

# Transformers Foundation

In response to 'Draft guidance on environmental claims on goods and services' released on 21 May 2021

14 July 2021

## 3. Questions for consideration

### Scope:

3.1 Does the draft guidance cover all the important consumer protection law issues relating to the making of environmental claims?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 suggest adding the following considerations.

- We believe that ambiguous terms such as 'green/er', 'sustainable' and 'eco-friendly' should be phased out in the long term. A clearer suggestion in the guidance that support this, coupled with encouraging specific and detailed fact-based claims would be highly beneficial to lower the risk of misleading and ambiguous environmental claims being generated.
- Regarding 3.19 - We believe that visuals grab more attention over written claims, hence why this suggestion should be taken as a higher risk of misleading consumers. The options to use symbols and logos and visual communication tools that may imply environmental benefits should be specifically explained and clarified.
- In the long term it would be great to implement the social dimension of 'sustainability' claims into this guidance. If a product saves XX % water but to achieve so, companies have increased operational risks for workers or the effluents that you generate have increased hazards levels, should it be looked at as a positive impact?  
We can provide further examples when this occurs, based on our apparel sector knowledge.
- What is missing to support the guidance is a body or board of experts that can fact-check industry-specific claims. We suggest that a "claim checker" board would be a great implementation to support the goal of this guidance and that companies should be required and open to share their complete studies (that back up their claims) with this board of experts.

3.2 The draft guidance applies to business-to-consumer relationships, and to a more limited extent, to business-to-business relationships.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 helpful to cover both. Often the root cause of greenwashing claims is the exchange of inaccurate information from business-to-business communications.

3.3 The draft guidance, and UK consumer protection law itself, applies across all sectors of the economy and to all businesses selling goods and services. Are there any sectors which require special treatment either in the draft guidance or separately?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?

- The apparel sector should be given special attention as it is a close-to-the-consumer sector which is bought and consumed quickly and in high quantity and companies are prone to use fancy and highly misleading marketing terms and language.
- There is a lack of technical expertise within the apparel sector. In this sector, brand employees are lacking training regarding environmental claims and fact-checking skills to verify information that is passed along the supply chain. More investment is focused on marketing over technical CSR departments, which results in an unbalanced approach in the making of marketing claims that focus on environmental issues.
- Moreover, the complex and long supply chain of the apparel sector which is made of a lot of different steps, makes it more difficult to verify information at the source, compared to a fresh food supply chain or automotive or electronics where the assembly is centralised and often all within the same factory premises.

### **Principles for compliance**

3.4 The guidance sets out six principles for business compliance with consumer protection law to avoid 'greenwashing'.

3.5 Are these principles the right principles under consumer protection law? If not, what other principles would help businesses comply with consumer protection law.

Further inspiration could be taken from the seven sins of green washing

<https://www.blueland.com/articles/the-7-sins-of-greenwashing-and-how-to-avoid-them>

### **Case studies**

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.

- 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.*” It would be helpful to have an example of this.

- 3.36 *“For example, a claim that an electric vehicle produces zero emissions is liable to mislead consumers, but a claim it produces zero emissions ‘when driving’ may not. Consumers are more likely to understand that the claim is limited to particular circumstances (driving the vehicle) and that producing and generating power to charge it may produce emissions. In that case, they may still be able to make an informed choice about whether to buy the car.”*
  - The above example could be stronger. It does not consider the fabrication, maintenance and disposal of batteries. The example of CO2 generated by a plane, or impact of synthetic fibres could be some of the topics covered.
  - There are boundary issues between what has been considered to make a claim, and going beyond the first tier or selectively choosing which steps to take in consideration (i.e. water saving at the polymerization step vs taking into account the full extraction process and the entire chain). We suggest that synthetic fibers as a case study should be taken in consideration, as done through this report [http://changingmarkets.org/wp-content/uploads/2021/07/SyntheticsAnonymous\\_FinalWeb.pdf](http://changingmarkets.org/wp-content/uploads/2021/07/SyntheticsAnonymous_FinalWeb.pdf). We suggest that boundaries and limitations should be explicitly communicated to the consumers transparently.
  
- 3.40 - On this point, we can add the example that occurs in the business-to-business space: A company displays multiple logos on their website or their sustainability page or even at a physical trade show which may not refer to the full company but only to some products, but does not specify which. The client or the website/trade show visitor is then misled to believe that the certification symbols cover all products. We’ve seen fabric mills displaying headers on their collection which shows BCI (Better Cotton Initiative) cotton and all other sustainable cotton symbols (Global Textile Organic Standard etc.) which they adhere to, without specifying the product they cover, but applying it to all products that contain cotton, as little as 5% and in rare cases, showing it on the header of products that actually do not contain cotton at all (i.e. 95% polyester, 5% elastane)
  
- 3.45 *“However, claims about future goals should only be used for marketing purposes if the business has a clear and verifiable strategy to deliver them. Claims about a business’s environmental ambitions must be in proportion to its actual efforts.”*
  - This is a key point for us. We have seen multiple business-to-consumer but also business-to-business communications going in this direction as commitments and targets were set in the future. Important to consider the change in management teams, for example, in a company where the current management team had no issue making a bold commitment as the next management team was expected to be renewed and claims were made in the future. We suggest that a further point is added regarding a sustainability report. This report should be required to be linked to such claims and reflect and be coherent on the

commitments if they were communicated publicly, and ensure that reports against targets and progress.

- 3.52 *“Claims that products are ‘biodegradable’, ‘compostable’ or ‘recyclable’ can also be problematic. Often, they only apply to parts of products or in certain conditions.”*
  - Add more specific requirements to this point. Reference to [ISO norms](#) should be used for the testing of biodegradability, compostability and it should be required. In our apparel sector Global Recycled Standard (GRS), Recycled Content Standard (RCS), certifications for recycled materials should be considered.
- 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.”*
  - It would be helpful to have an example of this as we’re concerned that most businesses will not report concerning (or negative) aspects but emphasise mostly the positive ones, unless forced by law. It is complex to govern this as a requirement, but as a suggestion it could be inspiring for companies looking at implementing best communications practices and avoiding greenwashing.
- Please see the full case study, provided separately, covering the fashion sector and the claim that ‘Organic Cotton uses 91% less water than conventional’. This study could be considered for the sections: 3.106, 3.36, 3.92.

### **General and additional issues**

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.

- 3.58 - It would help to understand the definition of what is the *“way that the average consumer is likely to understand”* and what is an *average consumer*.
- 3.40 - When mentioned *‘independent third parties’*. We suggest clarifying what an independent third party verification is and is not. If the governing body is influenced and controlled by stakeholders that benefit from such environmental claims, the conflict of interest should be avoided and a real third party which is neutral must be identified. Many standards that certify products are directly funded and supported by stakeholders in the same industry and conflict of interest may arise when environmental claims are made. Additionally, oftentimes these standard bodies are actually acting as a lobby group with clear agenda and interests. For more details and clear examples, please contact us.

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

- It is a great 1.0 version, however further case studies and learnings should be revised on a yearly basis for the future versions so that it stays relevant.

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

We would like to help and are ready to support and direct communication and exchange regarding the apparel sector.

Contact details:

[✂]

To learn more about our foundation, please visit [www.transformersfoundation.org](http://www.transformersfoundation.org)