Possible.
Inspiring climate action

Response to CMA consultation on draft guidance on environmental claims on goods and services

Possible is a UK climate action charity campaigning for a zero-carbon society.

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About Possible:

Possible is a climate action charity working for a zero-carbon society built by and for the people of the UK. Our projects and campaigns prioritise public involvement and positive social impact, as well as cutting emissions. Our work spans decarbonisation of energy, travel and consumption, as well as working with nature and talking about the climate crisis. Our work on transport includes our campaign for a Frequent Flyer Levy (a progressive tax which increases per flight each person takes in a given time period), running the world's first project connecting solar power directly to the rail network,[1] the Climate Perks scheme allowing employers to offer their staff additional days of paid leave to travel

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[1] www.ridingsunbeams.org/

without flying,[2] and our Car Free Cities project exploring the benefits of a move away from mass private car reliance.

General response

We are responding as a network of charities and groups working on a sector that is both exceptionally difficult to genuinely decarbonise and particularly prone to making misleading claims about the size and effectiveness of its emissions reductions efforts - aviation.

Citizens, businesses and the government have never been more united on the need for urgent action to tackle the climate crisis. This recognition of the need to cut emissions is welcome. However, as the CMA identifies, this has also led to some businesses making claims about measures to reduce their environmental impacts which are incomplete, incorrect or misleading. This is both unhelpful and unfair to individual consumers seeking to do the right thing (and potentially paying a premium to do so), and dangerous at a systemic level for reaching the UK's emissions reductions goals. If businesses can avoid taking the sometimes difficult, possibly more expensive or wide-ranging actions which are necessary to genuinely end their reliance on fossil fuels, and instead take short-cuts which can give the appearance of tackling the problem without actually doing so, then clearly many will have an incentive to do so, reducing standards across the board. This creates a real danger that whole sectors of the UK economy will fail to step up and take the action that is needed to reach the net-zero by 2050 target.

The CMA's recognition of these issues and decision to consult on draft guidance is therefore essential and extremely welcome. Due to the technical and sometimes complicated nature of the problems with many of the claims made by the aviation sector about its decarbonisation strategies and achievements, it is very difficult for the vast majority of consumers to understand the issues involved and make a balanced assessment of the validity of the industry's claims. However, the substantial emissions from a typical flight make it imperative for consumers to be given clear, accurate information about the emissions and climate impacts of their decision to fly. For example, a return flight between London and San

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[2] www.climateperks.com/

Francisco produces in just a few hours the same emissions as nearly half a year of a typical British person's carbon footprint.[3]

Airlines and airports, as well as aviation industry bodies, are particularly prone to making misleading green claims due to the current unavailability of methods of flying which are not environmentally damaging, compounded by the technological difficulties and limitations of developing any such methods within the next few decades. Because of this, the industry relies on methods of "greening" their services which fail to actually reduce their emissions, and may cause significant environmental or social harms when relied upon by the sector as the route to tackling its emissions.

The primary method currently used by the aviation industry to tackle its emissions is carbon offsetting schemes, which are erroneously presented as if they can actually neutralise the climate impacts of flying. This is very misleading, and if such schemes result in consumers flying more than they would otherwise have done due to the elimination or reduction of customer concerns about flying's environmental impacts, they may actually increase emissions.

Some of the issues with carbon offsetting include:
- Offsetting schemes do not take into account or address around two-thirds of aviation's climate impact, which arise from non-carbon dioxide emissions such as water vapour and soot at altitude.[4]
- Planting trees to remove carbon dioxide from the atmosphere does not mean immediate removal but instead assumes future uptake - this does not balance from a carbon perspective because trees take decades to grow but emissions from aircraft are immediate. In the intervening decades the additional CO2 continues to contribute to climate destabilisation and heating the atmosphere, potentially triggering irreversible feedback loops and further heating.[5]

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[3]www.bbc.com/future/article/20200218-climate-change-how-to-cut-your-carbon-emissions-when-flying

