to market acceptance and must be taken into consideration when developing a marketing strategy for forestry certification.⁷⁰

Consumers are likely to demand product standards not only when the standardized feature is important to them, but also when the costs of acquiring the relevant information are high. Standards develop when an indication of the product’s compliance with the standard lowers the consumer’s search costs in acquiring the good. Gifford provides an example: “If consumers were in doubt about the compatibility of an electric plug with their existing electric sockets . . . they would hesitate to purchase these items. Indeed, their uncertainty would impose significant information costs upon them, reducing their effective demand for the products.”⁷¹ In the case of forestry certification, consumers desire information about the sustainability of the forest from which the product they are purchasing originated, but the costs of acquiring this information would be extremely high without the certification system.⁷² The consumer’s utility increases when the producer provides certification information that is valuable and trustworthy.⁷³

ducers respond to this demand by adopting standards and by conforming their products to those standards.

Id. at 338.

⁶⁸ Cf. *id.* at 335 (“Perhaps the most important circumstance calling for standards is where safety is a significant concern.”).

⁶⁹ See *infra* Part III.A.2.

⁷⁰ See *infra* notes 114–19 and accompanying text.

⁷¹ Gifford, *supra* note 66, at 336.

⁷² See John M. Church, *A Market Solution to Green Marketing: Some Lessons from the Economics of Information*, 79 MINN. L. REV. 245, 272 (1994) (noting that “sellers possess a comparative advantage in producing and providing [environmental impact] information”); Panayotis N. Varangis et al., *Is There a Commercial Case for Tropical Timber Certification?* 3 (World Bank, Policy Research Working Paper No. 1479, 1995), available at http://econ.worldbank.org/files/14500_wps1479.pdf (“Eco-labeling has evolved mainly in response to consumers [sic] demands for more information about the environmental impact of the production processes of products they are buying.”).

⁷³ See Church, *supra* note 72, at 272 (noting that consumers “seek information concerning product attributes” and that “[c]onsumer utility increases when the seller provides such information”).

A forestry certification trademark not only conveys information the consumer would otherwise have difficulty obtaining, but as a "multi-criteria" labeling program, also provides details about a variety of product attributes.⁷⁴ The complexity of the information conveyed in a forestry certification trademark, therefore, must be considered in the development of a marketing strategy.⁷⁵

Ultimately, forestry certification will be most effective at achieving environmental improvements if the standards embodied in the certification become de facto mandatory and are accepted as the usual standard of practice. But, to reach that point, consumer acceptance must be wide-ranging.⁷⁶ If the industry believes certification is a matter of "simple economic self-preservation," then certification becomes an expected, and accepted, component of doing business.⁷⁷

III

DEMAND-RELATED OBSTACLES TO MARKET ACCEPTANCE

A lack of consumer demand has limited the success of forestry certification in the United States. Case studies of forestry certification "early adopters" illustrate this point. Collins Pine, a lumber products company headquartered in Portland, Oregon, began certifying its operations with the FSC in 1993.⁷⁸ By the late 1990s, an estimated 50% of the wood from its two certified locations qualified for a certification eco-label; however, only 5% of the products were actually labeled.⁷⁹ The company indicated that it based its decision not to label the wood on a lack of demand for certified wood products.⁸⁰ The Home Depot, which expressed an early commitment to selling certified wood products, encountered a similar lack of consumer demand. In discussing The Home Depot's experience with consumer purchasing decisions, the company's former Director of Environmental Marketing stated that, "[w]hat limits the success of the [certifi-

⁷⁴ Staffin, *supra* note 20, at 221 ("[T]he salient characteristic of voluntary, multi-criteria, eco-labeling programs is that they rely to varying degrees on a life-cycle review of products in order to determine their environmental costs 'from the cradle to the grave.'").

⁷⁵ See *infra* Part III.B.

⁷⁶ McALEXANDER & HANSEN, *supra* note 12 ("Whether the forest products industry widely adopts sustainable practices, however, depends on their long-term economic viability. The development of broad demand and markets for sustainably produced wood products will be a key component of that economic viability.").

⁷⁷ Meidinger, *supra* note 28, at 321.

⁷⁸ HANSEN & PUNCHES, *supra* note 59, at 6-1.

⁷⁹ *Id.*

⁸⁰ *Id.*

cation] program is the fact that it's not seen as something that is really ringing the register."⁸¹

While widespread consumer demand has not materialized, commentators have observed a small "niche" market for certified products.⁸² Estimates of the size of this niche market vary. A survey by Roy Anderson and Eric Hansen found that for 20.8% of participating university students, whether a wood product⁸³ was certified was the most important product attribute in their buying decisions.⁸⁴ A 1998 study estimated that approximately twenty-five million Americans thought positively about, and were likely to seek out, certified forest products.⁸⁵

Niche markets can be used to grow more widespread consumer demand.⁸⁶ It is essential, however, to understand the underlying cause of the market's generally weak demand. This Part outlines three main categories of demand obstacles: (A) the lack of self-interested purchasing motivations for consumers, (B) the complexity of certification, and (C) consumer distrust of product quality and production practices.

A. *Lack of Self-Interested Purchasing Motivations*

Rational consumers will act in their own best interests. Therefore, the perception that a product satisfies a defined need is what drives consumer demand for that product. Shaping consumer demand for forestry certification poses a problem because the need satisfied by the certification is not easily defined. The lack of self-interested motivations for purchasing certified wood products can be explained by at least two factors: (1) price premiums⁸⁷ and (2) the intangible nature of the consumer need satisfied by certification.

⁸¹ McALEXANDER & HANSEN, *supra* note 12.

⁸² See HANSEN & PUNCHES, *supra* note 59, at 6-7 (noting that demand for certified products is "limited and segmented").

⁸³ Early demand for certified products in developed countries was focused on tropical timber. Anderson & Hansen, *supra* note 13, at 42. Note that results may not be accurate for the entire population.

⁸⁴ *Id.*

⁸⁵ Lucie K. Ozanne & Paul M. Smith, *Segmenting the Market for Environmentally Certified Wood Products*, 44 FOREST SCI. 379, 387 (1998).

⁸⁶ Early demand for certified products in developed countries was focused on tropical timber. Varangis, *supra* note 72, at 22-23. However, consumers who are already receptive to forestry certification programs for tropical timber will have "brand awareness" for existing eco-label programs. Brand loyalty, then, could be extended to similarly labeled products produced in the United States. See *infra* Part IV.B for a discussion of branding strategy.

⁸⁷ "Price premium" refers to the difference in price that consumers face for a certified product versus a noncertified version of the same product. Broadly speaking, certified products will cost more, and consumers will pay a premium for such products.

