

Environmental Claims on Goods and Services

Draft CMA Guidance

Stansted Airport Watch

Response to CMA Consultation

16 July 2021

Stansted Airport Watch (SAW), formerly Stop Stansted Expansion (SSE), has some 7,500 members and registered online supporters including 150 parish and town councils, local residents' groups, and national and local environmental groups. Our objective is to ensure that the airport's operations are managed to reduce and minimise their adverse impacts. In this way we aim to protect the quality of life of the communities adversely affected by Stansted Airport and the natural environment locally and globally.



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1 INTRODUCTION

- 1.1 Stansted Airport Watch ("SAW") welcomes the opportunity to respond to this CMA consultation on Environmental Claims on Goods and Services. For far too long, many businesses in the aviation industry - airlines and airports - have been making misleading claims as to their green credentials.
- 1.2 We are greatly impressed by the CMA's Draft Guidance and we very much hope that the CMA can help bring an end to the practice of misleading environmental claims ("greenwashing") and, instead, make honesty and transparency the watchwords.

2 DRAFT GUIDANCE - GENERAL COMMENTS

2.1 We fully endorse all of the six principles set out in the Draft Guidance, i.e.:

- Be truthful and accurate
- Be clear and unambiguous
- Not omit or hide important information
- Only make fair and meaningful comparisons
- Consider the full life cycle of the product
- Be substantiated

2.2 The following nine paragraphs in the Draft Guidance highlight the type of misleading environmental claims which we have found to be common practice in the aviation industry:

2.9 Misleading environmental claims occur where a business makes claims about its products, services, brands or its operations as a whole, or omits or hides information, to give the impression they are less harmful or more beneficial to the environment than they really are.

3.2 The principles are primarily focused on issues that arise in the context of misleading acts and omissions. It is important that consumers are given the information they need to make informed decisions. This means that what they are told needs to be truthful and accurate. It must not mislead through the way it is presented and important information must not be omitted or hidden.

3.11 Claims can also be misleading if what they say is factually correct or true, but the impression they give consumers about the environmental impact, cost or benefit of a product, process, brand or business is deceptive. This can be a

result of the overall *presentation of the claim, including the wording, logos and imagery used, as well as anything that is missed out.*

3.17 Similarly, businesses should not focus claims on a minor part of what they do, if their main or core business produces significant negative effects.

3.34 If a claim fails to make clear what aspect of a product or business it relates to, it is liable to mislead. Even where that is clear, claims which ignore significant negative environmental impacts in order to focus on minor benefits or small parts of a business's activities are still at risk of misleading consumers."

3.59 What claims don't say can also influence the decisions consumers make. Claims made by businesses must not omit or hide information that consumers need to make informed choices.

3.60 These sorts of omissions can occur where claims focus on saying one thing but not another, or where they say nothing at all. It is vital that businesses pay close attention to the information on environmental impacts that consumers need to make decisions and reflect that in the claims they make.

3.64 Consumers can be misled where claims do not say anything about environmental impacts. This can also happen where claims focus on just one aspect of a product, service, brand or business. They can be misleading because of what they do not include or what they hide.

3.65 Claims should not just focus on the positive environmental aspects of a product, service, brand or business, where other aspects have a negative impact and consumers could be misled. This is especially so if the benefits claimed only relate to a relatively minor aspect of a product or part of a brand's or a business's products and activities. Cherry-picking information like this is likely to make consumers think a product, service, brand or business as a whole is greener than it really is.

3 GREENWASHING IN THE AVIATION INDUSTRY

Example - Airports

3.1 In recent years airport operators have made commendable progress in reducing the carbon footprint of airport buildings and airside vehicle movements. This has led to claims about airports being carbon neutral - or 'well on the road to becoming carbon neutral'. However, the term 'carbon neutral' can be a highly misleading claim where (as in most instances) the

neutrality is only achieved by carbon offsetting, which can often be of questionable value.

- ❖ ***There should either be a CMA definition of 'carbon neutral' or the business should provide a clear explanation of what is meant by any such claim.***

3.2 The offsetting issue is not, however, the main form of 'greenwashing' in relation to airports. Carbon emissions from airport buildings and from airside vehicle movements are a very small proportion of the total carbon emissions generated by an airport's activities, as the following table demonstrates:

Stansted Airport Carbon Emissions, 2019

Activity	Quantity	Unit	Reference source
Passengers	28.124	million	CAA airport statistics ¹
Aircraft movements	199.925	thousand	
Carbon	MtCO ₂	% of Total	Reference source
Aircraft emissions	1.569	87.4	Stansted Airport Ltd ²
Airport emissions	0.018	1.0	
Surface access transport	0.208	11.6	
Total	1.795	100.0	

3.3 Thus, a claim that an airport is carbon neutral has been based on just one per cent of its total carbon emissions. However, we are not aware of this qualification ever being made.

