

ADVERTISING ASSOCIATION

Advertising Association response to CMA consultation

Draft guidance on environmental claims on goods and services

About the Advertising Association

The Advertising Association is the industry body representing all the advertising and marketing sectors.

Our mission is to promote the role and rights of responsible advertising and its value to people, society, businesses and the economy. We bring together companies that advertise, their agencies, the media and relevant trade associations to seek consensus on the issues that affect them.

The [membership](#) of the Advertising Association is very broad and includes the associations representing industry sectors, such as the advertisers (through ISBA), the agencies and advertising production houses (through the IPA and APA), all the media (from broadcasters and publishers, cinema, radio, outdoor and online), market research (through MRS) and marketing communications services such as direct marketing and data analytics, as well as promotions.

The advertising industry supports strong and effective self- and co-regulation through the ASA. The AA and other industry bodies sit on the Committees of Advertising Practice that write the advertising codes. The CAP Code contains rules on environmental claims and the ASA is currently reviewing its approach on climate change and the regulatory environment for advertising. We are aware that the ASA/CAP liaise with the CMA on this and other issues to ensure a joined-up regulatory approach.

Our Ad Net Zero Programme

For our part, the Advertising Association has, with ISBA and the IPA, taken the lead on what the industry can do to get its own house in order as regards the race to net zero.

In November 2020, we launched *Ad Net Zero*, the advertising industry's initiative to get the entire industry to real net zero by 2030. The Ad Net Zero Action Plan consists of actions on five fronts to achieve this:

1. Advertising businesses' own operations – all companies commit to curtail their carbon emissions, principally by reducing travel, fossil energy use and waste.
2. Advertising production – advertisers, agencies and production companies commit to adopt tools and training to curb production emissions, such as AdGreen's (the UK's first zero-carbon, zero-waste production standard).
3. Media choice – media agencies commit to the IPA Media Futures Group Climate Charter, working with their clients to develop lower carbon media plans.
4. Awards and events – organisers build sustainability criteria into awards, and plan events to minimise their carbon footprints, especially from travel.
5. Using advertising's positive influence – agencies and clients harness the power of their advertising to promote more sustainable consumer choices and behaviours.

At the time of writing, there are 60 organisations registered as Ad Net Zero supporters across the industry.

Response

The Advertising Association welcomes the CMA's draft guidance on environmental claims on goods and services. We believe that the guidance will help advertisers, agencies, producers and media

ADVERTISING ASSOCIATION

owners ensure that communications are clear and not misleading to consumers, increase the public's trust in green claims made in advertising, and empower marketers and agencies to talk to brands about the substantiation of advertising claims. We also believe that it is conducive to supporting the aims of Action 5 of the Ad Net Zero Action Plan, helping ensure that advertising's positive influence is utilised in a transparent and effective way without misrepresenting or overstating the environmental impact of certain products or services, as well as other industry initiatives such as [#ChangeTheBrief](#), which encourages agencies to respond to client briefs in a way that promotes more sustainable attitudes, values and behaviours in clients' audiences. We would be happy to publicise the final guidance amongst AA and Ad Net Zero networks once published.

Climate change is a concern for the advertising industry with 96% of people working in our industry concerned about the impact we as a species are having on the planet¹. We also know that greenwashing is a significant concern to both consumers and industry professionals² and believe that this guidance will help to address this.

The AA supports the principles of the guidance, but we think that further clarity is required in the following areas:

- Reinforcing the role of the ASA in enforcing and ruling on environmental claims made in advertising in accordance with the CAP & BCAP codes. This might be done with an explicit reference about how the CMA works closely with other regulators and self-regulators, including the ASA and CAP.
- Defining the boundaries of responsibility should the CMA pursue enforcement action. For example, it would be helpful to say explicitly that the CMA will investigate environmental claims made by companies on their products and labelling, whilst the ASA will investigate claims made in advertising.
- Further examples, case studies and definitions for reference, including around claims which are true but may omit pertinent information.