1. Price Premiums

Certified wood products are rarely cheaper—and are often more expensive—than noncertified products.⁸⁸ Certification is costly. The first expense of certification is the direct cost: fees paid to the certifying body as compensation for completing the certification process.⁸⁹ These costs vary widely depending upon the size and complexity of the operation and may be anywhere between \$5000 and \$75,000.⁹⁰ Additionally, indirect costs—the costs associated with changing industry processes in order to meet certification requirements—may be substantial and may exceed the direct costs of certification.⁹¹

Features of the industry exacerbate the problems arising from high certification costs. First, the U.S. forestry industry is characterized by a high proportion of small landowners. “Nonindustrial private forests”⁹² account for 58% of commercial forests and 49% of timber harvests.⁹³ Certification is challenging for small landowners because of high per-acre costs and extensive documentation requirements.⁹⁴

⁸⁸ One commentator has suggested that consumers will only drive environmental change if the price for a non-sustainably produced product is higher than that for a sustainably produced product; that is, market forces will lead to the adoption of environmental best practices in situations in which the price of goods includes environmental externalities. Cathy L. Wittmeyer, Note, *A Public Procurement Paradox: The Unintended Consequences of Forest Product Eco-Labels in the Global Marketplace*, 23 J.L. & COM. 69, 105 (2003) (“Until product price adequately reflects the costs of environmental externalities, consumers will not drive environmental change.”). This Note argues that branding efforts can help achieve market change even in the face of a price premium for certified products. See *infra* Part IV.

⁸⁹ Markku Simula, *Economics of Certification*, in CERTIFICATION OF FOREST PRODUCTS 123, 126 (Virgilio M. Viana et al. eds., 1996).

⁹⁰ *Id.* at 132. Due to economies of scale, large landowners (who might pay less than ten cents per acre) face much smaller direct certification costs than small landowners (who might pay hundreds of dollars per acre). FLETCHER ET AL., *supra* note 46, at 4.

⁹¹ FLETCHER ET AL., *supra* note 46, at 4. Indirect costs may include capital improvements “to measure and document timber volume and growth,” increases in “[f]orest management costs,” and “increased materials handling costs associated with tracking certified wood from the forest through manufacturing.” HANSEN & PUNCHES, *supra* note 59, at 6-6. However, the indirect costs of certification may be offset somewhat by increases in efficiency. *Id.*

⁹² “The NIPF [nonindustrial private forest] category includes properties not held by government or forest products manufacturing firms. . . . 90% of the NIPF owners hold less than 100 acres.” MICHAEL P. WASHBURN ET AL., NONINDUSTRIAL PRIVATE FOREST LANDOWNERS: BUILDING THE BUSINESS CASE FOR SUSTAINABLE FORESTRY, at 10-1 (Sustainable Forestry Working Group, Business of Sustainable Forestry Case Study No. 10, 1998), available at <http://sfpc.cas.psu.edu/nipf.htm>.

⁹³ *Id.*

⁹⁴ See *id.*; Simula, *supra* note 89, at 126. The industry is exploring new ways of making certification affordable for NIPF owners, “including certification of forest managers (who warrant that lands they manage are sustainable), chain-of-custody certification by manufacturers (who warrant that the wood they use is from sustainable forestland), and group certification of multiple tracts (which are managed cooperatively).” WASHBURN ET AL.,

A fragmented supply chain means that the chain-of-custody requirements of certification are also costly for other industry participants,⁹⁵ such as “diversified firms,” which buy wood through intermediaries,⁹⁶ and manufacturers of “products, such as paper and other composite materials, that come from many different sources.”⁹⁷ Companies at the end of the supply chain, such as retailers⁹⁸ or home builders,⁹⁹ have even greater difficulties. Assessing a price premium¹⁰⁰ for certified forestry products enables industry participants to recoup certification costs.¹⁰¹ However, higher prices may inhibit consumer acceptance of certified products.¹⁰²

supra note 92, at 10-39. Note, however, that all of the new models focus on reducing the cost of certification for landowners rather than ensuring that small landowners receive a portion of any price premium on certified products to compensate for increased costs.

⁹⁵ Meidinger explains chain-of-custody requirements as follows:

[C]ompanies . . . must achieve certification of a “chain of custody” from primary production through retail sale. Conceptually, this could require either that every wood product be traceable to a particular forest, or that manufacturers of certified products deal exclusively with certified producers or with intermediate dealers who deal only with certified producers.

Meidinger, *supra* note 20, at 143.

⁹⁶ *Id.*

⁹⁷ FLETCHER ET AL., *supra* note 46, at 4.

⁹⁸ Using The Home Depot and United Kingdom-based retailer J Sainsbury as case studies, McAlexander and Hansen described the complexities U.S. retailers face when selling certified products as compared to U.K. retailers:

While [J Sainsbury] is able to use centralized management and purchasing that gives it a high degree of control and uniformity in product specification and acquisition, the size and diversity of the US market make that impractical for [The Home Depot]. . . . This difference, along with the sheer volume of products sold, exerts an undeniable effect on the relative abilities of the two companies to implement an integrated system for purchasing certified wood products.

McALEXANDER & HANSEN, *supra* note 12.

⁹⁹ Steve Kellenberg, *Making Green Communities Work*, 29 REAL EST. ISSUES 24, 28 (2004) (describing need for contractors to have been “properly educated and involved” in “green programs” from beginning, and explaining that this is “one of the hardest things” for home developers selling “green” homes).

¹⁰⁰ It is possible that a price premium assessed at any single point along the supply chain would not be passed on to the end consumer; however, if the market is operating according to competitive principles, the end consumer should face higher prices.

¹⁰¹ See, e.g., Staffin, *supra* note 20, at 268 (“[T]he effectiveness of a voluntary, eco-labeling scheme is dependent, at least initially, on inducing the consumer to pay extra for a product that bears an eco-label so that the manufacturer can recoup its testing, licensing, and product/[production process or method] redesign costs.”).

¹⁰² The existence of a premium for certified forestry products is an especially important consideration in the market for home building supplies. Environmentally friendly building supplies such as energy-efficient appliances and windows are often sold at a premium, but these items are also accompanied by future cost savings for the consumer. Kellenberg, *supra* note 99, at 27 (“Buyers seem to invest in Green measures for one of two reasons. Either they believe it is important to lead a more sustainable lifestyle, or they believe they can save money.”). While some consumers may buy environmentally friendly products on principle, others may expect a return for their environmentally friendly investments, and

Much research has focused on determining whether or not customers are currently willing to pay a price premium for certified forestry products. As eco-labeling emerged as a market instrument in the early 1990s, promising customer surveys indicated that customers were generally willing to pay more for environmentally sound products.¹⁰³ However, statistical analyses and anecdotal evidence from industry actors soon indicated that actual purchase patterns belied these stated customer preferences.¹⁰⁴

Two recent surveys delve more deeply into the question of the price premium. First, Lucie Ozanne and Richard Vlosky compared consumer attitudes towards forestry certification in 1995 and 2000. They analyzed price premiums for a variety of products, including "a stud, a ready-to-assemble (RTA) chair, a wood dining room set, a kitchen remodeling job, and a new home."¹⁰⁵ Overall, survey participants reported a willingness to pay a premium for all products during both time periods.¹⁰⁶ The 2000 premium amounts ranged from a 4.4% premium for a "home constructed with certified materials" and with a base price of \$100,000, to a 17.3% premium for a "stud with a base price of \$1.00."¹⁰⁷ These figures represent an average of the premiums reported by each survey respondent, including those who reported a premium of zero.¹⁰⁸

The Ozanne and Vlosky study helps to quantify the possible price premiums for a range of forestry products. In contrast, a 2004 survey conducted by Roy Anderson and Eric Hansen, while focusing on a

this could lead them to reject environmentally friendly products that do not also have economic returns.

