



Green Claims Outlook 2025

For what comes next
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Contents

Introduction	1	ASA	12
Key lessons from 2023/2024	2	New ASA advice on environmental claims	12
What can we expect in 2025?	3	Travel marketing (3 May 2023); and	12
CMA Green Claims Code	4	Motoring marketing (3 May 2023)	12
Critical timelines	5	ASA updates guidance on misleading environmental claims and social responsibility	13
CMA	5	Claims about initiatives designed to reduce environmental impact (23 June 2023)	13
Call for information in green heating and insulation sector (27 September 2022)	5	Green disposal claims (28 November 2023)	13
Compliance review, fast moving consumer goods (26 January 2023)	5	ASA research into environmental claims in food advertising (18 April 2024)	14
Report on findings of call for information in green heating and insulation sector (31 May 2023)	6	New ASA advice on environmental comparisons made by the Rail industry (31 July 2024)	15
Consumer guide to buying green heating and insulation products (31 May 2023)	6	EU update	16
Good practice principles for quality assurance scheme (green heating and insulation products) (31 May 2023)	6	Empowering Consumers for the Green Transition Directive	16
Commencement of investigation into Worcester Bosch (green heating and insulation sector) (17 October 2023)	6	Green Claims Directive	17
Commencement of investigation into Unilever (FMCG) (12 December 2023)	6	Action against green claims made by Airlines	18
Conclusion of CMA investigation into the fashion sector (27 March 2024)	7	EU certification framework for permanent carbon removals, carbon farming and carbon storage in products	19
Consultation letter issued to Worcester Bosch (green heating and insulation sector) (7 June 2024)	8	ASA rulings compendium	20
Compliance advice for businesses marketing green heating and insulation products (16 July 2024)	8	Contacts	31
Undertakings accepted from Worcester Bosch (green heating and insulation sector) (9 August 2024)	9		
Guidance on complying with consumer law when making environmental claims in the fashion retail sector (18 September 2024)	10		
Conclusion of investigation into Unilever (FMCG) (6 November 2024)	11		

Introduction

It certainly feels like there have been some significant recent developments in this area, including the conclusion of three CMA investigations, specific advice and guidance for certain businesses and sectors, and a continued stream of ASA rulings on green claims.

We've been supporting clients across various sectors in this area with training, policy documentation, audits and of course representation for regulatory investigations and advising on risk. With the new consumer enforcement powers under the DMCC Act (Digital Markets, Competition and Consumer Act 2024) coming into force in April – now is the time to act.

The report provides an overview of the changes in policy development and regulatory enforcement, along with our key takeaways and advice for what comes next.

Our specialist team at TLT have pulled together to contribute to this report and we welcome the opportunity to discuss any arising issues.



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- **26 January 2023** – CMA launches compliance review in fast moving consumer goods (FMCG) sector
- **22 March 2023** – EU Commission publishes its proposal for a Green Claims Directive
- **17 October 2023** – CMA launches investigation into Worcester Bosch (green heating)
- **12 December 2023** – CMA launches investigation into Unilever (FMCG)
- **20 February 2024** – Council of the EU adopts the Empowering Consumers for the Green Transition Directive
- **27 March 2024** – CMA accepts undertakings from ASOS, boohoo and George at ASDA
- **9 August 2024** – CMA accepts undertaking from Worcester Bosch
- **18 September 2024** – CMA issues sector specific guide for fashion businesses
- **6 November 2024** – CMA concludes investigation into Unilever (FMCG)



Key lessons from 2023/2024

The CMA (Competition and Markets Authority) continued to focus on retail and consumer goods.

The green claims investigation into fashion retail (ASDA, ASOS and boohoo) was resolved via undertakings in March 2024. Publication of the undertakings was followed by new compliance advice designed to give fashion brands a clear steer around what they can and can't do when it comes to making green claims about fashion products.

The CMA also stepped-up its investigation into fast-moving consumer goods by opening a formal investigation into Unilever. However, the investigation was ultimately closed in November 2024, with the CMA quoting "changes made to claims on products" and "the wider impact of the CMA's programme of work on tackling misleading green claims" as driving factors in this decision.

...green heating was a further enforcement priority.

In keeping with its strategic objective of ensuring that key markets in the UK's move towards Net Zero are working effectively, the CMA commenced formal enforcement against the boiler manufacturer Worcester Bosch. The investigation, which related to the use of "hydrogen-ready" boiler claims, was resolved via undertakings in August 2024. The CMA also published compliance advice for businesses marketing green heating and insulation products to help them understand and comply with their existing obligations under consumer law.