[4]www.mmu.ac.uk/news-and-events/news/story/?id=12787#:~:text=Lead%20author%20David%20Lee%2C%20Professor%20of%20Atmospheric%20Science,non-carbon%20dioxide%20emissions%20and%20the%20rest%20from%20CO2

https://stay-grounded.org/fact-sheet-climate-impact/

[5] www.nature.com/articles/s41558-021-01061-2

- There is no guarantee of permanence of CO2 removed from the atmosphere by tree planting. In particular, in a warming world there is increased risk of forest fires, which have already impacted offsetting projects.[6]
- Airlines often use schemes which claim to reduce deforestation, but the validity of these claims have been strongly questioned by researchers.[7]

The aviation industry also presents the use of alternative fuels as a route to decarbonising aviation. However, the use of synthetic fuels made from crops produces even more emissions than conventional kerosene.[8] The use of e-fuels made from carbon captured from the air and green hydrogen has not gone beyond proof of concept, and would unavoidably require extremely high energy inputs, making it very expensive and resource-intensive to produce. (A more in-depth summary of the problems with the solutions proposed by the aviation industry is available[9]).

Public and political concern about the climate crisis is increasing as its impacts kick in. We are seeing increased efforts from the aviation industry to paint itself as green or net-zero whilst planning for its emissions to continue to increase, and a worrying spread of claims made about net-zero airports or flying zero-carbon which are demonstrably incorrect and misleading, due to continued high emissions of carbon dioxide and other greenhouse gases from burning fossil fuels.[10] We therefore believe that action is essential to ensure that consumers are not misled by statements from airlines, airports and the travel industry about "green" flying, and are able to make their decisions about whether to purchase a very high-emission service based on straightforward, accurate and complete information.

[6]https://grist.org/climate/this-oregon-forest-was-supposed-to-store-carbon-for-100-years-now-its-on-fire/
[7]www.theguardian.com/environment/2021/may/04/carbon-offsets-used-by-major-airlines-based-on-flawed-system-warn-experts
[8]www.transportenvironment.org/sites/te/files/Factsheet%20palm%20oil%20biofuels%20TE%20May%202018.pdf
[9] https://stay-grounded.org/get-information/#greenwashing
[10]www.aef.org.uk/2021/06/22/industrys-proposed-interim-aviation-climate-targets-aef-comments/?fbclid=IwAR3hXQg6Cw1n87B0Wvk79XytZRAqbJQnAUgorsFVnHYMw64VrqvtaMN4sdA

Responses to questions

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?

We welcome the framework set out in the draft guidance, particularly the inclusion of requirements not to omit relevant information and to consider the full lifecycle of the product. However, we note that while the guidance contains substantial discussion of issues relating to whether products are recyclable, organic or compostable, there is relatively little content on climate or emissions impacts. Given the severity of the global impacts of the climate crisis, we suggest that it is essential to include a fuller discussion of how to ensure claims made about products and services' emissions and climate impacts are not misleading.

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?

We believe that the aviation sector requires special treatment, due to both the intensity and scale of its emissions and climate impacts, along with the frequency and severity of its misleading environmental claims. In addition, the vast majority of consumers are unlikely to have an understanding of the issues and complexities involved, making them particularly vulnerable to misleading claims.

Some clarifying principles which we believe would be useful for the aviation and travel sector are:

1. The use of offsets does not make flights carbon neutral or zero carbon and should not be sold as such.

2. Airports should not claim to be "net zero" if they cut emissions from ground operations alone, which only make up around 5% of their total emissions.
3. End use of the term "sustainable aviation fuel" or "SAF", and replace it with a term such as "alternative jet fuel". This is because people will often make the incorrect assumption that sustainable means zero emissions, rather than some reduction in emissions or emissions deriving from a different source (e.g. biogenic rather than fossil carbon).

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.

We would welcome the inclusion of case studies on the aviation industry, to help clarify the specific issues and risks involved. We have outlined the following two generic case studies, both of which are based on extremely widespread and real examples (see section below on "examples of misleading claims made by the aviation industry").