¹⁰³ See, e.g., Grodsky, *supra* note 16, at 149 ("Recent surveys indicate that many U.S. consumers are willing to pay extra for products and packaging with reduced environmental costs. Green buying represents a way that citizens, on a personal level, can make a contribution to society.").

¹⁰⁴ See, e.g., RICHARD A. FLETCHER ET AL., SUSTAINABLE FORESTS P'SHIP, STORA: THE ROAD TO CERTIFICATION, available at <http://sfp.cas.psu.edu/stora.htm#stora> (last visited June 20, 2006) (discussing long-term unsustainability of price premium for diversified forestry firm based in Sweden); HANSEN & PUNCHES, *supra* note 59, at 6-11 ("Collins Pine uses certification as one component in the marketing of its total product offerings. It has had little success certifying an existing product line and recognizing a market premium, which makes it difficult to attribute any premium directly to certification."); Staffin, *supra* note 20, at 268 ("While some studies have suggested that most consumers polled would favor purchasing a 'green' product over an equally priced alternative, there is little statistical evidence proving that a majority of consumers actually have acted in this manner.").

¹⁰⁵ Lucie K. Ozanne & Richard P. Vlosky, *Certification from the U.S. Consumer Perspective: A Comparison from 1995 and 2000*, FOREST PRODUCTS J., Mar. 2003, at 13, 16. Survey participants consisted of homeowners over eighteen years old with incomes exceeding \$30,000. *Id.* at 15.

¹⁰⁶ *Id.* at 17.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 16-17.

single wood product, provides information on the number of consumers willing to pay a price premium. Anderson and Hansen evaluated consumer responses to forestry certification using a wooden CD rack as the test product.¹⁰⁹ They found that the survey respondents looked favorably upon certification, but most respondents were “willing to sacrifice environmental certification for the sake of a lower price.”¹¹⁰ Anderson and Hansen concluded that a price premium was not possible for “mainstream” customers.¹¹¹ However, for 20.8% of the respondents, certification was the most important characteristic, and this group indicated willingness to pay a higher price for a certified CD rack.¹¹²

These results suggest the existence of a small group of customers who would be willing to pay a price premium. Furthermore, it may be that willing consumers are not buying certified products because of an inability to find or identify these products. Marketing strategies, therefore, could be used to grow the consumer market segment and the group of products for which a price premium can be assessed, as well as to increase any existing price premiums.¹¹³ Consumer demand for certified products could increase sufficiently to cover costs of certification. In addition, if the price premium is increased to the point where certified products become more profitable than noncertified products, market incentives for certification will increase.

2. *The Nature of the Consumer Need Satisfied by Certification*

As previously noted, certification meets a higher order consumer need. In the 1940s, Abraham Maslow, a psychologist, categorized human needs according to a hierarchy. The hierarchy, beginning with the most primary needs, is as follows: (1) physical or biological needs, (2) safety and security needs, (3) love and affiliation needs, (4) pres-

¹⁰⁹ Anderson & Hansen, *supra* note 13, at 1. Survey participants consisted of Oregon State University “undergraduate students enrolled in an international business class.” *Id.* at 46.

¹¹⁰ *Id.* at 48.

¹¹¹ *Id.* at 49 (“[Certified forest products] cannot command premium prices when marketed in mainstream distribution channels, e.g., big-box retail stores, because for the typical respondent the utility of a lower price outweighs the value of environmental certification.”).

¹¹² *Id.* at 49 (“[N]ot only is environmental certification very important to this group, they reported that they were more likely to be willing to pay at least a 5 percent premium for [certified forest products].”).

¹¹³ For a discussion of targeting marketing efforts to consumers with a willingness to pay a premium, or with attributes which indicate that they could be convinced to pay a premium, see Part IV.C.

tige and esteem needs, and (5) self-fulfillment needs.¹¹⁴ Maslow's theory states that primary needs must be satisfied before people act to meet higher order needs.¹¹⁵ For example, safety is one of the most basic human needs; therefore, consumer demand for information regarding safety should occur across the board, for all consumers.

Although forestry products themselves are often used to meet primary needs such as the physical need for shelter, the information communicated by forestry certification labels is meant to fulfill higher order needs.¹¹⁶ This higher order need may be a prestige need, a self-fulfillment need, or both. Some evidence for the proposition that consumers are inclined to purchase environmentally friendly items because of a perceived benefit to their prestige can be found in the observed disparity between people who say they would purchase certified goods and those who actually do purchase certified goods.¹¹⁷ Purchasing certified wood products may also help the consumer meet a self-fulfillment need if she feels better about herself for buying them. Due to the nature of the need satisfied by certification, marketers of certified forestry products cannot make straightforward appeals to self-interest,¹¹⁸ and branding efforts must be shaped

¹¹⁴ ROBERT B. SETTLE & PAMELA L. ALRECK, *WHY THEY BUY: AMERICAN CONSUMERS INSIDE AND OUT* 10 (1986).

¹¹⁵ *Id.*

¹¹⁶ One could argue that the purchase of sustainably produced items helps to meet security needs by assuring the future habitability of the Earth; however, the collective action required to achieve such a result means an individual buyer is unlikely to think in these terms.

¹¹⁷ HANSEN & PUNCHES, *supra* note 59, at 6-7 ("The failure of the company's certified products to meet expectations in Portland, Oregon, is an indication, according to Collins Pine managers, that consumers are often more inclined to talk 'green' than to act 'green.'"). The disparity does not go unnoticed:

Managers also recognize that consumers are not enthusiastic about certified wood products This conviction contradicts published consumer surveys that consistently find that a significant proportion of people is concerned about environmental issues and how their behaviors impact upon them. As one [Home Depot] manager commented, "consumers who [say] they would buy an environmental product over a nonenvironmental one rarely do if the price and quality are not equal."

McALEXANDER & HANSEN, *supra* note 12.

While a discrepancy between consumers' expressed preferences and their actual purchasing behaviors may indicate that the expressed intent is an attempt to say what the surveyor wants to hear, and thus to gain some prestige, the discrepancy may also be due to other factors. For example, consumers may not know what certified products are on the market or may not be able to locate a certified product to meet their specific needs.

