

Competition and Markets Authority
The Cabot, 25 Cabot Square,
London E14 4QZ

Compare Ethics
34 Alabama Street,
London, SE182SH

16th July 2021

Attention of: Lead Investigator of misleading environmental claims

Dear Competition and Markets Authority,

Please see the Compare Ethics response to the misleading environmental claims investigation attached to this letter. We warmly welcome the huge strides that your organisation has taken to support business to alleviate misleading environmental claims. It is exciting to finally see such positive action taken to create a level playing field for consumers and for businesses taking the right action to take real strides to responsible production goals.

For the purposes of time, I have kept our response short and to the point. Specifically, I have focused on top issues that we have found since verifying and accurately communicating claims on behalf of businesses for over twelve months. However, I would warmly welcome the opportunity to hold a meeting to provide deeper insights, nuances and specific challenges we have faced when substantiating and accurately communicating environmental claims. Many of which have been tested in relation the new draft guidance you have provided.

For context on us: Compare Ethics is the verification technology that verifies and communicates responsible claims of retail businesses. Our algorithms rank and assess businesses and products across 9 categories – spanning the circular economy to workers rights. We use primary (supply chain data) to substantiate claims and make overall assessments based on life cycle of a product. Then the verified data is communicated online and in-store. We have verified over 10,000 products from over 70 businesses and regularly survey both consumers and brands on the area of communicating environmental claims.

Finally, with the consultation coming to a close, we would like to understand the potential scope and opportunity to become an associated organisation to support the CMA in delivering this guidance in the future. We are going to support businesses to implement your guidance and it would be excellent to create a mechanism to regularly share market insights back to you to support continuous improvement.

Warmest regards,

[✂]

[Redacted signature line]

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Overview

The CMA's draft guidance is a comprehensive assessment of the misleading claims landscape. Overall, it provides thoughtful and relevant business guidance that will enable a new era of environmental product claims. It is hugely welcomed by Compare Ethics and our team cannot wait to implement this guidance in full at scale.

A Lack of Good Data in the Market

At the same time, there are some specific loopholes that the CMA must consider ensuring that the guidance works and doesn't perpetuate the status quo. For example, life cycle assessments are a warmly welcomed approach to being a part of a claim. However, many brands hide behind old or incorrect data sets to make such claims. Without clear standards on life cycle assessment data, we have the potential to miss this opportunity. This is one area, amongst a few, where the CMA needs to tighten the guidance to ensure efficacy.

The CMA risks not meeting its objective of creating a level playing field due to the ability of brands to hide behind bad data. That could be: out of date, studies paid for by the brand or simply reductionist data sets. This is a huge known issue for the retail industry. The rules you create here can either perpetuate or resolve this issue.

We must have clear LCA data standards for this to be an appropriate approach for the market to create a level playing field.

A Lack of Standardisation

Due to a severe lack of standardisation across the retail market for such claims, many areas that serve a huge purpose for environmental improvement are hard to be included in the new rules.

For example: the terms relating to the circular economy and veganism claims are hard to substantiate and accurately communicate but are crucial parts of the consumer product needs when making environmental products and transitioning to a more responsible economy.

The following examples are key cases in a basket of many that Compare Ethics has identified. We invite the CMA to hold a meeting with a deeper dive into these tensions and hope that the CMA can address these specific areas in the update to businesses to ensure that businesses continue to invest in vegan or circular economy products.

Without these tensions being addressed, we risk disincentivising businesses away from being better due to concerns of not being able to communicate a lot on the subject. We need the opposite: a vehicle to accurately communicate all areas of improvements to environmental product claims.

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Vegan Claims

Vegan products have proliferated across the food and beverage vertical and there is a growing rise of products in the non-food space with such claims. According to The Vegan Society, from 2012 to 2017, the meat-free food demand grew by 987%. The product is Googled three times more than gluten-free and vegetarian products.¹

“Suitable for a vegan” can be vague to many people but for some it is very specific (the avoidance of any animal derivatives) and many of these consumers choose these products to help reduce their impact on the environment. Overall, the meaning across the market is undecided and therefore is a vague term.

There are many companies that are non-food based making vegan claims and vast amount of marketplaces and products dedicated to being appropriate for vegan consumers – like Shop Like You Give A Damn – due to the fact this is a growing need amongst consumers.

What should happen in relation to vegan claims for non-food products? Compare Ethics assumes that given there is no market consensus and therefore is vague that this claim should not be used. At the same time, this means that a whole section of the consumer market who look for non-food products with these credentials are left out of shopping in line with their very specific values set.

The other approach is to set a standard for vegan products. For example, accredited by the Vegan Society or if the product has been tested for no animal derivatives. The latter has huge cost implications for small businesses wishing to make vegan product claims.

Compare Ethics welcomes the CMA’s advice and response in relation to consumers who shop via vegan credentials.

Circular Economy Claims

Many businesses use waste products (deadstock) to re-use a material that would otherwise be burned or taken to landfill. However, there is no formal agreed standard to state what is indeed deadstock. Many brands acquire this deadstock informally with little documentation. Hence, making it very difficult to substantiate that claim.

Re-using materials (deadstock) is crucial for our move to better environmental products. Every second a lorry of textiles is either dumped or burned. The circular economy business model will play a key role in a new responsible economy and environmental claims now and more in the future. How does the CMA advice to substantiate and accurately communicate such claims?

¹ <https://www.grandviewresearch.com/industry-analysis/vegan-food-market>

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Small Businesses

Many small businesses are increasingly feeling pressured and left out due to their lack of ability to access supply chain data. Many manufacturers will not spend time sharing data to them due to the small size of the company. Equally, many certification bodies are hugely prohibitive for SMEs.

This means smaller businesses cannot substantiate and accurately communicate their environmental product claims. Whereas larger businesses can be due to the money and influence they have.

The CMA must consider the implications for small businesses who are striving to do the right approach but are not as able to gather data. For a level playing field to exist, SMEs either need support or a tailored approach to substantiation.

Specific Areas For Consideration Arising

When considering 3.9, there are some clarifications that would be useful. In practice, there are a number of claims are considered vague but are widely used to a consumer segment need (see above).

For 3.11, this advice is in itself vague. What does the CMA mean by deceptive? There is no example of the correct or incorrect use of presentation of a claim and it is unclear of how to implement this correctly. If wording and logos can be used accurately, it will be useful to see this use case to ensure businesses have a clear picture of what good looks like.

For 3.13, how does the ability to focus on specific aspect of a product's, brand's or business's environmental impact work alongside the need to consider the full life cycle of the product. Do you make the claim specific and include the LCA data as omitted data? We welcome an explicit guidance from the CMA about how claims can focus on specific areas while also needed to have a full LCA. How is this best communicated?

For 3.99, the CMA rightly lists what consists of a LCA and what a claim should consider. However, there is no mention on the quality and recency of the data that underpins this. It is widely understood that some LCA calculators are based on academic papers or research (many are also funded by the brands itself) that are out of date or inaccurate. Without clear standards for LCA quality, the CMA risks perpetuating the misleading problem. Many brands can simply hide behind bad data and this is a huge issue for the industry but also the rules you create and enforce.