...ASA enforcement has been prolific across all sectors.

The ASA has had a particular focus on airlines and vehicles, with a number of Rulings published over the last year. However, the ASA continues to enforce the CAP Code across all sectors, with Rulings focusing on energy, water, travel and fast-moving consumer goods – amongst other things. It has also continued to publish practical guidance for advertisers.

See page 20 for a summary of ASA rulings and guidance relevant to green claims for the period January 2023 to December 2024.

...meanwhile, at a European level, we are seeing increasing divergence in the EU and UK regulation of green claims.

The EU's desire to adopt a highly prescriptive and standardised approach to green claims has led to the recent adoption of the Green Transition Directive and a proposal for a Directive on the substantiation and communication of explicit environmental claims. This marks a significant shift away from the UK regulation of green claims, where the enforcement of misleading green claims is still grounded in general consumer protection law.

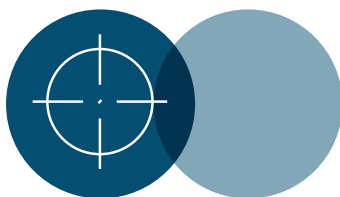
What can we expect in 2025?



CMA enforcement post DMCC?

The Digital Markets, Competition and Consumers Act (DMCC Act) received Royal Assent in May 2024. From Spring 2025 onwards, the Act will give the CMA new powers to impose stiff penalties of up to 10% of global turnover on companies that breach consumer protection law without going to court.

The CMA has been open about its intention to use these powers to punish companies that engage in greenwashing. While the government resisted calls from the CMA to add misleading environmental claims to the list of banned practices in Schedule 19 of the Act, the existing rules on unfair commercial practices (which have been recast in Part 4 of the DMCC Act) already give the CMA wide powers to enforce its Green Claims Code. The first multi-million pound fine for greenwashing in the UK may be on the horizon.



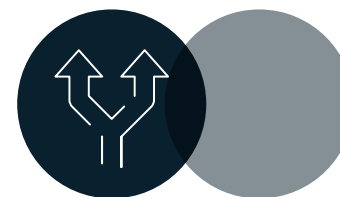
Which sectors will the CMA target next?

The CMA has so far taken a targeted approach of focusing on specific sectors. It remains to be seen whether, armed with its new powers under the DMCC Act, the CMA will continue to follow-up on its enforcement activities in those sectors to drive home the message on compliance, or whether it will move on to other sectors.

If it tracks similar sectors to those that have been on the ASA's radar, possible candidates include airlines, vehicles and food and drink. The CMA may also be influenced by the European Commission's decision to open an investigation into 20 airlines in relation to suspected greenwashing.



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UK/EU regulatory divergence?

Post-Brexit, the UK and EU have chartered very different paths in the regulation of environmental claims. While the EU is adopting a highly prescriptive and standardised approach via the Green Claims Directive and revisions to the Unfair Commercial Practices Directive (see page 16), the UK has resisted calls to introduce further regulations or specific banned practices in relation to environmental claims.

This means that the CMA will continue to enforce the Green Claims Code under general consumer protection laws. Nevertheless, given that the UK rules on unfair commercial practices under Part 4 of the DMCC Act reflect the same underlying principles of the EU Unfair Commercial Practices Directive, it remains to be seen whether the CMA will be influenced by the approach to enforcement taken at EU level by the Commission and other European consumer protection enforcement bodies.

CMA Green Claims Code

Claims must be truthful and accurate

This means the claim should:

- use language generally understood by consumers;
- outline any conditions or caveats; and
- not be deceiving to consumers.

Claims must be clear and unambiguous

This means the claim should:

- be transparent;
- be capable of substantiation;
- be proportional;
- prevent confusion; and
- reflect the environmental credentials and impacts of the product, service, process, brand or business.

Claims must not omit or hide important information

This means the claim should:

- not mislead or prevent customers from making informed decisions;
- use the correct terminology; and
- include accurate information that is kept under review.

Comparisons must be fair and meaningful

This means the claim should:

- compare like with like;
- be fair and representative; and
- not benefit one product or brand to the detriment of another if the comparison is inaccurate or false.

Claims must be substantiated

This means the claim should:

- be objective or factual; and
- be capable of being tested against robust, credible, relevant and up to date evidence that is readily available.

Claims must consider the full life cycle of the product or service

This means the claim should:

- account for the product or service's overall impact from creation to disposal (or be clear that the claim relates to a specific part of the life cycle); and
- be backed up by up to date and qualified LCA (Life Cycle Assessment).