¹¹⁸ Such appeals are possible, however, for other "green" producers who are able to emphasize the health and safety benefits of their products. Such producers are, most notably, those in food-related industries. In the fishing industry, some non-sustainably harvested fish have been linked to health concerns. *See, e.g.,* Oceans Alive, *Eat Smart: Bluefin Tuna*, <http://www.oceansalive.org/eat.cfm?subnav=fishpage&fish=154> (last visited July 22, 2006) (describing non-sustainably harvested bluefin tuna as "worst choice for the

accordingly. Furthermore, while some forestry products are “socially visible,”¹¹⁹ most are not. If consumers purchase environmental products for prestige reasons, marketing efforts must explain how buying non-visible products will still meet the buyer’s need for prestige.

Some consumers may mistakenly believe that their higher order needs are already being met by the forestry industry. These consumers may assume that domestically produced wood is always produced using sustainable practices. Such an assumption may result from a general lack of knowledge of the environmental impacts of forestry outside the more publicized tropical timber context,¹²⁰ or it may stem from an underlying belief that forestry practices in the United States are already sufficiently regulated.¹²¹

This combination of factors leads to a situation in which the industry asks consumers to pay a premium for a benefit that consumers may not understand as meeting their needs. In such a situation, branding strategies may prove invaluable in helping to achieve market acceptance. Establishing a brand image gives solid form to the more intangible benefits of sustainable forestry practices.

B. Complexity of Forestry Certification

Consumer acceptance may also be impeded by the complexity of the forestry certification standards embodied in the eco-label. As discussed above,¹²² the FSC certification standards encompass a broad variety of factors, including both environmental and social impacts.¹²³

environment” and referring to “[c]onsumption advisory due to mercury”). Environmentalists concerned about the impact of genetically modified food products on biodiversity can capitalize on public concerns about the safety of such foods. See, e.g., Friends of the Earth, Real Food: Food Safety, http://www.foe.co.uk/campaigns/real_food/issues/food_safety/index.html (last visited July 22, 2006) (casting doubt on safety of genetically modified food and arguing that it “could allow more pesticides to be used”). Critics of the large-scale production of meat products can point to a correlation between production methods and mad cow disease. See, e.g., David Suzuki, *Mad Cows a Symptom of a Sick Food System*, ENVT. NEWS NETWORK, Jan. 27, 2005, <http://www.enn.com/today.html?id=7011>.

¹¹⁹ SETTLE & ALRECK, *supra* note 114, at 18. Examples of socially visible forestry products might include flooring or furniture that serve as “conversation pieces” in a home and enable the consumer to communicate the certification status of the products. See Kellenberg, *supra* note 99, at 27 (“Visible Green features are the easiest to sell.”).

¹²⁰ McALEXANDER & HANSEN, *supra* note 12 (noting that managers at two forestry product retailers expressed belief that “consumers generally have limited knowledge or even awareness of issues related to sustainable forest practices”).

¹²¹ HANSEN & PUNCHES, *supra* note 59, at 6-7 (referencing California Forest Products Commission study showing that consumers were unwilling to pay premiums for certified forestry products and that they “did not think certification should be necessary” because “companies should already be following stringent regulations and . . . sustainable forestry should be a given”).

¹²² See *supra* note 51 and accompanying text.

¹²³ CASHORE ET AL., *supra* note 1, at 12.

This complexity means that even consumers who wish to purchase environmentally friendly products may not understand what environmental “benefits” they are purchasing when they buy certified products.¹²⁴ Because certification standards are so extensive, there is also a potential risk that consensus on the standards among those consumers who are educated about the details may not be achieved. For example, consumers who support the sustainability components of certification may not support requirements related to social factors.¹²⁵ The complexity of the standards embodied in forestry certification suggests that a higher degree of consumer education will be necessary to achieve market acceptance. Stronger promotion of the certification eco-label as a brand may help facilitate such an educational effort. Treating the eco-label as a brand presents an opportunity to simplify the message that certification is meant to convey to consumers.

C. *Consumer Distrust of Product Quality and Production Practices*

Purchasing a certified good requires two types of trust on the part of the consumer: (1) trust in quality¹²⁶ and (2) trust in production practices. First, the consumer must trust that the product is of equal or superior quality to a noncertified product.¹²⁷ There is some evidence that early adopters in the forestry certification field encountered consumer reluctance due to concerns over the quality of the products.¹²⁸ Such a concern may derive from consumers’ previous experiences with other household products that were environmentally friendly but of inferior quality.¹²⁹

¹²⁴ Early adopters of forestry certification commented on the difficulty of educating consumers on the complex standards. HANSEN & PUNCHES, *supra* note 59, at 6-10 (“Most consumers are not only unaware of sustainable forestry issues, but also do not understand what certified products are.”); McALEXANDER & HANSEN, *supra* note 12.

¹²⁵ See *infra* notes 150-51 and accompanying text.

¹²⁶ Measures of quality will vary depending upon the type of forestry product but may include durability and good appearance.

¹²⁷ Alternatively, the customer must be willing to accept lower quality in exchange for environmental benefits. Because certified wood products do not tend to be of lower quality than their noncertified counterparts, see *infra* note 136 and accompanying text, this Note does not explore acceptance of a lower quality.

¹²⁸ HANSEN & PUNCHES, *supra* note 59, at 6-8 (“Collins Pine sales and marketing personnel have discovered that their customers often harbor the misconception that certified wood must be inferior to wood produced through ‘standard’ industry practices. These individuals think that companies sacrifice quality to reduce environmental impacts.”).

¹²⁹ See, e.g., Mark Rowh, *Environmentally Friendly Office Products*, OFF. SOLUTIONS, Mar.-Apr. 2003, at 42, 42 (describing “days when recycled paper brought back memories of the chunky sheets once used by first-graders”); Desta Mebratu, *Environmental Competitiveness: Green Purchasing*, INT’L TRADE F., Issue 2/2001, at 11, 13 (listing “inferior quality” as common misconception about environmental procurement).

Second, consumers must also trust that the certification is a reliable representation of the fact that the product was produced utilizing sustainable forestry practices. Even if consumers agree with the stated standards embodied in the certification, relying on the certification as an accurate expression of the product's production methods requires that consumers trust the certifying body. The most direct way for the certifying body to secure consumer trust is to perform its functions honestly and with transparency. Examining the FSC certification system, Errol Meidinger notes that there are several obstacles to achieving the kind of well functioning certifying body that will ultimately lead to "public legitimacy" and consumer trust.¹³⁰ These obstacles include incentives for the certifiers to compromise in order to gain more clients, limited resources devoted to policing third-party certifiers, and lack of full public disclosure of certification results.¹³¹

The presence of two certification standards (FSC and SFI) also fosters consumer distrust and makes communicating a single brand image impossible. "A variety of groups have a vested interest in the different certification systems. This creates both a political and competitive atmosphere among the systems and results in conflicts and claims among supporters of various systems."¹³² As the FSC and the SFI engage in efforts to competitively position their programs relative to each other, consumers are confronted with conflicting messages. In the face of such conflicts, neither side will easily gain consumer trust.

