

CMA (Competition and Markets Authority) Consultation Questions – WRAP response

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3.1 Does the draft guidance cover all the important consumer protection law issues relating to the making of environmental claims?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

Yes.

It would be helpful, but not essential, to link to The Food Labelling (Environmental Sustainability) Bill and the Environment Bill Schedule 6 (Resource Efficiency Information) as these provide context for information provision.

As the ASA guidelines are mentioned in the draft it would be useful to include a link to the most applicable parts to green advertising/messaging.

3.2 The draft guidance applies to business-to-consumer relationships, and to a more limited extent, to business-to-business relationships.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 useful to cover both, consistency is key for the B2B element to ensure the same messages reach citizens from all avenues.

B2B guidance is also important when considering global supply chains and ensuring the UK end of the chain understands and specifies what is required for UK Law compliance.

Also important is the consideration of business procurement of products for use in their own business operations. It might be useful that this is built into public procurement contracts for example and other procurement guides.

3.3 The draft guidance, and UK consumer protection law itself, applies across all sectors of the economy and to all businesses selling goods and services. Are there any sectors which require special treatment either in the draft guidance or separately?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

End of life services - many takeback recycling services are being offered to consumers by retailers and brands (for example in-store for clothing, in the beauty industry for packaging instore and post back) with little transparency about recycling routes and wider benefits. Also, it would be useful to ensure waste management companies are covered (as they provide many end-of-life solutions) as well as charities, as some offer textile/clothing reuse and recycling services.

Packaging/plastics – good examples have been provided in the guide to highlight key points but many misleading terms are being used and it is a current topic of conversation with consumers. For example, terms such as plastic free, recyclable without using relevant labelling, ocean friendly etc. It would be useful to highlight and/or reference key standards and guidance documents in the text or an appendix to help businesses quickly put this guide into action.

Recyclability – until a standard for mandatory labelling is agreed by Government (WRAP are working on pulling together guidelines for Defra) and there are consistent recycling collections in the UK it will be challenging for brands and retailers to take account of the fact that some councils collect the items and some not.

Refill - packaging refill services are an expanding area with few standards. See later comments in reference to the principles.

Textile products - there are a wide range of certifications with varying guidance. There are also elements where there are currently no certifications, such as durability and recyclability, so more guidance would be useful. See later comments in reference to the principles.

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.

Yes, in general – see following comments below:

- 'clear and unambiguous' could there be mention of a minimum standard for citizen research stats such as the Market Research Society or wording to say any messaging must detail how the stats were obtained including sample size.
- *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.*

Add under *presentation of claim*, an additional channel, influencer or ambassador. This is because on the one hand some influencers are not necessarily "green" on the other, green leaders such as David Attenborough could be used selectively to mislead consumers.

- The guide states in many places that the whole life cycle needs to be considered to expand on this, the guidance could advise people communicate the standard against which the claim has been determined (e.g. ISO14040, ISO14024).

It would be useful, although not essential, to ask businesses to consider messaging about the in- use phase. Potentially providing information to help consumers take the right action to ensure the environmental claim is achieved in practice. For example, organic cotton jeans could be a good thing but not if washed incorrectly meaning the jeans are thrown away or in the case of refill stating that the items must be refilled xxx times.

- The guide uses the term life cycle assessment in several places. Some businesses reading the guide will think of traditional LCA (Life Cycle Analysis) tools which can be limited in the number of environmental factors included e.g. *3.104 Claims should also make clear the limits of any life cycle assessment the business has done.*

Can the term be changed to environmental impact assessments? This could suggest a wider use of criteria than a traditional LCA. For example, an LCA often does not include impact of litter on the marine environment.

- *d) Comparisons should be fair and meaningful.*

Ideally this should be based on UK evidence as what works in another country may not be applicable in the UK. Key variables will include differing standards, culture, supply chains etc. If evidence is from another country this should be stated clearly.

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.

More case studies specific to textile products, particularly around certification – see below for additional comments. It would be good to focus on the terms “organic fibres and organic cotton”. As mentioned in the guide being organic is only part of the story there are other environmental impacts such as water.

A case study on food would be helpful, as the environmental impact of wasting the food is often far greater than any benefits packaging changes can make. Any claims should consider both the packaging and the product therefore an example of this would be useful.

A case study on refill would also be valuable as there are very few standards and evidence to deliver claims around the in-use phase of the lifecycle. To note OPRL <https://www.oprl.org.uk/> are working on a reuse/refill label providing a link to this information could be helpful.

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.

Time period for environmental claims - for some products, the environmental benefits are realised over a certain time frame or get better with time; how should this be considered?

For example, when packaging is designed for reuse or refill there will be threshold at which the number of uses means the environmental benefit is delivered and beyond this it gets better. An aluminium water bottle for example has the potential to deliver environmental benefit but it needs to be used xxx times to offset the production of the bottle. WRAP is working on

refill/reuse under The UK Plastics Pact agreement and currently there are few clear standards or guidance, the number of times an item needs to be refilled/reused is subject to much debate.

Another example is durability in clothing – it could be something needs to be durable over 10 years. Clothing durability is a key action to under WRAP's Textiles 2030 agreement and currently there are few clear standards or guidance.

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

It is clear but more references to other documents/standards etc. to help businesses implement the guide would be useful. Is there a case for an information hub?

The guidance seems to be saying that the onus is on the consumer-facing retailer to check all products/manufacturers claims. That puts huge pressure on smaller retailers when in some cases there is no guidance on how to verify claims. To support businesses perhaps a central digital resource could be established to enable easy access to relevant information and as detailed below a method for sharing what messages resonate with consumers. WRAP would be happy to contribute to this.

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

More work needs to be carried out to determine what consumers understand and what information they would like to see or feel is currently missing.

Is there a case for central tool/portal for sharing information about what works? This would help to encourage consistent messaging around specific green claims and reduce consumer confusion.

Some of the material on WRAP's website may be helpful for any portal or to illustrate points made in the documentation. See: <https://wrap.org.uk/taking-action/plastics-packaging/key-resources>

WRAP has also gathered feedback from the business signatories of the UK Plastic Pact, and the following are examples of misleading terminology from this group:

- 'Plastic free' - often used to describe biobased plastics.
- 'Recycle ready' is sometimes used to indicate that if the infrastructure were in place, then it could be recycled.
- Single use / reusable. Consistency across European markets in defining key terms is important for many businesses. Perhaps alignment on key terms could be achieved, as you may know the European Commission has been working on this.

https://ec.europa.eu/environment/eussd/smgp/initiative_on_green_claims.htm

- 'New eco packaging.' This is particularly challenging in instances when plastic has been substituted when perhaps no packaging is needed at all

Feedback from WRAP's Textiles 2030 signatories includes:

- The guidance could be aligned with European information – as detailed above
- Clearer guidance is required on several key claims such as: minimum % to be able to claim it is 'recycled' also Recycled Content Standards and when referring to blended materials for

example blend of a preferred fibre with a conventional fibre should the claim state, 'contains' or 'blended'?

- In areas where there are currently no certifications, such as durability and recyclability, it is a challenge for retailers to communicate the benefits to consumers. With durability there is also no baseline to be able to compare to other retailers.

It might be useful to note in the guidance that WRAP will be developing guidelines for voluntary standards for durability and recyclability under the Textiles 2030 Agreement.