Critical timeline – CMA

Call for information in green heating and insulation sector

On 27 September 2022, the CMA launched a call for information focussing on consumer protection in the green heating and insulation sector.

The call for information examined several issues including, amongst other things, how businesses in the sector promote their products/services to consumers; the provision of key information to consumers by businesses in the sector; and the complaints and redress process if things go wrong for consumers.

The call for information, which was issued in accordance with the CMA's Annual Plan commitment to support the UK's transition to low carbon growth, explored whether further steps or action was needed to help ensure consumers are treated fairly and businesses within the sector are supported to meet their obligations under consumer protection law.



...the CMA's work to date revealed possible greenwashing in the sector and that the CMA would be analysing claims made about such products – both online and in store...

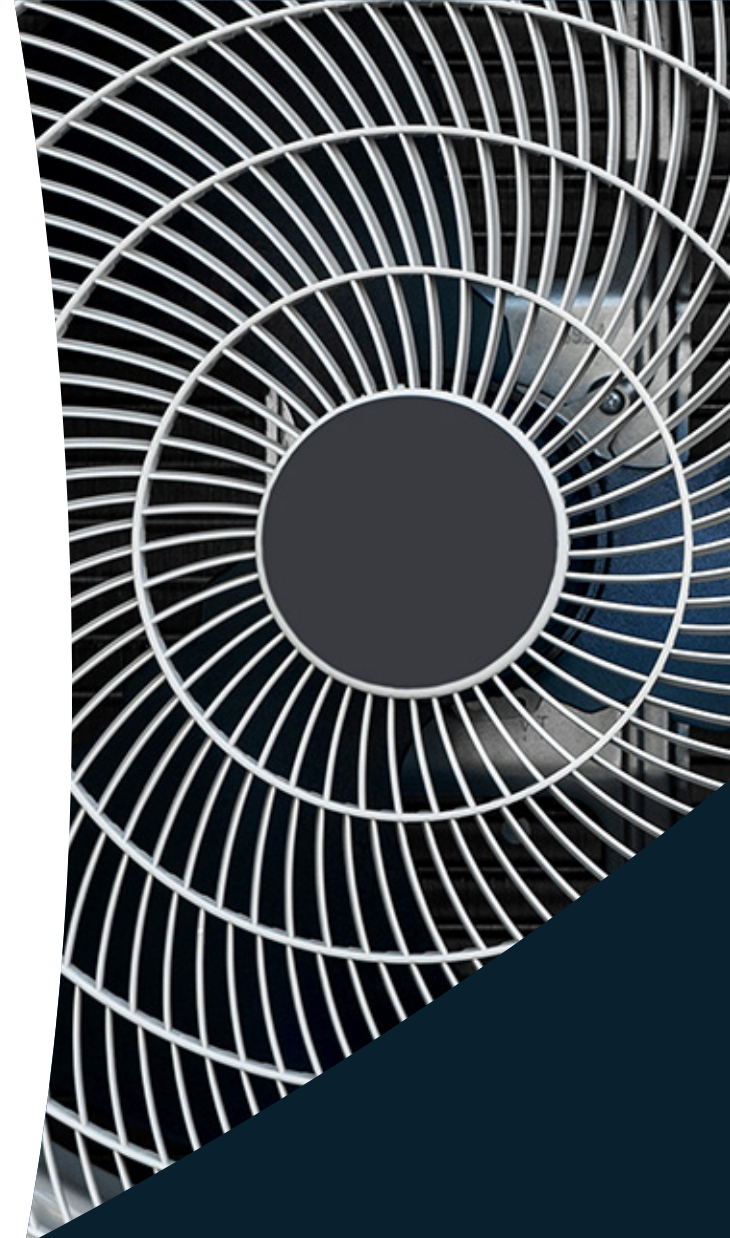
Compliance review, fast moving consumer goods

On 26 January 2023, the CMA announced that it had launched a review into environmental claims made by brands in relation to fast-moving consumer goods (FMCG)

Fast moving consumer goods are essential items used by people on a daily basis and repurchased regularly, such as food and drink, cleaning products, toiletries and personal care items.

A statement made by Sarah Cardwell, Chief Executive of the CMA, noted that the CMA's work to date revealed possible greenwashing in the sector and that the CMA would be analysing claims made about such products – both online and in store – to consider whether companies are complying with consumer protection law.

Some of the practices that raised particular concerns included the use of vague and broad eco-statements, e.g. marketing a product as “sustainable” or “better for the environment” with no evidence; misleading claims about the use of recycled or natural materials in a product and how recyclable it is; and entire ranges being incorrectly branded as sustainable.