Industry involvement in the system creates an additional credibility problem. The SFI program is an industry-sponsored response to FSC certification, and the FSC has relaxed some of its requirements in response to industry pressure.¹³³ The problem with industry involvement is that "[w]hen it comes to environmental-related messages, the American public believes just about any societal group—not-for-profits, the EPA, local government officials, even the press—before businesses, large or small."¹³⁴ The ratings given to both the FSC and SFI labels in the *Consumers Union Guide to Environmental Labels* reflect this general attitude: Both labels were rated as only "somewhat" meaningful because of conflicts of interest.¹³⁵

¹³⁰ Meidinger, *supra* note 20, at 153–54.

¹³¹ *Id.*

¹³² FLETCHER ET AL., *supra* note 46, at 4.

¹³³ CASHORE ET AL., *supra* note 1, at 106–08 tbl.4.2, 110.

¹³⁴ OTTMAN, *supra* note 16, at 138.

¹³⁵ Consumers Union, *The Consumers Union Guide to Environmental Labels*, <http://www.eco-labels.org> (last visited July 22, 2006). The Consumers Union rates eco-labels based on the following criteria: meaningfulness and verifiability; consistency and clarity; transparency; independence and "protection from conflict of interest;" and availability of

To alleviate the problems resulting from these potential areas of distrust, marketing strategies for forestry certification programs must focus on providing reliable information. For example, they can communicate that certified wood products are not likely to be of inferior quality and may, in some instances, be superior products.¹³⁶ Increasing consumer trust in certifier credibility is a more complex task. This may require more open examination of the certification process, as Meidinger suggests,¹³⁷ but consumer access to information about certification processes and results should, on its own, foster consumer confidence. More importantly, certification stakeholders, including both industry and environmental groups, must support a single certification system.

IV

SOLUTIONS FOR ACHIEVING MARKET ACCEPTANCE

A. *Defining a "Brand"*

To convey information to the consumer most effectively, producers must define their brands using trademarks. "A trademark is a word, logo or package design, or a combination of them, used by a manufacturer or merchant to identify its goods and distinguish them from others. Trademarks include brand names identifying goods."¹³⁸ Both the FSC's and the SFI's programs involve a trademark that is available for use on goods produced by companies that have met the

opportunities for public comment. *Id.* (follow "What Makes a Good Eco-Label?" hyperlink). The FSC "Report Card" states:

Some members of the General Assembly of the FSC do have a vested interest in the products that are certified and have voting rights on FSC standard making decisions. This means that the voting authority of the FSC has conflicts of interest and is not completely independent from financial interests in products being certified by FSC.

Id. (under "Search by Label", select "Label Category: Sustainable Wood," then follow "FSC (Forest Stewardship Council)" hyperlink). The SFI "Report Card" states:

While members of the American Forest and Paper Association (AF&PA) are required to comply with the Sustainable Forestry Initiative (SFI) standards, "third-party" certification is voluntary. . . . At least 10 of the 14 members listed . . . are from the forest industry and have a vested interest in the wood (or wood products) that are certified. This is a conflict of interest and the AF&PA is not independent from the SFI certified product.

Id. (under "Search by Label", select "Label Category: Sustainable Wood," then follow "Sustainable Forestry Initiative—SFI" hyperlink).

¹³⁶ HANSEN & PUNCHES, *supra* note 59, at 6-8.

¹³⁷ Meidinger, *supra* note 20, at 153-54. ("[P]rivate control of certification information inhibits the dialogue among certifiers and the public that is likely to be essential . . . to developing publicly legitimate definitions of appropriate forest practices.")

¹³⁸ William Borchard, *A Trademark Is Not a Patent or a Copyright*, in TRADEMARK AND UNFAIR COMPETITION LAW 44, 45 (Jane C. Ginsburg et al. eds., 3d ed. 2001).

certification standards.¹³⁹ These trademarks, known as “certification marks,”¹⁴⁰ differ from “brand names identifying goods” in that they do not identify the source or producer of the good. However, the mark still performs the essential trademark function of conveying information about the good—in this case, information about its production methodology—in order to lower the consumer’s search cost.¹⁴¹ This reduction in search costs is of paramount importance in the forestry certification example because without the trademark, consumers would be almost completely unable to acquire the type of information conveyed by the mark.

At the most basic level, the trademark accomplishes its function when it is affixed to the appropriate goods: A consumer can go to a store and choose a sheet of plywood with an FSC logo over one without the logo in order to ensure that her purchasing need is satisfied. Brand management professionals, however, have developed a more complex notion of the “brand” that goes beyond the basic search cost–lowering definition:

[A] *brand name* is more than the label employed to differentiate among the manufacturers of a product. It is a complex symbol that represents a variety of ideas and attributes. It tells the consumers many things, not only by the way it sounds . . . but, more important[ly], via the body of associations it has built up and acquired as a public object over a period of time.¹⁴²

This notion of a brand must be utilized to capture the largest possible market for certified forestry products.

¹³⁹ The SFI logo looks like this:



Sustainable Forestry Initiative, SFI Labeling Program, http://www.aboutsfi.com/sfilabel_use.asp (last visited July 22, 2006).

The FSC logo looks like this:



Forestry Stewardship Council, Logo Use, http://www.fscus.org/logo_use (last visited July 22, 2006).

¹⁴⁰ A certification mark is a logo “identifying goods or services meeting specified qualifications.” Borchard, *supra* note 138, at 45.

¹⁴¹ Ralph S. Brown, Jr., *Advertising and the Public Interest: Legal Protection of Trade Symbols*, 57 YALE L.J. 1165, 1168 (1948) (“A perfect market demands perfect enlightenment of those who buy and sell. One of the many imperfections of the real world is that, absent advertising, most buyers would have to go to a great deal of trouble to discover what is offered for sale.”).

¹⁴² Burleigh B. Gardner & Sidney J. Levy, *The Product and the Brand*, HARV. BUS. REV., Mar.–Apr. 1955, at 33, 35, *reprinted in* BRAND MANAGEMENT 3, 5 (Leslie de Chernatony ed., 1998).

Certified forestry product producers must do more than simply attach the certification logo; they must create a desirable brand. “[B]rands succeed because they offer consumers added values that are communicated through advertising.”¹⁴³ Simply attaching a label to a product, without conveying the added value represented by it, will not affect consumers’ purchasing decisions.¹⁴⁴ When the branded goods are commodities for which price has historically been the primary purchasing motivation, as the Anderson and Hansen survey suggests is the case for low-priced wood products,¹⁴⁵ it is especially important to convey the meaning and value of a newly introduced brand. “Meaning” and “value” are two distinct concepts. Here, meaning refers to a consumer’s understanding of the literal definition of the certification criteria and the forestry problems they address. Value refers to how the customer assesses the significance of each criterion in terms of its relationship to his or her own needs.¹⁴⁶ Both concepts are necessary components of a comprehensive branding strategy.

