

Response from the Social Market Foundation to the Competition and Markets Authority's draft guidance on environmental claims on goods and services.

July 2021

About the Social Market Foundation

The Social Market Foundation (SMF) is Britain's leading cross-party think-tank, standing proudly in the centre-ground of politics since 1989. The Foundation's main activity is to publish original papers on key topics in the economic and social fields, with a view to stimulating public discussion on the performance of markets and the social framework within which they operate. The SMF is a registered charity (1000971) and a company limited by guarantee. It is independent of any political party or group and is funded predominantly through sponsorship of research and public policy debates. The SMF is overseen by a Board of Trustees and Chair.

About this evidence

This evidence responds to questions 3.2 and 3.9 of the CMA's consultation on the draft guidance on environmental claims on good and services. It provides survey evidence from an unpublished Social Market Foundation report. We therefore consider this information confidential until our report has been published.

Contact

[REDACTED]

[REDACTED]

[REDACTED]

3.2 The draft guidance applies to business-to-consumer relationships, and to a more limited extent, to business-to-business relationships.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- It is welcome that the CMA is considering business-to-business (B2B) relationships as part of this draft guidance, which refers principally to B2B supply-purchasing relationships. However, the guidance could also consider how B2B relationships are also part of the consumer journey, and at present the guidance does not make clear with whom (i.e. which business) responsibility lies when misleading environmental claims are identified when multiple businesses are involved in the development, production, and delivery of a product or service.
- One important example to illustrate is that of Price Comparison Websites (PCWs). In some markets, the consumer journey is not always straightforward from supplier directly to consumer. Instead, some consumers may interact with intermediaries when searching for information about a product or service's environmental claims and/or purchasing that product or service. In the energy retail market, for example, price comparison websites (PCWs) play a considerable role in the supply chain of marketing and selling energy tariffs.
- The growth of PCWs is generally thought of as being in response to consumer demand for help to understand their tariff options, and saving time navigating the market and switching suppliers. As a result, PCWs have the potential to be seen as an effective tool for consumer empowerment and trust. Although, some analysts, such as Miklos Antal of the University of Leeds, have warned that PCWs in their current form may be misleading consumers further.
- The challenge of PCWs is that if they grow and begin to develop their own green accreditation frameworks, consumers may then feel overwhelmed by different rating systems, which could make comparing green products more difficult. Furthermore, it is unclear whether PCWs fall within regulatory remits for action, if they are found to be promoting misleading information about green products and services, and with whom the responsibility ultimately lies for promoting misleading claims.
- It is conceivable that there may be a growing market for PCWs to digest complex and ambiguous information from businesses into simple, consumer-friendly ratings. Therefore, it is only likely to become more important that they are included in the guidance.

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

- The SMF broadly welcomes the CMA's draft guidance and the six principles put forward to ensure businesses' environmental claims are accurate and truthful, and consumers are empowered with the information they need to make informed decisions about what products, services and brands to purchase and support.
- The guidance should help to foster consumer trust in business – a fundamental component of any well-functioning market. This means both “personal” trust, i.e. the relationship between the consumer and a business; and “system” trust, i.e. consumers having faith in institutions including regulators and legal system to keep unscrupulous businesses in check.

- The provision of accurate, timely and accessibly information to consumers about the green credentials of the products and services they consume, and the businesses through which they purchase them, is essential for developing and sustaining consumer trust.
- Polling commissioned for the SMF¹ on public attitudes to green energy tariffs indicates an appetite amongst consumers for more and clearer information about environmental credentials. 47% of respondents agreed that they wanted to know the specific source of green energy, whilst just 22% said information about green energy tariffs was currently clear and transparent to help them make a decision. These findings suggest that at least in the market for green energy, changes to information on green claims – and the way that information is presented to consumers – will be a welcome intervention.
- Nevertheless, **we are concerned that the thrust of the draft guidance is to place the onus on the consumer to digest additional and more complex information about the environmental credentials of product or service** they are looking to purchase. The guidance states that:

“Claims that include information enabling consumers to make informed decisions about that impact are less likely to involve misleading omissions”

[and] “Claims that reflect the whole cycle, or the most significant elements of the product’s environmental impact, are less likely to be misleading.”

- This sets a precedent for businesses to supply a potentially overwhelming level of detail to consumers about a product or service’s environmental credentials, expect them to process that information (some of which can be extremely complex, especially with respect to considering the total environmental impact of throughout its life cycle), and make an informed decision based on that evidence.
- **Informational remedies alone place greater responsibility on consumers to commit time and resources to becoming informed enough to make a decision that they are content with.** Meanwhile, providers are not being encouraged by the guidance to supply *simple* and *accessible* information, only that which is clear and unambiguous. This does not mean that it is easy for consumers to engage with.
- This is particularly problematic for more vulnerable or disengaged consumers who may have time constraints or even cognitive load constraints arising from poverty, meaning the responsibility of information may be cumbersome and unfair.
- Respondents to our polling in social grade ABC1 were more interested (51%) in knowing specifically where their energy comes from, compared to C2DE respondents (42%). And at present, ABC1 respondents (26%) are eight percentage points more likely to say they agree that information on green energy tariffs is clear or transparent enough in comparison to C2DE respondents (18%). These findings suggest that levels of engagement with the environmental credentials of a product may be correlated to one’s income.
- The guidance makes no assessment to indicate whether different consumer groups may need to be treated differently. One example to point to here are vulnerable and digitally excluded consumers (it has been [estimated](#) 11.9 million people do not have basic internet skills, and 20% of households with one adult aged 65 or over do not have internet access ([ONS](#))). The draft guidance states that:

¹ Survey conducted by Opinium for the Social Market Foundation, using a nationally representative sample of 2,004 UK adults from 10th to 24th March 2020. This survey data is currently unpublished and we therefore consider such information confidential.

The medium by which most information about a product is provided (such as the label sewn into clothing, or information provided within a retail store) may constrain how much information can be given to the consumer about the full life cycle of a product. Where environmental claims are being made about the product, thought should be given to how this other potentially material information (like information about the way a component or ingredient is grown, produced, processed, transported etc.) could be disclosed to the consumer by some other means (e.g. by link to information on a website via a QR code).

- Digitally accessible information about environmental claims is problematic for many consumer groups, including some disabled people and those lacking internet access or skills. The guidance should make clear how businesses are supposed to supply information for these groups.
- Finally, it is important to observe that this guidance must co-exist with a broader agenda to improve the environmental, social and governance practices of businesses. It is plausible that a firm whose environmental claims are truthful and fully presented in an accurate, timely and accessible manner to the consumer could also be failing to comply with other elements associated with the just transition to net zero carbon emissions. The CMA, other regulators and government more broadly must work collaboratively to ensure that a systematic approach is taken to reforming businesses practices and compliance with standards fitting for the kind of just, green economy and society that the UK aspires to become.