3.4 A press release issued by Stansted Airport Ltd in June 2018³ (attached in full at Annex A) exemplifies the point. This release trumpeted an award to the airport relating to 'carbon neutrality' and included the following quote from the airport's CEO:

At Stansted Airport we are proud and committed to minimising the impacts of our operation on the environment and to working with key partners at the airport to drive positive change. After many years of hard work to reduce the amount of energy we use, we are delighted to be recognised by Airport Carbon Accreditation as carbon neutral, and that our initiatives at Stansted are making a really positive impact.

3.5 The first point to make is that 'Airport Carbon Accreditation' is owned and operated by ACI Europe, i.e. the European arm of Airports Council International, the trade association for airport operators which claims to represent "over 500 airports in 46 European countries"⁴.

¹ <https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Airports/Datasets/UK-Airport-data/Airport-data-2019/>.

² <http://www.hwa.uk.com/site/wp-content/uploads/2020/10/Chapter-12-Carbon-Emissions.pdf>, Table 12.3.

³ <https://mediacentre.stanstedairport.com/london-stansted-awarded-globally-recognised-carbon-neutral-airport-status/>.

⁴ <https://www.airportcarbonaccreditation.org/about/whos-behind-it.html>.

3.6 The sixth principle in the CMA's Draft Guidance is that environmental claims should be substantiated "*with robust, credible and up to date evidence*". It might usefully be added:

- ❖ ***Wherever possible, there should be independent evidence but where this is not possible there should be a clear declaration to that effect.***

3.7 Referring back to the Stansted Airport press release, it can be noted that it makes no mention of the far more significant issue of *aircraft* carbon emissions and, following the carbon neutral claim, the CEO immediately proceeds to promote the airport's expansion plans:

"We want to continue growing the airport, offering passengers more choice and convenience and airlines access to the London market through our available runway capacity. But we are committed to doing this in the most sustainable and responsible way."

3.8 We would contend that the boasting of carbon neutrality and the promotion of airport expansion in the same press release can only leave the reader with the impression that the two comfortably sit together. There is no mention of the fact that increased flights will result in increased carbon emissions, or that Stansted Airport is already the largest single source of carbon emissions in the East of England⁵.

3.9 This Stansted Airport press release was therefore highly misleading - perhaps *deliberately* misleading - in order to further the self-interests of the business. Whether deliberate or not, it is an apposite example of the type of practice that the CMA's Draft Guidance seeks to eliminate and it helps make the case for second, third and fourth principles in the CMA's Draft Guidance, namely:

- ❖ ***Environmental claims should be clear and unambiguous; businesses should not omit or hide important information and should only make fair and meaningful comparisons.***

Example - Airlines

3.10 Ryanair claims to be Europe's "cleanest, greenest airline" and to have the lowest carbon emissions of any major airline. However, in 2019 Ryanair was responsible for estimated emissions of 10.5MtCO₂, based on data from the European Commission ('EC')⁶.

3.11 In April 2019 the EC listed Ryanair as one of Europe's top polluters in 2018, in tenth place. It was the only company other than coal-burning power plants to feature on the list. In 2019

⁵ Relates to 2018 and 2019 with the East of England defines as Norfolk, Suffolk, Cambs, Herts, Beds and Essex (i.e., the Government definition). Note that Heathrow is estimated to be the UK's largest single source of CO₂ emissions.

⁶ <https://www.transportenvironment.org/press/ryanair-europe%E2%80%99s-7th-biggest-carbon-polluter-last-year-aviation-emissions-continued-grow>.

Ryanair had risen to seventh place on the EC list.

3.12 However, Ryanair continued to proclaim its green credentials and launched an advertising campaign on TV, radio and in the press in September 2019 with the strapline: "Europe's Lowest Fares, Lowest Emissions Airline". The press ad went on to state: "Everybody knows that when you fly Ryanair you enjoy the lowest fares. But do you know you are travelling on the airline with Europe's lowest emissions as well?" and "Ryanair has the lowest carbon emissions of any major airline – 66g CO₂ for every passenger kilometre flown." Broadly the same message was used in Ryanair's TV and radio ads.

3.13 Following complaints made to the Advertising Standards Authority (ASA), the veracity of Ryanair advertising campaign was investigated and the campaign was subsequently banned. In its ruling (provided in full at Annex B) the ASA commented as follows:

"... we concluded that the claims "Europe's...Lowest Emissions Airline" and "low CO₂ emissions" were misleading. Ad (a) breached CAP Code (Edition 12) rules (Misleading advertising), (Substantiation), and (Environmental claims). Ads (b) and (c) breached BCAP Code rules (Misleading advertising), (Substantiation), and (Environmental claims).