B. Branding Strategy

1. Creating a Single Brand

Certification stakeholders will not be able to communicate a single brand message, whether related to the meaning or the value of

¹⁴³ Leslie de Chernatony, *Categorizing Brands: Evolutionary Processes Underpinned by Two Key Dimensions*, 9 J. MARKETING MGMT. 173, 173 (1993), reprinted in BRAND MANAGEMENT, *supra* note 142, at 49, 49. De Chernatony continued: “These added values could be rational, functional issues, such as a consistently high quality level, and/or emotional elements, for example, a clear brand personality.” *Id.*

¹⁴⁴ In explaining the necessity of conveying the “added value” of a brand, de Chernatony uses an apt example—a failed branding effort in the “commodity wood panel market.” *Id.* at 52. The effort involved “solely adding unique names” to the wood panels, and, without any understanding of the added value represented by this brand, customers continued to make a decision based mostly on price. *Id.* De Chernatony explains that “[p]owerful brands succeed because consumers recognize their added values, and, welcoming these, they are prepared to pay a price premium.” *Id.*

¹⁴⁵ See *supra* note 110 and accompanying text.

¹⁴⁶ An example of the meaning/value distinction can be found in a recent television commercial for the Ford Escape Hybrid. The advertisement features Kermit the Frog and his song “It’s Not Easy Being Green.” Near the end of the advertisement, Kermit discovers the Ford Escape Hybrid and learns that “it is easy being green.” A voiceover then informs the viewer of the vehicle’s gas mileage. The advertisement may be viewed on Ford’s website at <http://www.fordvehicles.com/suvs/escapehybrid> (follow “Making of ‘Easy Being Green’” hyperlink; then select “Watch Kermit’s Commercial”) (last visited July 22, 2006). The information on gas mileage is best equated with the meaning of a hybrid vehicle, though it is certainly not a complete definition (Ford appears to assume some level of consumer knowledge). The “it is easy being green” tagline is the commercial’s attempt to connect the literal meaning of a hybrid to consumer values. The vehicle meets several self-fulfillment needs; not only will the consumer feel good for making a “green” purchasing decision, but she will also experience comfort and ease of use.

certification, while the two certification schemes continue to compete with one another. Industry and environmental groups must put their support behind the same certification scheme. Statistics suggest that the SFI program dominates the U.S. market¹⁴⁷ and that the SFI program may be seen as the de facto single certification standard. SFI certification, therefore, is the practical choice.

Historically, environmental groups—important certification stakeholders—have been unwilling to align themselves with the SFI and, in fact, have attacked its program.¹⁴⁸ The reluctance of environmental groups to partner with the SFI is due in large part to mistrust resulting from its industry links.¹⁴⁹ Some scholars suggest that the SFI program, as an industry-sponsored initiative, might not be capable of achieving the type of environmental results that the FSC program, as an independent body spearheaded by environmental activists, seeks to accomplish.¹⁵⁰ Commentators point to the broader scope of the FSC regime as support for this view.

It is far from clear, however, that the FSC certification regime is “better” because of its broader scope. The social and economic goals which are part of the FSC program may not be compatible with environmental goals in every instance, making the SFI’s more focused certification better capable of achieving environmental improvement. Also, wider industry participation may be easier to achieve if the program goals are more focused. The relative success of the SFI and the FSC in the United States supports this view.

Some commentators also believe that the SFI program, which was a reaction to the FSC certification program, could cease to serve as an effective certification regime in the absence of competition from the FSC program.¹⁵¹ However, if environmental groups, recognizing that the SFI certification program dominates U.S. forestry, work in cooperation with the SFI to communicate the meaning and value of the SFI brand, the demand for, and price of, SFI-certified products should increase. If the branding strategy is successful, price premiums will not only compensate for the costs of certification but will also lead to increased profits for certified producers. As consumers come to value certification standards, market pressures, not pressure from a

¹⁴⁷ See *supra* notes 55–56 and accompanying text.

¹⁴⁸ For an example of these attacks, see Rainforest Action Network, Don’t Buy SFI, <http://www.dontbuysfi.com/home> (last visited June 20, 2006).

¹⁴⁹ Fact Sheet, American Lands Alliance et al., Loopholes in the SFI (Feb. 2005), available at http://www.dontbuysfi.com/factsheets/SFI_Factsheet-SFI_Problems.pdf (referring to “fox guarding the henhouse”).

¹⁵⁰ See, e.g., CASHORE ET AL., *supra* note 1, at 220; Meidinger, *supra* note 20, at 217–18.

¹⁵¹ Meidinger, *supra* note 20, at 217–18.

competing certification scheme, will serve to keep the SFI certification program meaningful.

Partnerships between industry participants and environmental organizations will benefit both groups. From the industry's perspective, such partnerships would help to address certification credibility issues. For environmental groups, partnerships with member organizations of the AF&PA may encourage more transparency in the SFI scheme. Furthermore, environmental groups can serve an education function. Industry participants may not have an incentive, or may not acknowledge an incentive, to educate consumers about the negative conditions that exist in the forestry industry. But without knowledge of the problem, even consumers with strong environmental values will not understand the necessity of changing purchasing patterns.¹⁵²

Partnerships between environmental groups and industry participants may be a challenge, especially in light of the competing certification schemes and the fact that environmental groups consistently pressure certification programs to increase the stringency of their requirements. However, given the current dominance of the SFI and the importance of conveying one clear brand message, environmental groups should partner with the SFI in certification branding and education efforts. Instead of attacking the SFI and assuming that industry-sponsored programs are inherently flawed, environmental groups should encourage the market pressures that will ensure that such a program yields real results.

2. *The Meaning of Certification*

Educating customers is one of the core tenets of "green marketing."¹⁵³ The underlying premise of this strategy is that there exists a core segment of the population who desire to purchase products with fewer negative environmental impacts but who simply do not know what to buy. According to this view, education, not persuasion, is essential as there is a willing audience simply waiting to be told which product to purchase.¹⁵⁴

¹⁵² While providing this education, however, environmental groups must stay connected to the industry's message as well; a brand's power is weakened by inconsistent messages.

¹⁵³ In a 1998 book, Jacquelyn Ottman presented seven strategies of "green marketing." The third strategy emphasizes the need to educate consumers. OTTMAN, *supra* note 16, at 49 ("Empower consumers with solutions. Help them understand the issues that affect your business as well as the benefits of your environmentally preferable technology, materials, and designs.").

¹⁵⁴ See generally *id.* at 1-17. Ottman makes this assumption explicit in the very first sentence of the book when she states that "[t]he marketplace is greener now than ever before" and then proceeds to cite a number of statistics indicating that consumers are generally concerned about the environment. *Id.* at 1.

