

Alupro response to CMA consultation on draft guidance on environmental claims on goods and services

Alupro is an industry funded, not-for-profit organisation with over 30 years' experience representing the UK's aluminium packaging industry. We work to fulfil the industry's obligation to meet, and exceed, recycling targets for aluminium packaging.

We are achieving this by working in partnership with local authorities, the waste management industry and the wider metal packaging sector to develop and stimulate the UK's collection infrastructure. We also manage and run consumer information and education campaigns to encourage participation in recycling schemes to consistently drive-up recycling rates.

Alupro welcome the opportunity to respond to this consultation. We believe the CMA is right to publish guidance on the environmental claims that accompany products. As consumers become more environmentally conscience, it is important they are confident that any environmental claims are as advertised. This guidance will help businesses understand and comply with their existing obligations under consumer protection law when making environmental claims.

Whilst we are supportive of the CMA's ambition, our members who are in scope of this guidance would like to take this opportunity to highlight existing measures for environmental claims on aluminium packaging. Most packaging products already participate in industry-led initiatives such as OPRL and, in combination with forthcoming regulations such as Extended Producer Responsibility which will put an emphasis on recyclability, the industry is positioned well to provide accurate, trusted consumer information on packaging recycling in the UK. As such, there is no need for the industry to receive particular attention beyond the principles in this guidance.

In addition, we also believe the CMA should recommend any claims regarding a product's recyclability be based on real recycling rates. Many businesses currently promote collection rates for the recycling of their product to support the view that its environmental impact is minimal. However, this is inaccurate and misleading to the consumer. Numerous products can claim to have high collection rates but, either due to the material's low value or challenging recyclability, the volume that reaches the end recycler is much smaller than the figure advertised.

On the contrary, the recycling rates given for aluminium products reflect the true amount that enters the recycling process and becomes a new product. Aluminium can be defined as the most circular material as it is 100 per cent recyclable and can be recycled forever: it can be melted down and reformed without losing any quality, and the process can be repeated over and over again. Consumers are not being misled by the recycling rates given on these products. The CMA should therefore advise that all claims regarding recycling rates are based on true rates of recycling as is found with aluminium products.

Scope

3.1. Does the draft guidance cover all the important consumer protection law issues relating to the making of environmental claims? If no, what else should this guidance include and why?

Alupro believe the draft guidance comprehensively covers all of the issues relating to the making of environmental claims and has no further inclusions to suggest.

Alupro does note that the guidance is very detailed, which is indeed needed to explain the principles and the steps a company should take into account when making environmental claims. However, we find that a lot of text may at times be overwhelming for companies. We therefore suggest to also create a visual diagram, or decision tree, highlighting the key questions a company should ask itself when making environmental claims. This is to provide a quick and visual resource, in an easy-to-use format.

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?

It is helpful for the draft guidance to cover both business-to-consumer and business-to-business relationships to ensure there is a consistent standard of environmental advertising across products.

This is particularly applicable to SMEs, who often rely strongly on the claims and information made available by their suppliers.

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?

Alupro do not believe that any sectors require special treatment in the draft CMA guidance or separately in additional documents. In particular, the packaging sector does not require any special treatment. In addition to widely-adopted voluntary industry-led initiatives designed to decrease consumer confusion, packaging is subject to a plethora of existing and forthcoming legislation and regulation mandating the minimum environmental standards of these products.

For example, most in the packaging supply chain opt-in to OPRL, The On-Pack Recycling Label scheme, which is currently the primary touch point between consumers and recyclability. Recognised by the UN Environmental Programme as international best practice, this scheme delivers a simple, consistent and UK-wide reuse and recycling messages on consumer packaging.

In addition, with the planned introduction of the Deposit Return Scheme in the UK, Extended Producer Responsibility in which modulation of fees payable by producers will vary with the recyclability of the product, and measures to ensure the collection of waste across local authorities is more consistent, the evidence base for the recyclability and sustainability of packaging products will rise. Consequently, the need for further CMA guidance in packaging may not be necessary.

Principles for compliance

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.

Alupro agrees that the six principles to avoid 'greenwashing' are sensible and comprehensive and will allow consumers to make more informed decisions. However, consideration should be given to how consumers validate environmental claims on products. Some of the existing substantiation methods, such as life cycle assessments, are well established but can invite misinterpretation and are difficult to compare between. Alupro would therefore welcome the recognition that some evidence points have limitations.

Case Studies

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 issue.

From the perspective of packaging, Alupro does not believe that additional case studies would be helpful and the ones provided are sufficient.

General and additional issues

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.

Alupro believes further clarification is needed regarding recyclability claims in relation to packaging.

Paragraph 3.54 suggests that it must be evident whether recyclability relates to the whole product, including its packaging, or only part of it. However, it is not clear how this guidance applies to the dominant material principle for multi-material packs where often just one material is recycled at the expense of the other. The majority of the pack's mass is recycled in this instance and the CMA should clarify whether it is therefore acceptable to deem it recyclable.

Paragraph 3.76 is an example of an occasion in which the guidance considers packaging and its recyclability, but at no point in the document is a definition of recyclability given. In this guidance therefore the CMA should refer readers to competent authorities for an acceptable definition of recycling.

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