

CMA CONSULTATION ON THE DRAFT GUIDANCE FOR ENVIRONMENTAL CLAIMS – NO7 BEAUTY COMPANY FEEDBACK

Here is the feedback from the No7 Beauty Company. We do actively contribute to our Trade Association, and are aware of its response, which we support, and would hope that the below is therefore considered as complementary feedback.

Q: Does the draft guidance cover all the important consumer protection law issues relating to the making of environmental claims?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?

A:

- We believe an introduction section that puts the guidance in the context of the CMA research into consumer understanding of environmental claims, would be useful.
- Any sectorial specific requirements for claims should be referenced, as could any specific guidance documents from an industry with particular respect to environmental claims. In the case of cosmetics, then industry body guidance already exist e.g. CTPA guidance.
- Companies should work with their industry bodies to understand the level of claims substantiation until more industry wide procedures/certification come into play and are cost effective to use.

Q: The draft guidance applies to business-to-consumer relationships, and to a more limited extent, to business-to-business relationships.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?

A:

- Because manufacturers have more information to substantiate their claims, which they may not share with retailers, it is impossible for retailers to be 100% certain that claims being made can be substantiated. Therefore an added burden should rest with the manufacturer.
- Most retailers at the moment have limited resources and funds to verify environmental claims themselves, so there should be a requirement on the suppliers and brand manufacturers, no matter their size.

Q: The guidance sets out six principles for business compliance with consumer protection law to avoid 'greenwashing'. Are these principles the right principles under consumer protection law? If not, what other principles would help businesses comply with consumer protection law.

A: Yes, we believe there are the right principles.

Q: 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.

A:

Example 1 – this is a poor example, as the plastic element of the packaging described as the reason for the misleading claim, may actually be recyclable and therefore in line with the claim.

- On p.11, mistake on the notes, should be example 2, not 1.

Example 3 – Agree with the example, but such a claim that the product is capable of being compostable should state the conditions where this can occur and provide advice to consumer on how to achieve this (eg: "compostable at Local Council facilities")

- How would this impact biodegradable wipes that get thrown in the bin and most likely are sent to landfill in plastic bin liners?

Example 4 – Yes, businesses need to take account of any unintended consequences from changes they make, but in this case as the claim is really specific, we believe it is still truthful. As stated above, we believe that an LCA required only when generic claims such as “sustainable” are made and only in that case should there be a full overview of all the environmental impact of all the components in a product.

Example 5- Lack of following accreditation schemes should not be a barrier to using such claims if a brand owner has its own internal standards which are equivalent and it is happy to declare. The requirement for independence risks stifling innovation by adding unnecessary cost and time. Additionally, 3rd party accreditations are not necessarily more relevant or do a more in depth check on the environmental credential than the brands already have themselves, so we should not be directed exclusively to certification. The choice of making a claim or progressing with a certification should be made within the company, with required substantiation behind the claims as the over-riding justification, following the main environmental claims principles. Irrespective of claims route, it is important to be fully transparent with consumers.

Example 11 - Agree an "eco" claim implies that the whole product has reduced sustainability impact and is therefore wrong. A claim could possibly be made on the plastic reduction activity rather than a generic environmental claim.

General and additional Issues

- On the principle that claims must consider the full life cycle of products, there is a need for that consideration to be achievable across the industry, irrespective of the size of the company and in that respect we would advocate **primarily** for a life cycle thinking **approach** as defined by the EU Joint Research Centre.
- In support of this:
 - an LCA assessment would also involve the suppliers and would need to include the customer use and use phases. Currently obtaining verified suppliers and customer use phase data could be problematic and consideration should be made to standardise customer impact information.
 - In the European Guidance on Environmental Cosmetic Claims the use of LCA is only referenced when making very broad generic claims such as “sustainable” for example rather than more specific claims.
- Specific environmental claims should be allowed to be made on specific elements. Whilst we agree with the example on organic, e.g. the product is largely organic, the requirement in that case would be consider the full lifecycle including the production of the product and the amount of water used, rather than the formulation components, and is therefore overly restrictive and could have a big impact of costs and timings for new product development and general innovation/improvements into the industry.
- On 2.23, businesses need to be aware that requirements may differ in other countries where products are sold. For example, packaging may be recyclable in the UK but not in USA. Therefore claims may need to indicate where they apply.
- On 2.28, for the avoidance of doubt would this guidance fall under the primary authority scheme?
- On point 2.30 we do have a concern that the ASA becomes the enforcers of this guidance and do not follow the same process in terms of burden of proof as trading standards would.
- On 3.8 – every industry has it’s own standard to make organic claims, so each industry should respect the appropriate standards - food is only one of them.

- On 3.9 we agree that a consideration of a full life cycle should allow industry to make broad green, sustainable and other generic claims.
- On 3.99 we probably need additional guidance to use common elements of methodology for the lifecycle assessment to have comparable end points and show what stages of the life cycle are included. CMA should also be made aware that the EU are proposing full PEF methodology to substantiate general sustainability claims.
- On Section 4, care should be taken to avoid any unintended consequences arising from making environmental claims (e.g. could a biodegradable packaging claim encourage more littering?) – should this be a main/founding principle?
- The document says in 3.116 that the evidence for claims has to be up to date - Would 5 years be an appropriate timeframe?
- Most retailers at the moment have limited resources and funds to verify environmental claims themselves, so there should be a requirement on the suppliers and brand manufacturers, no matter their size.
- Logos should not be misleading and respect the same principles of the environmental claims requirements. Also logos should not imitate existing certification logos that could mislead consumers (e.g. mobius loop, etc.).
- A framework for LCA for each category should be created for manufacturers to be followed in each industry.