The certification label is an important tool in education strategies because certification programs are complex and multifactored, making the “shorthand” of a brand helpful in representing a “whole cluster of benefits.”¹⁵⁵ More research is necessary to determine how much of the “cluster of benefits” behind the logo consumers need, or want, to understand. At a minimum, education efforts must include information on what environmental problems exist in the forestry context, as well as information on how certification practices help to alleviate these problems. A survey administered in 1997 and 2000 found that sixty-eight percent of American adults lack a basic understanding of environmental issues.¹⁵⁶ Research efforts should also focus on the level of detail consumers should be given about certification standards. Currently, both the FSC and the SFI provide information about standards on their respective websites.¹⁵⁷ However, the level of detail appropriate for active advertising campaigns remains unclear.¹⁵⁸

While education efforts appear to have been successful at some level, buying patterns have not followed suit. Ozanne and Vlosky’s survey indicates that purchases of certified forestry products declined between 1995 and 2000, even as consumer understanding of certification increased.¹⁵⁹ A failure to convey the true “value” of certification logos, discussed below, may be responsible for this disconnect.¹⁶⁰

3. Certification Brand Value

Educating consumers on forestry sustainability issues and how certification addresses them is the approach forestry certification

¹⁵⁵ De Chernatony, *supra* note 143, at 54 (“To protect their limited cognitive capabilities from information overload, consumers aggregate ‘bits’ of information into much larger ‘chunks.’ Brands have been shown to act as efficient chunks, rapidly enabling consumers to recall relevant information and make a selection decision.”) (internal citations omitted).

¹⁵⁶ KEVIN COYLE, NAT’L ENVTL. EDUC. & TRAINING FOUND., ENVIRONMENTAL LITERACY IN AMERICA 3 & fig.1-1 (2005), available at <http://www.neetf.org/pubs/ELR2005.pdf> (stating that two-thirds of 1500 American adults failed short test of basic environmental knowledge). There may also be an information gap specific to the state of the U.S. forestry industry due to the early focus of certification proponents on the problems associated with tropical timber. CASHORE ET AL., *supra* note 1, at 11.

¹⁵⁷ The FSC website includes a comprehensive library of various standards documents. Forestry Stewardship Council, Documents List, <http://www.fscus.org/documents/index.php> (last visited June 20, 2006). The SFI website includes one document summarizing standards. THE SUSTAINABLE FORESTRY INITIATIVE, SUSTAINABLE FORESTRY INITIATIVE: 2005–2009 STANDARD 3, *supra* note 52.

¹⁵⁸ It is also unclear which forestry certification stakeholders would engage in these education efforts. See *supra* Part IV.B.1 (describing tensions between major certification stakeholders).

¹⁵⁹ Ozanne & Vlosky, *supra* note 105, at 18.

¹⁶⁰ The authors attribute the results to a credibility issue. *Id.* (“[T]he perceived efficacy of certification, at least in tropical forests, is now questioned by consumers.”).

stakeholders have largely taken thus far. An education strategy alone, however, is not enough. In order to succeed in sustaining a price premium for certified products, stakeholders must understand the value of certification for consumers and cultivate a brand message centered on affirming how the brand provides this value. The primary reason to focus on a more comprehensive concept of value is that it is difficult to articulate what a customer "gets" when paying a premium for a certified product. Because certification results in non-excludable environmental benefits, an individual does not have to purchase a certified product to experience these benefits.¹⁶¹ Marketing strategies that are intently focused on educating consumers about the environmental benefits of certification treat the price premium for certified goods as the equivalent of purchasing a "unit" of conservation, yet something else must drive customers to pay the premium. A brand management theory framework can be used to define this "something else" and to identify how to leverage it.

Categorizing the brand according to the type of customer value it provides is the first step in creating a strategy for marketing a brand.¹⁶² These value categories refer not to a particular class of product but to the image that the brand's marketers create.¹⁶³ As discussed above, forestry certification meets what can be characterized as

¹⁶¹ OTTMAN, *supra* note 16, at 121 ("Environmentally preferable products . . . benefit everybody in society, not just the people who pay the premium to buy them."). In addition, as Ottman noted, "[e]nvironmental benefits can be indirect, intangible, or insignificant to the consumer." *Id.* at 114.

¹⁶² Scholars have proposed several theories on how to categorize brands. One theory includes grouping brands into five categories roughly correlative to Maslow's five categories of human needs. Jagdish N. Sheth et al., *Why We Buy What We Buy: A Theory of Consumption Values*, 22 J. BUS. RES. 159, 160 (1991), *reprinted in* BRAND MANAGEMENT, *supra* note 142, at 89, 89-90 ("[T]he theory identifies five consumption values influencing consumer choice behavior. These are *functional* value, *social* value, *emotional* value, *epistemic* value, and *conditional* value."). At the other end of the spectrum, de Chernatony proposed two broad categories. De Chernatony, *supra* note 143, at 55 ("[B]rands can be described by the extent to which they satisfy performance needs (functionality) and personal expression needs (representationality)."). A theory in the middle of the spectrum, known as "brand concept management," proposes that there are three categories of brand concepts, based on three categories of human needs: functional needs, symbolic needs, and experiential needs. C. Whan Park et al., *Strategic Brand Concept-Image Management*, 50 J. MARKETING 135, 136 (1986), *reprinted in* BRAND MANAGEMENT, *supra* note 142, at 239, 240 ("*Functional needs* . . . solve [externally generated] consumption-related problems *Symbolic needs* are . . . desires for products that fulfill internally generated needs for self-enhancement, role position, group membership, or ego-identification *Experiential needs* are . . . desires for products that provide sensory pleasure, variety, and/or cognitive stimulation.").

¹⁶³ Park et al., *supra* note 162, at 240.

a higher order need, but the exact nature of this need, whether it is a social or status need or a self-fulfillment need, is uncertain.¹⁶⁴

While several purchasing motivations may exist simultaneously within a single consumer, focusing on one meaning helps to craft a stronger brand.¹⁶⁵ Jacquelyn Ottman emphasizes the social or status value of products with environmental benefits in her book on green marketing.¹⁶⁶ Yet, at the same time, Ottman also points to the “altruism” of environmentally conscious consumers.¹⁶⁷ Altruism is more consistent with a self-fulfillment need than with social or status needs. Marketing strategies for a brand meeting social or status needs and for a brand meeting self-fulfillment needs may be in direct conflict.¹⁶⁸ Certification stakeholders should create consumer surveys specifically targeted at identifying the type of purchasing motivations that consumers might not consciously recognize. These surveys will help identify the correct brand concept for forestry certification. Ultimately, however, the fact that most certified products are not recognizable to external audiences after purchase suggests that consumers most likely purchase certified items for self-fulfillment; if so, brand creation should focus on self-fulfillment needs.

As noted above, historically, certification awareness efforts have focused on providing information about certification. However, the SFI has sponsored some more traditional persuasive advertising; analyzing this advertising provides some insight into how the group currently defines the brand concept. A nearly full-page, color advertisement appeared in the November 12, 2004 edition of *The Wall Street Journal*.¹⁶⁹ The advertisement prominently featured the SFI logo and the headline, “[w]hen forest products are your business, planting 1.7 million trees every day is a smart investment.”¹⁷⁰ The choice of publication suggests that the SFI is creating a status

¹⁶⁴ See *supra* Part III.A.2.