Action

Ads (a), (b) and (c) must not appear again in their current forms. We told Ryanair Ltd to ensure that when making environmental claims, they held adequate evidence to substantiate them and to ensure that the basis of those claims was made clear."

3.14 One of Ryanair's key boasts is that in the 10 years to December 2019, it has reduced its carbon emissions from 82kg per passenger to 66kg per passenger. That equates to an annual two per cent reduction. Carbon emissions per passenger is an entirely reasonable yardstick and a two per cent annual reduction is commendable. However, over the same period Ryanair's passenger numbers increased from 59.0m to 142.1m - an average annual increase of nine per cent. The overall effect is that, using Ryanair's own numbers, its total carbon emissions increased from 4.8MtCO₂ in 2009 to 8.8MtCO₂ in 2019. This wider context should have been made clear alongside the claim of reduced emissions per passenger.

3.15 The example of Ryanair validates the case for the third and fourth principles in the CMA's Draft Guidance, namely:

❖ ***Businesses should not omit or hide important information and should only make fair and meaningful comparisons.***

3.16 It can also be noted that the 8.8MtCO₂ figure derived from Ryanair's claims is 16 per cent below the EC's estimate of Ryanair's emissions of 10.5MtCO₂ for the same year (2019). This helps to make the case for the first and sixth principles in the CMA's Draft Guidance:

- ❖ ***Environmental claims should be truthful and accurate and businesses should be expected to substantiate their environmental claims.***

4 CONCLUDING POINTS

3.17 We have confined our evidence to the aviation sector and to just two examples, one relating to an airport (Stansted) and the other to an airline (Ryanair), which accounts for some 80% of Stansted's passengers. Stansted Airport Watch, formerly Stop Stansted Expansion, has many years' experience of monitoring environmental claims made by Stansted Airport and Ryanair. We believe that in each case, the examples we have provided are representative.

3.18 We conclude by endorsing the CMA's Draft Guidance with only one suggestion for improvement, namely, further clarification of the sixth principle, as follows.

- ❖ ***Wherever possible, there should be independent evidence but where this is not possible there should be a clear declaration to that effect.***

Stansted Airport Watch
16 July 2021



22 June 2018

LONDON STANSTED AWARDED GLOBALLY RECOGNISED CARBON NEUTRAL AIRPORT STATUS

London Stansted formally receives Level 3+ accreditation for carbon neutrality

Highest status awarded by the Airports Council International (ACI) Airport Carbon Accreditation scheme

Gas and electricity use down by 19 and 14 per cent despite record passenger growth

Award presented at ACI's World Assembly in Brussels

London Stansted has been awarded Level 3+ carbon neutral status by the Airports Council International (ACI), in recognition of its extensive work to reduce and offset carbon emissions at London's fastest growing airport.

The award was formally handed over to Martin Churley, Stansted's Environment Manager, and Adam Freeman, MAG's Environment Advisor, at the Airport Carbon Accreditation ceremony at the ACI's World Annual General Assembly in Brussels. Achieving carbon neutrality means an airport has reduced emissions under its direct control.

A range of energy management measures have been put in place to monitor energy use, supported by a range of efficiency measures. These include the installation of efficient LED lighting, building management systems to optimise operations, the use of free air cooling and staff engagement campaigns.

Collectively these initiatives have slashed the airport's energy demand, with gas use dropping by 19 per cent and electricity consumption by 14 per cent since 2011/12. This is despite Stansted serving an additional 10 million passengers a year during the same period.

To further reduce emissions, London Stansted has sourced all its electricity from renewable sources since April 2013. To compensate for the small amount of remaining and unavoidable emissions, the airport has also purchased verified carbon offsets.

Collectively, these initiatives have reduced emissions from the energy and fuel used to operate the terminal, runway and facilities at Stansted Airport from 25,000 tonnes CO₂e in 2011/12 to zero in 2016/17.

In addition, the airport diverts 100 per cent of its waste from landfill, recycling more than 75 per cent, and has a higher proportion (53 per cent) of passengers using public transport than any other UK airport. Staff at Stansted also benefit from an 80 per cent reduction in the cost of public transport with 33 per cent of staff using public transport for work journeys.

"At Stansted Airport we are proud and committed to minimising the impacts of our operation on the environment and to working with key partners at the airport to drive positive change. After many years of hard work to reduce the amount of energy we use, we are delighted to be recognised by Airport Carbon Accreditation as carbon neutral, and that our initiatives at Stansted are making a really positive impact.

This achievement is especially pleasing as it follows a period of record growth in passengers numbers and at a time when we are the fastest growing London airport. We want to continue growing the airport, offering passengers more choice and convenience and airlines access to the London market through our available runway capacity. But we are committed to doing this in the most sustainable and responsible way.

As an organisation we recognise that climate change is an important global challenge, with aviation contributing around two per cent of international carbon emissions each year. This achievement demonstrates our commitment to ensuring we balance our role as economic generator, alongside caring for the environment, whilst working with our third parties to reduce the wider impact of our industry."

