



Draft guidance on environmental claims on goods and services

A response from techUK

About techUK

techUK is the trade association which brings together people, companies and organisations to realise the positive outcomes of what digital technology can achieve. We create a network for innovation and collaboration across business, government and stakeholders to provide a better future for people, society, the economy and the planet.

Does the draft guidance cover all the important consumer protection law issues relating to the making of environmental claims?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?

techUK has no comments to share.

The draft guidance applies to business-to-consumer relationships, and to a more limited extent, to business-to-business relationships.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?

Yes, it is helpful for the guidance to cover both.

The draft guidance, and UK consumer protection law itself, applies across all sectors of the economy and to all businesses selling goods and services. Are there any sectors which require special treatment either in the draft guidance or separately?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

techUK has no comments to share.

The guidance sets out six principles for business compliance with consumer protection law to avoid 'greenwashing'. Are these principles the right principles under consumer protection law? If not, what other principles would help businesses comply with consumer protection law.

Principles 1, 4, 5 and 6: The basis of a truthful, accurate and comparable claim needs to be a clear set of rules and standards. Each company will perform their lifecycle assessments (LCA) in their own way, with their own assumptions and assignment of weights. It's therefore entirely possible for two companies to use the same recognised LCA methodology but arrive at different outcomes. Depending



on the source data used, the assumptions made, and the weights assigned to individual lifecycle stages, claims can still be misleading.

The 6 principles set out in the guidance are not specific enough, as it suggests that as long as a company can substantiate their claim, e.g. by means of an LCA, the claim is permissible.

The principles also lack guidance on the definition of a life cycle. For instance, companies that do not produce their own products may want to exclude that phase from their lifecycle impact, which would be incorrect.

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.

Yes, case studies are helpful and further examples outlining how the principles apply in different contexts would be helpful.

It would be helpful if the CMA could for example provide clear examples/case studies on what information is likely to be considered material (in the context of misleading omissions) and how advertisers can provide it.

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.

Inconsistencies about when life cycle information is required, and when it is not

Paragraphs 3.33 and 3.36 are inconsistent with paragraph 3.65. Paragraph 3.33 recognises that it's not necessarily a problem for businesses to make claims that focus only on one aspect of a product. By contrast, paragraph 3.65 assumes that consumers could be misled when claims focus on only the positive environmental aspects of a product without mentioning the negative impact of other aspects of the product.

In particular, the specific claim example in paragraph 3.36 recognises that it would be possible to say a vehicle "produces zero emissions 'when driving'" even though producing and generating power to charge may produce emissions. This is, however, 'cherry-picking information', as mentioned in paragraph 3.65.

Claims on recyclability

Paragraphs 3.76, 3.79 and 3.80. appear to introduce a positive obligation to disclose the recyclable status of the packaging of a product on the basis that it would be a misleading obligation not to and we wonder if this is the intention of these paragraphs. The recyclable status of a product/packaging is not currently listed as one of the types of material information in regulation 6(4) of the Consumer Protection from Unfair Trading Regulations 2008 and it is not information that a consumer would necessarily need in order to take an informed transactional decision. Packaging labelling for recyclability is currently being considered by Defra as part of the reforms to the Extended Producer Responsibility regime for packaging. We believe this is the right place for such a decision to be agreed. The intention is as stands to require companies to provide this information to consumers when there is a simple "where and how" answer. The issue faced by business in being able to provide



this information is that it is not easy to answer from a UK-wide perspective due to substantial variations in collection service offerings by local authorities. Defra is addressing this through its recycling consistency proposals, which it recently consulted on.

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

The Guidance could be clearer. As noted above the draft contains inconsistencies about when life cycle information is and is not required.

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

It would be hugely helpful if the CMA could offer more support in this space, specifically:

- Proactively setting a standard of disclosure or meaning of claims, e.g. the equivalent to the Advertising Standards Authority's recognition that "#ad" is an appropriate social media disclosure for influencers.

Members have also suggested that new disclosure requirements should be verified by robust international standards (such as ISO 14021) to avoid false claims and confusion.