The role of the ASA & responsibility

The [CAP](#) and [BCAP](#) Codes are mandatory – they must be followed as regards any advertising communications. The advertiser must ensure that the green claims for its products made in advertisements can be substantiated and are in line with the CAP Code, whilst for broadcast advertising, the broadcaster has legal liability for ensuring the content including advertisements that it broadcasts complies with the BCAP Code. Hence it is important that CMA guidance is coherent with existing CAP & BCAP rules and [ASA guidance](#) on environmental claims in advertising. We are pleased to note that initial ASA assessment of the CMA guidance is that it is coherent with CAP and BCAP, meaning that it is less likely to create confusion among industry.

As industry regulator, the ASA is responsible for regulation of and rulings on environmental claims made in marketing communications, in accordance with the CAP and BCAP codes. We support the ASA's role in adjudicating on these issues and believe that this guidance can be a useful tool in deciding rulings. If the CMA in its compliance review ([as referenced in paragraph 1.27 of the consultation document](#)) finds that businesses are failing to follow the guidance, then it follows that these cases should be referred to the ASA.

¹ [Ad Net Zero Report](#) - results from online quantitative research conducted by Credos between April and June 2020, with a sample of 285 people working across the UK advertising industry

² For example, in the print sector, research for Royal Mail found that, 42% of customers had been asked by least one organisation they deal with to switch from receiving communications in the mail to receiving them online in the past 12 months, in large part because this is supposedly environmentally beneficial. A common misleading greenwashing statement is something akin to "Go Green, Go Paperless", implying that paperless methods of administration are more environmentally friendly, when that is often not the case. Often such environmental claims are used to mask true objectives for a movement to digital communications. 49% of UK consumers recognise that these claims are often down to cost saving, rather than environmental reasons. – Business Mail Report by Tristan McQueen, commissioned by Royal Mail, June 2021; [Two Sides 2021](#)

ADVERTISING ASSOCIATION

Examples & case studies

We appreciate the examples and case studies presented in the draft guidance, which help to understand how the guidance might be put into practice in a variety of contexts.

We recommend that the guidance include case studies highlighting what form of claims would be considered acceptable, as well as those which would not. This is especially pertinent to cases that omit key information, where the outcomes of some of the examples are ambiguous. Given that this is a relatively new area, we think this would increase clarity among industry.


Example 4 ([p15](#)) provides a true claim ('reduced plastic packaging') but is described as 'liable to deceive consumers', as the plastic packaging has only been reduced by 5%, and emissions have barely changed as a result of moving production facilities. However, there is a lack of specificity over the threshold whereby the phrase 'reduced plastic packaging' would be acceptable to put on the marketing. Consider the scenario of plastic being reduced by 5% but production facilities unmoved. Would the plastic have to be reduced by more than 5%? Or would it be acceptable to simply say 'plastic packaging reduced by 5%', without reference to carbon emissions?

Similarly for Example 7 ([p22](#)) – would the carton no longer be misleading if it had the widely accepted 'not yet recyclable' symbol³ on the back of its packaging? Or must it explicitly say 'this refers to ingredients, not packaging'? As the claim makes no reference to the packaging itself we would expect that consumers would understand that the statement refers to the ingredients, and that a symbol would be sufficient.

Again, we recommend providing examples and case studies as to what would be acceptable as well as unacceptable, and how marketing claims might be appropriately adapted under the guidance for each of the six principles.

It would also be helpful if the CMA consulted with industry to develop a standard taxonomy of commonly used and defined 'environmental' terms ([as referenced in paragraph 3.47 of the guidance](#)). This would aid clarity for agencies over what terms are acceptable and ones that require further evidence to substantiate – such as 'organic' (as [referenced](#) and defined in Example 2, p13). We recommend that the CMA work with sector bodies to collate and distribute such a glossary as well as the guidance itself, so that agencies are easily able to access and refer to it when necessary.

Further information

The AA would be happy to provide further information or discuss any of the above in greater detail with the CMA. Please contact [].

