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16 July 2021

Dear Sir or Madam,

**Draft Guidance on Environmental Claims on Goods & Services**

Thank you for the opportunity to review and comment on your draft guidance. This response is on behalf of ScottishPower.

In Annex 1 we have provided an answer to Question 3.7 in which we set out some suggested clarifications and additional detail we think would be useful to incorporate into the guidance. In particular, we think that the final case study in Chapter 4 of the draft guidance, “Case Study :3 Energy”, could usefully be augmented to illustrate how Principle C (‘Claims should not hide or omit important information’) applies. Specifically, we believe Principle C would require disclosure of the percentage of energy directly purchased from renewable sources and the percentage of energy (possibly from non-renewable sources) that is merely matched with renewable certificates, as this is an important consideration for many consumers in selecting a renewable tariff.

Please do not hesitate to contact me if you have any questions arising from our response.

Yours sincerely,

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**DRAFT GUIDANCE ON ENVIRONMENTAL CLAIMS ON GOODS & SERVICES –  
SCOTTISHPOWER RESPONSE**

**Question 3.7: Which, if any, aspects of the draft guidance do you consider need further clarification or explanation, and why? In responding, please specify which Chapter and section of the draft guidance (and where appropriate, the issue) each of your comments relate to.**

Concurrence of Powers

In Chapter 2 we think it would be helpful for the guidance to clarify in what situations the CMA will use its enforcement powers, and when it will defer or refer to the Advertising Standards Agency, Trading Standards or other regulatory bodies such as Ofgem, with the same enforcement powers.

Principle D (Comparisons should be meaningful)

Both CAP advertising codes state that the Advertising Standards Agency will "consider unqualified superlative claims as comparative claims against all competing products or services". It would be helpful if this section of Chapter 3 in the draft guidance could be clarified to make clear if the CMA will take the same approach, as the guidance on comparative claims all seems to be specific to direct comparisons with other particular products.

It is also notable that there is more detail on comparable claims in respect of business-to-business marketing than other parts of the guidance that touch on it (for example see paras 32 and 33 of the Appendix). It would be beneficial for similar detail as is included at paragraph 59 of the Appendix to be included throughout the guidance, to avoid running the risk of the guidance lacking in detail on this subject. We acknowledge that the guidance is not intended to replace or supersede the law, but the guidance is likely to be one of the first ports of call for interested parties (along with the advertising codes and accompanying guidance).

Case study on energy

We believe there is a potential omission in the present draft text in Case Study 3 on energy in Chapter 4, in relation to the application of Principle C ('Claims should not omit or hide important information'). The text identifies that, given the stated claims in the advertising, Principle C is likely to be engaged along with all the other principles. However, the text does not go on to set out how Principle C should be applied to avoid misleading claims.

We believe the most obvious application of Principle C is that the advertising or marketing material should include clear information on the proportion of energy supplied that has been purchased directly from renewable sources with associated renewable certificates (REGOs or GOOs) and the proportion of energy supplied that is simply purchased as 'brown' energy and then matched with renewable certificates.

This information disclosure is important because energy matched with renewable certificates without additional evidence of purchase from renewable sources could in fact, be energy generated from non-renewable sources (i.e. brown energy). As such, this information is critical to substantiating the provenance of the energy supplied and will accordingly influence consumers' perceptions of the energy tariff's renewable or green credentials. We recommend the first bullet point on likely required substantiating evidence in the Case Study 3 text could be expanded to provide the necessary clarification on these points.

This additional clarification to Case Study 3 in relation to Principle C is analogous to the recommended information disclosure to substantiate claims of carbon neutrality set out in paragraphs 3.6 and 3.68.

**ScottishPower**  
July 2021