¹⁶⁵ Park et al., *supra* note 162, at 240 (“[A] brand with multiple concepts may be less effective in establishing an image/position by making it more difficult for consumers to identify the brand’s basic meaning.”).

¹⁶⁶ OTTMAN, *supra* note 16, at 120 (“The potential to motivate the large mass of passive greens with the promise of fitting in to society cannot be overstated. . . . Today, the ‘cool’ people care about the environment—the influentials, whom many emulate.”).

¹⁶⁷ OTTMAN, *supra* note 16, at 121.

¹⁶⁸ For example, recommended brand concept management strategies for symbolic brands, in which “the brand’s relationship to group membership” should be emphasized, include making “the brand difficult to obtain by limiting distribution outlets to certain areas or locations frequented only by the target segment.” Park et al., *supra* note 162, at 244. Consumers who want to feel that they are “doing good” by purchasing certified goods may be outraged, not pleased, by the inaccessibility of certified products.

¹⁶⁹ *SFI Advertisement*, WALL ST. J., Nov. 12, 2004, at A9.

¹⁷⁰ *Id.*

brand.¹⁷¹ However, the emphasis on planting trees¹⁷² suggests a nod to altruistic purchasing motives as well. These altruistic motives, though, appear to be assigned to the SFI organization rather than to the consumer. The ad does not, for example, instruct the reader to look for the logo in stores or suggest that consumers will aid in the tree planting process by choosing SFI-certified products. The advertisement resembles a typical public relations advertisement.¹⁷³ Such a strategy is inconsistent with green marketing recommendations that advertising should focus on empowering the consumer.¹⁷⁴ Given that the nature of certified products suggests that consumers buy for self-fulfillment reasons, persuasive advertising efforts should also focus on connecting the brand to the customer's own increased satisfaction.

C. Targeting Marketing Efforts

Once a brand concept is identified, certification stakeholders need to determine which consumers and which forestry products to target. While consumers may not be the original purchasers of many timber products, marketing efforts should still focus on consumers directly. As consumers become aware of certification programs, they will demand certified products from intermediaries such as home builders and contractors. These intermediaries can, in turn, assess a premium for the use of certified products.

Efforts to identify a particular demographic for certified forestry products have determined that a customer with positive attitudes towards certified forest products is likely to be (1) a member of the Democratic party, (2) a member of an environmental organization, (3) a woman, and (4) "fairly well educated."¹⁷⁵ Other scholars emphasize that the price premium, particularly for housing constructed with certified materials, requires targeting "[h]igher-income, more sophisticated markets [with] the discretionary buying power to better express

¹⁷¹ The SFI advertisement, *id.*, followed a full-page advertisement for a quintessential status brand, a luxury car. *BMW Advertisement*, WALL ST. J., Nov. 12, 2004, at A7.

¹⁷² The tree-planting theme is continued on the SFI website. The home page contains a continuously updated counter tracking the number of trees the program is responsible for having planted. Sustainable Forestry Initiative, *supra* note 54.

¹⁷³ A good comparison is a series of Weyerhaeuser television advertisements which highlight, without mentioning certification, the wood product company's efforts to preserve the environment. Some of these advertisements contain language almost identical to that in the SFI advertisement described above in the text accompanying notes 169–70. *See, e.g.*, Weyerhaeuser, Public Outreach: Weyerhaeuser Reputation Advertising, <http://www.weyerhaeuser.com/citizenship/publicoutreach/advertising/televisionads.asp> (last visited June 20, 2006) ("Last year, like every year, we planted over 100 million seedlings. It's how we're making sure the forests can supply all the wood and paper we need.").

¹⁷⁴ OTTMAN, *supra* note 16, at 120.

¹⁷⁵ Ozanne & Vlosky, *supra* note 105, at 18.

their Green preferences than lower income, more value-oriented markets."¹⁷⁶

A focus on traditional demographic variables, however, may be misguided. Research has shown that "personality variables" are more likely than demographics to predict whether an individual has high levels of environmental concern.¹⁷⁷ Such variables can be hard to measure, but one of the best indicators of environmental concern is membership in an environmental group.¹⁷⁸ By targeting marketing efforts to members of demographic groups with a pre-existing awareness of certified products and a demonstrated commitment to environmental goals, producers of certified products can leverage this niche market to support a price premium. Conveying the brand value to this niche market, instead of just its meaning, will help resolve the historical mismatch between the buying patterns and stated preferences of these customers. As this niche market segment begins to buy, marketing efforts can expand to groups with weaker, but still existent, environmental product preferences.¹⁷⁹

In targeting particular forestry products, branding strategies should initially focus on higher-value and bundled products. Data suggests that producers will have more success assessing a premium for products such as furniture and homes.¹⁸⁰ In addition, industry participants should consider bundling several certified forestry products together as one consumer package or bundling certified forestry products with other environmentally friendly products in order to participate in the "added value" marketplace. Opportunities for bundling exist, for example, in the building and remodeling industry.¹⁸¹ As brand awareness grows in the market for high-value and bundled products, such awareness can then be used to convey the value of certification in commodity markets, thus leveraging the consumer demand for one category of products into the purchase of others.¹⁸²

¹⁷⁶ Kellenberg, *supra* note 99, at 26.

¹⁷⁷ Gregory M. Pickett et al., *An Examination of the Conserving Consumer: Implications for Public Policy Formation in Promoting Conservation Behavior*, in ENVIRONMENTAL MARKETING, *supra* note 14, at 77, 79.

¹⁷⁸ OTTMAN, *supra* note 16, at 20.

¹⁷⁹ Google presents an example of this growth strategy. Google built up a strong loyalty base within the technical community before growing to mass-market popularity. Google, *Corporate Information: Google Milestones*, <http://www.google.com/corporate/history.html> (last visited July 22, 2006).

¹⁸⁰ See *supra* notes 105–07 and accompanying text.

¹⁸¹ For example, a builder could market a "green" home composed of certified forestry products and other environmental products, such as Energy Star appliances.

¹⁸² Again, Google illustrates this strategy. The company extended its brand awareness in the online search market to e-mail, online shopping, and other services. Google, *Corpo-*

CONCLUSION

Both the FSC and SFI forestry certification programs permit certified producers to use a logo to express their certification status to consumers in the U.S. marketplace. However, neither has yet successfully created or exploited brand identification to attain consumer acceptance of certified products and their associated price premiums. While there are a number of demand-side obstacles that have hindered market acceptance and may pose barriers to the development of a strong brand, employing the principles of brand management is the key to overcoming these obstacles. Only through market acceptance can forestry certification succeed as an effective form of private regulation.

rate Information: Google Milestones, <http://www.google.com/corporate/history.html> (last visited July 22, 2006).