

British Plastics Federation (BPF) response to CMA consultation on Green Claims

Scope

3.1 Does the draft guidance cover all the important consumer protection law issues relating to the making of environmental claims?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 BPF cannot comment in full on whether all the important consumer law issues have been covered. It is important to note, however, that environmental claims should be based on evidence, such as compliance with the relevant standards.

For example, ISO standards and guidance exist for claims (e.g. ISO 14020 Environmental labels and declarations — General principles, or BS EN ISO 14024:2018 Environmental labels and declarations).

Food-contact legislation and guidance should also be considered, as it may be relevant for environmental claims on certain packaging, ensuring it only uses materials both suitable and approved for food contact. In addition, the Packaging Essential Requirements Regulations are currently being reviewed and any update would be worth reflecting in this guidance.

Other guidance documentation may also assist, including DEFRA's Green Claims Guidance (2011) and Guidance on making an environmental claim for your product, service or organisation (2016).

Furthermore, appendices highlighting sectorial specific guidance and requirements would provide further benefit. Guidance broken down by sector (e.g. food packaging or cosmetics and toiletries) would serve to increase knowledge of said guidance and practices.

3.2 The draft guidance applies to business-to-consumer relationships, and to a more limited extent, to business-to-business relationships.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

Yes. As a material sector, plastics often go into applications for other businesses – ensuring accurate environmental claims means that downstream user businesses (e.g. users of packaging) can make the best and most informed choice as to their options.

Furthermore, with the array of claims on the market it is vital that consumers, who will likely be less informed than businesses, have the accurate information at point of sale to ensure they also can make the best and most informed choice. This can also assist with business users of packaging/products who may face consumer pressure to use certain formats that may not serve to provide a benefit. Better information for consumers can help business customers in their use of the most environmentally beneficial materials and formats.

Misleading claims could not only add costs to businesses and consumers, they could also have a detrimental impact on the environment from a lifecycle assessment (LCA) perspective.

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?

N/A

Principles for compliance

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

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.

The BPF agrees that claims should be truthful and accurate; be clear and unambiguous; not omit or hide important information; be fair and meaningful; should consider the full lifecycle of the product; and should be substantiated.

Claims that cannot be backed up with robust evidence (e.g. compostability claims without adherence to relevant standards or claims that an alternative material provides a better impact on the environment without an LCA) should not be permitted, as they can mislead the consumer or business into making an ill-informed decision. Furthermore, claims that do not consider the full lifecycle of the product could have an adverse effect on the environment. Consumers and businesses could be pushed into material or product switching, with unintended consequences such as increases in the use of heavier alternatives which use greater resources (renewable and non-renewable), energy, supply chain miles, and associated greenhouse gas emissions.

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 arise.

The case studies appear to cover a suitable range of misleading claims in terms of type of claims, however the majority paint plastics as the contaminant/issue/problem. With the current legislative focus on plastic (particularly in the packaging sector) and potential for greenwashing, it would be useful to include case studies whereby businesses might promote a product/material as an alternative solution to plastics without providing data, evidence or life cycle analysis to back up the claims.

This is important as material switching can be presented as a 'greener' option, however without full LCA and scientific evidence to back this up, it could lead to adverse effects on the environment.

A Denkstatt study noted that switching from plastics to alternative materials could increase GHG emissions by 2.7 times over the lifetime. This highlights that a wider variety of case

studies showing less well-known areas for misleading green claims would benefit businesses and consumers, rather than just focusing on one material as a potential contaminant with respect to recyclability/lightweighting etc.

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.

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

Further details can be provided with cases studies that cover a wider variety of products where the emphasis should be on justifying the claims according to relevant standards, verifying these claims with certification and/or providing data that shows environmental impacts by comparison to show reduced impacts rather than implying that some materials are better than others (see example 1 in draft guidance where the main issues is the claim of recyclability that has not been backed up rather than the issue that the label misled the consumer by not disclosing that it contains plastic).

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

N/A