Report on findings of call for information in green heating and insulation sector

On 31 May 2023, the CMA published a report setting out the findings from its call for information on consumer protection in the green heating and insulation sector.

The report identified three particular areas of concern:

1. Information about products is difficult to find and to understand.

Consumers often do not know where to obtain the information they need and unnecessarily complicated information risks deterring consumers from buying green heating products altogether, or results in them installing systems that are unsuitable for their homes.

2. Unfair practices for some businesses.

In particular, some businesses may be making misleading claims about the cost saving or environmental benefits of their products.

Businesses marketing boilers as “Hydrogen-blend” or “Hydrogen-ready” risk greenwashing consumers into believing the products are more environmentally friendly than they actually are.

3. Quality assurance schemes could be more effective.

Consumer guide to buying green heating and insulation products

To assist consumers, the CMA has published a new consumer guide to help consumers make decisions when buying and installing green heating products and insulation. The guide sets out the key considerations for consumers at each stage of the buying process and summarises their rights under consumer law.

Good practice principles for quality assurance scheme (green heating and insulation products)

In addition, the CMA published a set of good practice principles for quality assurance schemes to help raise the level of protections for people buying products from member businesses.

Commencement of investigation into Worcester Bosch (green heating and insulation sector)

On 17 October 2023, the CMA announced that it had opened an investigation into whether Worcester Bosch is misleading shoppers with confusing or inaccurate green claims in the advertising and labelling of its ‘hydrogen-blend ready’ home boilers.

The investigation focussed on several marketing practices, including the use of:

- labels or text stating that Worcester Bosch’s boilers can run on a blend of 20% hydrogen and natural gas, which may give the impression that this is a special feature, when all boilers in the UK have been legally required to operate this way since the mid-1990s;
- information and messaging on the use of hydrogen for home heating in the UK, noting that hydrogen heating is not currently available in the UK, and its introduction depends on future government decisions; and
- descriptions and information about the environmental benefits of ‘hydrogen-blend ready’ boilers, which may falsely suggest that these boilers will reduce a household’s carbon footprint.

The CMA also wrote to 12 other businesses selling hydrogen-blend boilers to warn them that they could be breaching consumer protection law, and to remind them of their legal obligations.

The commencement of this investigation was particularly notable as it marks a shift away from the CMA’s focus on sectors perceived as having a high environmental impact (e.g. fashion and FMCG), and shows that the CMA is also willing to take action in relation to products and services that purport to help reduce carbon emissions without the evidence to back this up.

Commencement of investigation into Unilever (FMCG)

On 12 December 2023, the CMA announced that it had launched an investigation into the green claims made by Unilever about some of its household essential items, including cleaning products and toiletries.

The launch of the investigation followed the CMA’s investigation into the fast-moving consumer goods sector more widely (see above), during which the CMA uncovered a number of practices that gave cause for concern.

The investigation into Unilever focussed on the following specific areas of concern:

- the use of vague and broad statements and language that may mislead consumers about the environmental impact of the products;
- the way claims about certain ingredients are presented, which may exaggerate how natural the product is, and give an inaccurate and misleading impression;
- claims intended to focus on a single aspect of the product which could give the impression that the whole product is environmentally friendly;

- claims around recyclability of the product which are unclear and fail to specify whether they relate to all or part of a product or packaging; and
- use of colours or images that may create the impression that the products are more environmentally friendly than they are.

Conclusion of CMA investigation into the fashion sector

On 27 March 2024, the CMA announced that it had secured undertakings from ASOS, boohoo and George at ASDA, committing them to an agreed set of rules around the use of green claims.

The announcement marked the end of the CMA's first sector specific greenwashing investigation, which commenced back in July 2022 following a review of environmental claims used in the fashion retail sector.

The undertakings provide the sector with welcome and much needed clarity on how the loosely worded principles of the Green Claims Code operate in practice within online and in-store fashion retail settings.

Amongst other things, the undertakings specify that:

Green claims

- All green claims must be accurate and not misleading.
- Any information that is key to the understanding of green claims must be expressed in plain language, be easy to read, and be clearly visible to shoppers, meaning that it must be included in proximity to the claim.

Statements regarding fabrics

- Businesses should use specific and clear terms to refer to fabric in green ranges, such as “organic” or “recycled”.
- Businesses should avoid using vague and ambiguous terms like ‘eco’, ‘responsible’ or ‘sustainable’.

