

Marketing green heating and insulation products

Draft consumer law
compliance advice for
businesses

Consultation Document

13 December 2023

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1. Introduction

About the CMA

- 1.1 The CMA is an independent non-ministerial UK Government department and is the UK's principal competition and consumer protection authority. We help people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour.
- 1.2 The CMA has a range of consumer protection law powers to tackle practices and market conditions that present challenges for consumers and hinder their decision making. This includes powers to protect consumers from unfair business practices and unfair contract terms (for which it has the lead role).
- 1.3 The CMA shares these enforcement powers with other bodies, such as Trading Standards Services and sectoral regulators. The CMA also shares certain consumer functions with other agencies, such as the Advertising Standards Authority.
- 1.4 As part of its role, the CMA produces compliance advice and guidance for businesses to clarify their legal obligations and promote compliance.

About the consultation

- 1.5 We are consulting on draft consumer law compliance advice for businesses marketing green heating and insulation products to consumers for use in their home.¹
- 1.6 Businesses often make claims about the benefits or environmental credentials of their products which can influence a consumer's decision-making. It is crucial that people can trust businesses in the green heating and insulation sector to provide accurate, transparent and clear information to help make decisions. Unless claims are honest and prices are transparent, people will

¹ These products include solar products, heat pumps (both air source and ground source), biomass boilers and home insulation (covering all types including cavity wall, loft, underfloor and roof insulation).

not have the confidence necessary to switch to green heating solutions, undermining the move to Net Zero.

- 1.7 The CMA has produced this draft compliance advice following concerns we identified through our review of [consumer protection in the UK green heating and insulation sector](#).
- 1.8 Our [May 2023 findings report](#) identified several business practices that could potentially mislead consumers. In particular, we highlighted concerns that some businesses may be making potentially misleading marketing claims about the cost saving, environmental and/or energy efficiency benefits of their products. We were also concerned that businesses who present headline prices on their website and other marketing channels take different approaches to what information is included, making it difficult for people to identify and compare prices.
- 1.9 We committed to providing guidance to help businesses comply with their consumer protection law obligations.²
- 1.10 This work closely aligns with the CMA's strategic priorities, set out in our [2023/24 Annual Plan](#), to ensure that people can be confident they are getting great choices and fair deals, and helping to accelerate the transition to a Net Zero economy.

² The CMA's findings report also highlighted concerns that a number of businesses were making potentially misleading claims about hydrogen use in boilers and put the sector on notice for further action. The CMA is [currently investigating](#) Worcester Bosch's marketing of its 'hydrogen-blend ready' boilers. The CMA has also written to several other traders warning them that such practices may breach consumer protection law. While the draft compliance advice also applies to businesses which market boilers as being able to run with hydrogen gas (eg as 'hydrogen-blend ready' or similar), the CMA may issue separate guidance on these practices in future.

2. Scope of the proposed compliance advice

- 2.1 The draft compliance advice is intended to apply to all businesses which market, sell, design, install, service or maintain green heating and/or insulation products to UK consumers. This includes lead generation companies and marketing firms that advertise green heating and/or insulation products to consumers on behalf of other businesses. It applies equally to businesses that are based outside of the UK but are conducting such activities in the UK or which are aimed at UK consumers.
- 2.2 The draft compliance advice is also relevant to:
- a) Standards bodies which set and/or monitor business compliance with quality and consumer protection standards in this sector - this includes certification schemes, registration schemes and CTSI-approved Consumer Codes; and
 - b) Fellow enforcers of consumer protection law (including local authority Trading Standards Services), consumer advisers, and trade bodies representing businesses in the green heating and insulation sector.
- 2.3 The draft compliance advice sets out several principles to help businesses understand and fulfil their legal obligations. In particular it covers:
- a) Providing headline price information. By this we mean price information which is presented 'upfront' to a consumer in marketing material. This is different to a detailed estimate or quote which is usually provided following assessment of a consumer's property; and
 - b) Making claims about products/services – particularly relating to certain features (cost saving, energy efficiency, environmental benefits).
- 2.4 It also sets out in more detail what businesses should do to apply those principles through the use of illustrative examples. The examples are non-exhaustive and similar practices to those highlighted may breach consumer protection law. Where businesses apply the principles they would, in the

CMA's view, be less likely to mislead consumers and more likely to be on the right side of consumer protection law.

- 2.5 The draft compliance advice applies to practices on any marketing channel including websites, on social media, in online adverts (such as sponsored ads), posters, and sales brochures.
- 2.6 The draft compliance advice focusses on the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), particularly in relation to practices which are misleading by act or omission. Businesses should familiarise themselves with other relevant guidance on the application of consumer protection law where necessary. We signpost businesses to some other sources of useful guidance within the draft compliance advice. In particular, the CMA's [Green Claims Code](#) sets out what businesses need to do when making specific claims that a product or service has an environmental benefit.
- 2.7 The draft compliance advice does not create new legal requirements for businesses. It would not be a substitute for the law itself or replace the role of the courts which is to provide the definitive interpretation of consumer protection law based on the facts of each case.³
- 2.8 Ultimately, a business is responsible for ensuring that it is compliant with the law. If a business is in any doubt whether its practices may infringe consumer protection law, it should consider seeking its own independent legal advice.

