

CMA Consultation on Draft guidance on environmental claims on goods and services (helping businesses comply with their consumer protection law obligations).

Response from Global Organic Textile Standard (GOTS) on questions for consideration outlined in the Consultation document on the Draft Guidance.

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A. Scope

Q 3.1 Does the draft guidance cover all the important consumer protection law issues relating to the making of environmental claims? If not, what else should this guidance include and why?

The guidance should be clear about the legal basis for organic claims, which are unambiguous (and protected in law) for organic food products, but not for organic textile products (e.g., fashion, apparel, home textiles and personal care products). Misleading claims for textile products include reference only to the proportion of organic fibres and do not cover the processing of those fibres into finished products. Reference only to the use of organic fibre at low inclusion rates, as in the ‘organic jeans’ example, can be as low as 5% for voluntary organic content claims. We believe that this is misleading not only because most of the fibre should be of organic quality, but also, that the processing must be to an acceptable organic standard. An organic textile product should be based on the use of organically produced natural fibre (produced on organic farms) and processed according to an internationally accepted standard from the initial processing of the raw fibre, through all processing stages to the final retailer

Claims for the organic quality of a product require that legally applicable standards for the organic production on farms are met. For food this is well controlled and the requirement of the minimum threshold for the proportion of organic ingredients is well established, as per the EU Organic Regulation (now included in UK law post-Brexit).

However, for textile products made from organically produced fibre, there is no such protection. GOTS is a voluntary processing standard for organic natural fibres, with a fully traceable chain of custody from the organic raw fibre produced on an organic farm. GOTS requires at least 70% organic natural fibre (for the “made with” label grade) and at least 95% organic natural fibre (for the organic grade). The balance of non-organic fibres may only be from a specified list of permitted fibres. Mixing conventional (non-organic) natural fibres with organic fibre of the same type is not permitted. For example, if the product contains organic cotton, it is not permitted for it to also contain conventional (non-organic) cotton. GOTS is endorsed by the International Federation of Organic Agriculture Movements – Organics International (IFOAM OI).

Paragraph 3.24 includes reference to a pair of jeans claimed to be organic where only 35% of their material is from organic cotton, stating that this is “almost certainly misleading”. This is correct, however, the **Guidance should point out that this would not comply with the Global Organic Textile Standard (GOTS) which covers all processing stages of organic fibre through to retail.**

Organic production of fibres (and food) have well evidenced benefits to biodiversity, reduce emissions of greenhouse gases and prohibit the use of artificial fertilisers and pesticides.

The Guidance should be clear that sustainability requires environmental and social criteria to be met. In the Guidance ‘Sustainability’ is defined as relating to environment, climate change and biodiversity, and this is the focus of the draft guidance. However, footnote 1 on page 5 of the draft guidance document also refers to “animal welfare, workers’ welfare or corporate social responsibility”. These areas should also be covered in the draft guidance, the definition of sustainability should include environmental and social sustainability. This is particularly to the textile and fashion supply chain, which has well documented social consequences and where the 12 Norms of the International Labour Organisation are not fully met. GOTS requires that these social criteria are met by certified operators.

Q 3.2 The draft guidance applies to business-to-consumer relationships, and to a more limited extent, to business-to-business relationships. Is it helpful to cover both?

Both should be covered. Ultimately, the consumer must be able to depend on the business-to-business relationships. For compliance with the GOTS standard, third party certification is required for all steps in the supply chain to the final business-to-consumer retail relationship. Thus business-to-business relationships through the supply chain are covered through the standard. **GOTS provides an exemplary approach that should be highlighted in the Guidance document.**

Q 3.3 The draft guidance, and UK consumer protection law itself, applies across all sectors of the economy and to all businesses selling goods and services. Are there any sectors which require special treatment either in the draft guidance or separately? If so, which sectors and why?

As explained above, the legal framework for organic farm production and food processing, and **the requirements for use of the term organic in relation to food should be more clearly laid out in the Guidance.**

It should also be made clear that organic textile products are not covered in the legal provisions for organic food, and so specific reference to the only existing internationally agreed voluntary organic textile standard – the Global Organic Textile Standard (GOTS) should be made.

Reference to GOTS in the guidance would help to stop organic greenwash, and therefore help consumers make a clear choice based on a traceable whole organic textile supply chain from farm fibre production to textile processing including labelling, through to the final retailer.

B. Principles for compliance

Q 3.4 The guidance sets out six principles for business compliance with consumer protection law to avoid 'greenwashing'.

In the case of organic products, the six Principles outlined in the Guidance document are all comprehensively met, as outlined below. In the case of organic textile products, the principles are only achieved if certification to the Global Organic Textile Standard (GOTS) is included. Otherwise greenwash is enabled, and consumers will be confused.

The Guidance should make the requirements for the use of the organic label clear.

a) Claims must be truthful and accurate

Organic standards for farm production and processing of organic food are agreed throughout Europe and around the world, most countries have well established standards for organic production. There is a requirement for annual 3rd party inspection and verification.

In the case of organic textile products (as opposed to organic food products and organic farmed fibre), avoiding greenwash is dependent on the adherence to GOTS voluntary standards, certified by independent 3rd party certification bodies.