Ken O' Toole, London Stansted's CEO

"I congratulate London Stansted on becoming carbon neutral. Stansted is a fine example of an ambitious airport that is actively seeking to develop sustainable connectivity for its community – by reducing the emissions under its direct control, working with others on the airport site to do their part and investing in responsible carbon offsets for the remainder of its direct CO₂ emissions.

And of course, with this news today, it means that all three airports in the MAG group are now carbon neutral – a huge achievement for everyone involved in making that happen."

Olivier Jankovec, Director General, ACI EUROPE

With 4 different levels of accreditation covering all stages of carbon management (*Mapping, Reduction, Optimisation and Neutrality*), *Airport Carbon Accreditation* is independently administered, institutionally-endorsed and has the support of the United Nations Framework Convention on Climate Change (UNFCCC), United Nation Environment Programme (UNEP), the International Civil Aviation Organisation (ICAO), US Federal Aviation Administration and the European Commission (EC).

ENDS

ANNEX B

ASA Ruling on Ryanair's September 2019 Advertising Campaign

4 February 2020

The ASA considered that consumers would understand that air travel was commonly associated with high levels of CO₂ emissions, and that choosing to fly would increase their own carbon footprint regardless of the airline they flew with. In that context we considered they would interpret the explicitly comparative claim “Europe’s ... Lowest Emissions Airline” in ad (a) and the claim “Europe’s ... low CO₂ emissions airline” in ads (b) and (c) to mean that by choosing to travel with Ryanair, their journey would be contributing lower CO₂ emissions than if they had chosen to travel with any other European airline. We did not consider consumers would understand it to mean that the CO₂ emissions associated with their journey could be considered “low” in absolute terms.

We considered that in order to demonstrate to a consumer how their carbon footprint would measure against journeying with another European airline, calculating CO₂ per passenger distance (mile or kilometre) was an appropriate method. However, that calculation relied on factors including the seating density (number of seats per plane) and we considered that was significant information that consumers needed in order to understand the basis of the claim.

The headline in ad (a) stated “Europe’s Lowest Fares, Lowest Emissions Airline” and only within the body of the ad was this qualified with “Ryanair has the lowest carbon emissions of any major airline”. In ad (a), Ryanair had compared themselves against four other airlines, which they said fell within the definition of a “major airline”, but there was no commonly recognised definition of a “major airline”. We considered consumers would understand it simply to mean those airlines they had heard of, particularly given that the headline claim gave no indication that the comparison was not market-wide.

While ad (a) included information about Ryanair’s CO₂ per passenger kilometre and made reference to some of the factors that contributed to that, including their relatively young fleet and the proportion of seats filled per flight, it did not mention the seating density. Ads (b) and (c) did not give any information on the metric used to measure emissions, how that was calculated or the role of seating density in that calculation. As such, we considered that neither ad made the basis of the comparison sufficiently clear. Ad (c) referred to a comparison against the top 27 European airlines, and the Eurocontrol chart provided to support the claims in all three of the ads scored Ryanair 5th for CO₂ emissions out of 27 airlines, while their share of air traffic was higher than any other airline on the chart. The implication was that by dividing the emissions by the number of passengers, Ryanair would have the lowest emissions per passenger.

However, there were other airlines on the chart that had CO₂ emissions which also appeared low relative to their share of air traffic (and therefore similar to Ryanair's). The chart did not show the underlying ratio of each airline's emissions relative to its share of traffic, nor did we know which other airlines were measured. In addition, the Brighter Planet chart, which ranked Ryanair as top of the overall airline efficiency rankings for CO₂ per passenger mile, was dated 2011 and was therefore of little value as substantiation for a comparison made in 2019. In addition, some well-known airlines did not appear on the chart, so it was not clear whether they had been measured.

While we considered the claims in the ads would be understood relatively and while we were satisfied that CO₂ per passenger distance was an appropriate method to compare the carbon footprint of passengers on different airlines, we were concerned that the basis of the claims had not been made clear in the ads and that the evidence provided was insufficient to demonstrate that Ryanair was the lowest carbon-emitting airline on the basis of that metric.

Consequently, we concluded that the claims "Europe's...Lowest Emissions Airline" and "low CO₂ emissions" were misleading. Ad (a) breached CAP Code (Edition 12) rules (Misleading advertising), (Substantiation), and (Environmental claims). Ads (b) and (c) breached BCAP Code rules (Misleading advertising), (Substantiation), and (Environmental claims).

Action

Ads (a), (b) and (c) must not appear again in their current forms. We told Ryanair Ltd to ensure that when making environmental claims, they held adequate evidence to substantiate them and to ensure that the basis of those claims were [sic] made clear.

ASA
4 February 2020