Airport case study

An airport claims that it will become "zero carbon" by a specific date. This involves addressing the 5% or so of emissions produced by its ground operations, e.g. electrifying on-site ground vehicles and buying renewable electricity, but does not address the 95% of emissions which result from flying aircraft. In addition, that airport plans to significantly increase its runway capacity, which if permitted will increase the emissions from flights to and from the airport by millions of tonnes of CO_2 per year. It invests several hundred thousand pounds into nature restoration schemes, compared to the billions the new runway would cost.

Such a claim would mislead consumers because it is likely to create the impression that the airport's entire operation, including flights, is zero carbon. This is contrary to Principles (a) and (c).

This misleading claim also creates an unfair competitive advantage with other modes of travel, such as rail, which produce much lower levels of emissions, and would therefore also be contrary to Principle (d) in its implications.

Airline case study

An airline offers passengers the option to buy a zero carbon flight, on the grounds that emissions from the flight will be offset. The offsetting scheme replaces stoves which burn wood with stoves which burn liquefied petroleum gas, a fossil fuel product. The airline also claims to invest in fuel-efficient new aircraft - a standard industry practice as fleets are replaced with newer and more efficient models with lower fuel costs. The airline also suggests that customers can help to tackle the environmental impacts of their flight by packing lighter and bringing a reusable water bottle.

This is likely to mislead consumers and give them a false sense of security that their flight is not causing harm to the climate, in addition to incorrectly implying that personal actions that are small to the point of irrelevance can have a meaningful emissions reduction impact. This is contrary to Principles (a), (c) and (f). The claim that a practice which is common across the sector, i.e. fleet upgrades, is not standard practice and provides a potential environmental benefit over a competitor is contrary to Principles (a) and (d).

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.

We are concerned about the accuracy and completeness of the section of the guide which discusses offsetting as a route to carbon neutrality (sections 3.67-3.68). These paragraphs do set out the important difference between zero emissions and net-zero, and instruct businesses to provide information about the offsetting schemes they use. This is welcome, but the draft guidance does not acknowledge that offsetting itself is hugely controversial both in principle and in practice: the "recognised standards" for offsetting such as REDD+ have been subjected to serious criticism that they fail to genuinely offer additional forest protection. It is widely recognised that offsetting is not a viable solution to tackling

aviation emissions.[11] Given the absence of any accepted regulator operating to sufficient standards for flight emissions offsetting schemes, claims by airlines that offsetting can produce carbon neutral flights are intrinsically misleading. Carbon emissions from aircraft account for only around a third of the heating from their total greenhouse gas emissions,[12] meaning that even if offsetting were able to balance a flight's carbon impacts, it would not come close to balancing its full GHG and therefore climate impact.

We would therefore encourage a more detailed explanation and greater caution around the problems with offsetting in paragraph 3.68, particularly with regard to aviation which is a sector increasingly reliant on offsets as the primary misleading tool for claiming emissions "reduction".

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

We welcome the draft guidance as a statement of important principles with the aim of avoiding misleading environmental claims. For industries such as aviation which pose specific problems and concerns which the draft guidance cannot cover in sufficient detail, we hope that the CMA will introduce sector-specific guidance to ensure that consumers are not presented with confusing, inaccurate or misleading claims. We would be happy to provide further assistance in developing this.

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

We would welcome the inclusion of noise and air quality/pollution impacts as an environmental impact, as these issues also have a severe impact on people living locally to airports and under flight paths. The Advertising Standards Authority has already upheld a complaint by an impacted local resident about misleading claims made by the aviation industry about noise reduction,[13] and we would welcome an update of their guidelines following the outcome of this consultation.