In the case of organic food products, the whole supply chain (production and processing) is controlled through legally enforced organic standards with independent 3rd party inspection, verification and certification. This means that the avoidance of greenwash is comprehensive for organic food and underpinned by a legal protection. This is not the case for organic textile products.

The Guidance should make this distinction clear and recommend that any organic claim is supported by certification to the mandatory organic farm production standards and to a voluntary organic processing standards. At present only GOTS provides this.

b) Claims should be clear and unambiguous

The organic claim is clear and unambiguous. For organic food this covers both the organic farm production, the organic processing and the labelling. In the case of organic textile products there is no such whole supply chain, legally regulated standard beyond the farm production.

The Guidance should make it clear that organic textile claims must be substantiated by adherence to a voluntary

c) Claims should not omit or hide important information

Nothing is omitted or hidden regarding the organic quality of the product, with the requirements clearly laid out in internationally agreed standards.

d) Comparisons should be fair and meaningful

Organic products are meaningfully different from non-organic products.

Organic textile products are only fairly and meaningfully supported by certification to a meaningful organic textile standard, one that covers both the organic farm production of the organic natural fibre and the processing according to a recognised organic processing standard. The Global Organic Textile Standard is a recognised organic processing standard, which is a voluntary standard, it would protect against greenwash

e) In making the claim you should consider the full life cycle of the product.

The full organic life cycle of the product is included from farm production through to the textile processing where the Global Organic Textile Standard (GOTS) is adhered to. In the case of organic fibre content claims, these firstly do not require most of the fibre to be produced organically, nor do they control the organic textile processing – consequently the organic claim, without GOTS, is greenwash. GOTS has clear environmental (and social) criteria for the processing of the raw farm-produced organic fibre through to the finished textile product and GOTS has minimum organic fibre content.

Consequently, the Guidance should make clear that only organic textile products certified to the GOTS mean that organic greenwash is avoided by taking account of the full life cycle of the product.

f) Claims should be substantiated

The claim for organic quality through the organic certification (mandatory for farm and food products, including fibre) provides strong substantiation for the sustainability credentials of organic products. The legally enforced process for inspection, verification and certification means that the consumer can trust the claim made for organic quality.

However, in the case of organic textile products the organic textile processing standards are not underpinned by law. Until such time as the organic regulation is extended to organic textile products, consumers can only rely on manufactures adhering to the voluntary standards operated by the Global Organic Textile Standard (GOTS) and subject to independent 3rd party inspection, verification and certification by GOTS approved certification bodies.

Q 3.5 Are these principles the right principles under consumer protection law? If not, what other principles would help businesses comply with consumer protection law.

As outlined above, these are the right principles and clearly each of the six principles are met through organic products. In the case of organic food products UK legal provisions protect the term 'organic' and so provide security and clear information for consumers.

However, in the case of organic textiles products, although the organic farm production is included, the processing of the fibres into textile products is only covered if operators voluntarily adopt the GOTS standard. This should be highlighted in the Guidance document.

C. Case studies

Q 3.6 To help businesses engage with the principles, guidance and consumer protection law compliance more generally, we have included a range of case studies. Would further case studies be helpful? If so, please suggest topics for these case studies and, if possible, provide examples of when these issues would arise.

The case studies are helpful, however, several of the case studies included in the Guidance refer to organic products of several types. However, there is no clear account given of the requirement for adherence to the legal framework for labelling organic products, based on annual 3rd party inspection, verification, and certification. The Guidance is therefore misleading.

The Guidance should include a section that covers the way organic products are regulated to set the presented case studies in context.

D. General and additional issues

Q 3.7 Which, if any, aspects of the draft guidance do you consider need further clarification or explanation, and why? In responding, please specify which Chapter and section of the draft guidance (and, where appropriate, the issue) each of your comments relate to.

The Guidance should provide explanation and clarification of the legal basis for organic claims in the Introduction (in the sections: “What does this guidance cover”, “What does consumer protection law require businesses to do”, Relationship with other regulation and guidance” and “What businesses need to do”).

The Guidance should make it clear, in Section 3, Principles the extent to which organic claims meet the principles to a significant extent – as outlined in the response to questions 3.4 and 3.5. As it is, the examples and case studies give a misleading account of organic products.

Q 3.8 Overall, is the draft guidance sufficiently clear and helpful for the intended audience?

The Guidance uses organic examples on several occasions. Since the existing legal framework of organic standards and the requirement for third party certification are not explained, these examples and case studies confuse the reader. Properly applied, the organic label provides clear and unambiguous information of a product’s sustainability.

The Guidance should clearly outline how the organic claim is justified and what is the legal basis for making organic claims for food. It should also be clear that for organic

textiles, there is no legal basis and instead operators should be encouraged to adopt voluntary sustainability standards such as the Global Organic Textile Standard.

Q 3.9 Are there any other comments that you wish to make on the draft guidance?

The Guidance is a helpful starting point that will help companies make honest claims and avoid greenwash. However, more attention is required to explaining how properly verified organic claims, based on the adherence to clear, and internationally agreed organic standards and backed up by a legal framework helps to avoid greenwash.