³ At present, the CMA can only enforce consumer law through the courts. The UK government, through the Digital Markets, Competition and Consumers (DMCC) Bill, is seeking to give the CMA powers to determine whether breaches have occurred and to issue fines.

3. Questions for consideration

3.1 We are seeking feedback on the following questions. Please provide your reasoning, any relevant information, and examples or evidence to support your response.

Scope

3.2 Does the draft compliance advice cover all the important issues and practices concerning the marketing of green heating and insulation products? If not, what else should this compliance advice address and why?

3.3 Are there any additional sector-specific considerations which the draft compliance needs to reflect? If so, what are these and why? How can these be addressed?

Compliance principles

3.4 The draft compliance advice sets out a number of principles for business to follow.

a) Are the principles on presenting price information the right principles? If not, why not? What other principles would help businesses comply with consumer protection law and why?

b) Are the principles on product claims the right principles? If not, why not? What other principles would help businesses comply with consumer protection law and why?

Illustrative examples

3.5 Are the illustrative examples provided in the draft compliance advice helpful? If not, why not? How could they be improved?

3.6 Are there any additional or different illustrative examples that would help businesses to understand how to apply the principles in the draft compliance advice? If so, what would these cover and why?

General and additional issues

- 3.7 Generally, are there any aspects of the draft compliance advice that you consider need further clarification or explanation, and why? In responding, please specify which section of the draft compliance advice (and, where appropriate, the issue) each of your comments relate to.
- 3.8 Overall, is the draft compliance advice sufficiently clear and helpful for the intended audience? Is the language and terminology helpful? In particular, we are mindful that the majority of businesses in the sector are SMEs, many of which are micro-businesses or sole traders.
- 3.9 Any there any other comments that you wish to make on the draft compliance advice?

4. Consultation process

- 4.1 We are publishing this consultation on our [case page](#) and sharing it with a range of interested parties to seek views on the questions set out in section 3 of this document.

Duration

- 4.2 The consultation will run for a period of six weeks from 13 December 2023 to 24 January 2024. Responses should be submitted by email to greenheating@cma.gov.uk by no later than 5pm on 24 January 2024.

How to respond

- 4.3 Please respond to as many of the questions as you can and support your answers with any evidence or examples you may have.
- 4.4 When responding to this consultation, please state whether you are responding as an individual or are representing the views of a business, group or organisation (including those representing consumer or business interests). If the latter, please make clear who you are representing and their role.

Use of information provided to the CMA

- 4.5 This section sets out how the CMA may use information provided to it as part of this consultation.
- 4.6 The information you provide will help to inform the CMA's final compliance advice for businesses on the marketing of green heating and insulation products.
- 4.7 We may wish to refer to comments received in response to this consultation in future publications. Where appropriate, we may also use the information you provide when carrying out the CMA's other functions, for example, when using our consumer protection law enforcement powers or we may share information with another regulator or public authority (such as local authority

Trading Standards Services, sectoral regulators or the Advertising Standards Authority).

- 4.8 However, we may only publish or share information in specific and limited circumstances set out in legislation (principally, Part 9 of the Enterprise Act 2002). In particular, prior to any publication or disclosure, we must have regard to (among other considerations) the need for excluding, so far as is practicable:
- a) any information relating to the private affairs of an individual which might, in our opinion, significantly harm the individual's interests; and
 - b) any commercial information relating to a business which, if published or shared, might, in our opinion, significantly harm the legitimate business interests of that business.
- 4.9 If you consider that your response contains such information, that information should be marked as 'confidential information' and an explanation given as to why you consider it is confidential.
- 4.10 Any personal data you provide to us in responding to this consultation will be processed by the CMA, as controller, in line with the Data Protection Act 2018.
- 4.11 'Personal data' is information which relates to a living individual who may be identifiable from it.
- 4.12 Any personal data you provide to us will be handled in accordance with our obligations under the Data Protection Act 2018. For more information about how the CMA processes personal data, your rights in relation to that personal data, how to contact us, details of the CMA's Data Protection Officer, and how long we retain personal data, see our [Privacy Notice](#).
- 4.13 The CMA is also bound by the Freedom of Information Act (the FoIA). Under the FoIA, where a person makes a request in accordance with the requirements of the FoIA, the CMA may have to disclose whether it holds the information sought. The CMA may also be under a duty to disclose it unless

an exemption applies. If you consider that any information you provide may be exempt from such disclosure you should say so and explain why.

4.14 This statement overrides any standard confidentiality disclaimer that may be generated by your organisation's IT system.

4.15 Further details of the CMA's approach can be found in the [Transparency and Disclosure: Statement of the CMA's Policy and Approach \(CMA6\)](#).

Compliance with the Cabinet Office Consultation Principles

4.16 This consultation is compliant with the latest Cabinet Office Consultation Principles. The Cabinet Office Consultation Principles criteria can be found at www.gov.uk/government/publications/consultation-principles-guidance.

After the consultation

4.17 We will collate and analyse the responses to the consultation and amend the draft compliance advice as appropriate. We will publish an anonymised summary of the responses that fall within the scope of the consultation together with a list of all respondents (save for individuals).

4.18 We aim to publish the final version of the compliance advice in Spring 2024. The compliance advice will be available on our webpages at www.gov.uk/cma and respondents will be notified when it is available.