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[11] www.theguardian.com/environment/2021/may/05/reducing-emissions-should-be-airlines-first-priority-not-buying-carbon-offsets
[12] https://stay-grounded.org/fact-sheet-climate-impact/
[13] www.airportwatch.org.uk/2008/01/asa-brands-boeing-untruthful-over-claim-the-787-dreamliner-will-be-60-quieter/

We suggest that it would be useful to require all ticket providers to include information on the emissions and climate impacts of flights. This information should be provided up-front, alongside pricing information. Data on alternative, less carbon intensive, travel options should be provided and passengers prompted to consider alternatives to air travel. Additional trusted third party information should be provided via a link on the need to cut aviation emissions, how emissions from flying compare with other aspects of an individual's personal carbon footprint, and how flying compares with other modes of transport. In addition to carbon and/or climate change information, prospective consumers should be provided, prior to booking, with wider "health warning" style information on the noise, emissions, health and other adverse impacts of aviation, as they are for other products with harmful individual and societal effects, and asked to confirm that they still wish to book.

We see no difference in principle to the position the government takes with other industries where excess consumption is popular but has harmful individual and/or societal impacts, such as smoking, gambling and consumption of unhealthy foods. A report on behaviour change for the Climate Change Committee recommended that more responsible flying should be encouraged by "mandating that all marketing of flights show emissions information expressed in terms that are meaningful to consumers (e.g., as proportion of an average household's annual emissions now and under Net Zero)."[14] We would welcome implementation of these recommendations, which would be very helpful to allow consumers to make an informed choice about whether to fly.

Some examples of misleading claims made by the aviation industry:

Airlines:

- British Airways offers customers the chance to offset their flights using a scheme which replaces cook stoves burning biomass with ones using fossil fuels, and claims that these offsets make flights "carbon neutral".

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[14]www.theccc.org.uk/publication/behaviour-change-public-engagement-and-net-zero-imperial-college-london/

- Virgin's offsetting <u>partner</u> produces schemes which create more fuel efficient cooking stoves and renewable energy. While both are important, neither remove the emissions from aviation. <u>Virgin</u> also suggests customers pack lighter and bring a reusable water bottle (it is not specified how this interacts with airport security requirements). On the same <u>page</u>, Virgin both describes their offsetting scheme as giving customers the ability to buy offsets to "cover your flight carbon footprint fully", implying that the environmental impacts of the flight can be removed, and acknowledges that the offsetting scheme "won't match the precise carbon footprint of your flight", creating confusion for customers.
- <u>EasyJet</u> claims that "millions of customers have taken carbon neutral flights", due to offsets. However, its offsetting projects, which include "protecting against deforestation and renewable energies", do not undo the emissions from flying. Its tree planting schemes do not address the non-CO2 emissions from flights.
- <u>British Airways-owner International Airlines Group</u> committed to powering 10% of its flights with sustainable aviation fuel by 2030. The company claimed that its plans to purchase alternative fuels <u>were equivalent to removing cars from the road</u>, which is misleading because changing aircraft fuel will do nothing to tackle pollution from roads affecting people on the ground. Eligible alternative fuels purchased through the CORSIA scheme <u>require only that alternative fuel used deliver a minimum emission reduction of 10% compared to kerosene</u>, and it's been shown that any scale-up of aviation biofuels before 2030 "<u>may only incentivize the diversion of waste oils from existing uses in the road sector</u>."

Airports:

- Gatwick Airport claims to be able to reach <u>net zero emissions</u> without addressing emissions from flights. Gatwick also buys its "<u>renewable electricity</u>" from a widely-criticised company which burns biomass, rather than using genuinely low-emission forms of generation.
- Heathrow Airport claims to be <u>carbon neutral</u> from decarbonising its ground operations, while trying to push forward with plans for expansion

including a third runway which would have a huge emissions footprint and has been widely opposed as incompatible with the UK's climate commitments. As Heathrow is the largest single source of CO2 emissions in the UK, stating that it is also carbon neutral is therefore extremely misleading.

- Bristol Airport's "carbon neutral claims" have been described as misleading by local councillors.
- Southampton Airport claims to be carbon neutral from decarbonising some of its ground operations (mostly via offsetting) while pushing forward with plans to increase passenger numbers by 50%

Organisational signatures/logos:

Aviation Communities Forum

Group for Action on Leeds Bradford Airport (GALBA)

AirportWatch

S.W.Essex Fight the Flights

CAGNE (Communities Against Gatwick Noise Emissions)

Stay Grounded

Stay Grounded UK

No 3rd Runway Coalition