- Where a product is claimed to contain recycled or organic fibres, the percentage of such fibres should be clearly displayed and easy for customers to see.
- Products should not be called “recycled” or “organic” unless they are made entirely of recycled or organic fibres, or unless the percentage of non-recycled or non-organic fibres is negligible.

Criteria for green ranges

- Businesses must set out clearly any criteria for the inclusion of products in more sustainable ranges, including any minimum requirements.
- Products should only be included in more sustainable ranges if they meet all of the relevant criteria.

Use of imagery

- Businesses should not use ‘natural’ imagery, logos or emojis (e.g. green colour schemes, green leaves, recycling emblems or earth emojis) in a way that suggests a product is more environmentally friendly than it actually is. Remember, all elements of the advertising material are to be considered together, and taken as a whole, when deciding whether a claim is misleading.

Environmental targets

- Businesses should not make claims in relation to environmental targets unless they have a clear and verifiable strategy in place to meet those targets.
- When referencing claims in marketing material, businesses should provide consumers with a link to further information (e.g. a sustainability report), setting out what the target is aiming to achieve, when it will be met and how the business intends to achieve the target.

Accreditation schemes (e.g. Better Cotton Initiative (BCI) or Global Recycled Standard)

- Businesses shouldn't refer to third party accreditations when referring to a Product unless that accreditation scheme signifies that the product has certain characteristics.
- The CMA took issue with claims made around Better Cotton products in this case given that the chain of custody model adopted by BCI means that it isn't possible to trace specific percentages of Better Cotton back to specific products.
- Where references are made to accreditations, further information about the benefits associated with the affiliation/ accreditation scheme, including a link to the scheme's website, should be made available alongside the claim.

Open letter to the sector

Alongside its announcement, the CMA also published an open letter to the fashion retail sector setting out its intention for the undertakings to set an industry-wide standard for making environmental claims to consumers and verifying such claims through supply chain processes.

The message portrayed by the CMA is clear:

Any fashion retail business making environmental claims should, as a minimum, meet the eye-wateringly high standard set by the undertakings entered into by ASOS, boohoo and George at ASDA and, where businesses continue to fall below the standard set by the undertakings, the CMA will not hesitate in taking further enforcement action.

With the Digital Markets, Competition and Consumer Bill making its way swiftly through parliament, any such enforcement action could soon leave businesses on the receiving end of significant financial penalties, totalling up to 10% of the business' worldwide turnover.

Consultation letter issued to Worcester Bosch (green heating and insulation sector)

On 7 June 2024, the CMA issued a letter to Worcester Bosch formally putting it on notice of its concerns in relation to possible breaches of consumer protection law.

The letter detailed the CMA's concerns about whether Worcester Bosch's marketing claims relating to its hydrogen-blend ready boilers misled consumers.

Compliance advice for businesses marketing green heating and insulation products

On 16 July 2024, the CMA published its final compliance advice on the marketing of green heating and insulation products, together with a suite of videos and checklists for businesses.

The publication of these materials followed the CMA's consultation on its draft compliance advice issued in December 2023.

The compliance advice, which is made up of a set of key principles, aims to help businesses understand and fulfil their obligations under consumer protection law when marketing green heating and insulation products to consumers.

As with the Green Claims Code, the compliance advice is not a definitive statement of law, but businesses are more likely to stay on the right side of the law if they adopt the principles.

Presenting headline price information

The prices that consumers see should be accurate and give a realistic indication of what they are likely to pay for products.

Businesses are more likely to provide a meaningful headline price if they comply with the following six principles:

Accurate

- Headline prices should be a realistic indication of what people are likely to pay for the product and include all mandatory fees, taxes and charges, as well as any other unavoidable costs (e.g. delivery and installation) which can reasonably be calculated in advance.
- If unavoidable cost genuinely can't be calculated in advance because of the nature of the product, businesses may be able to provide an indicative headline price, but it should provide a realistic indication of the costs that a **significant proportion of people can expect to pay**.

Comprehensive

- Charges for enabling works and other products or interventions required for the installation of green heating and insulation products, or to make them function effectively, should be included in the headline price if it is reasonably foreseeable that most consumers will pay for them.
- If other additional products or services are offered which are genuinely optional, these should be displayed as close to the headline price as possible.
- Where further unavoidable costs will be incurred after buying the product, these should be explained alongside the headline price.

Honest

- The headline price should be transparent and the consumer should not be misled about the likely cost, for example by using a deceptively low headline price to attract consumers, or by including the value of government funding.
- If you use a "from" price, this should reflect what a significant proportion of customers are likely to pay.



The headline price should be transparent and the consumer should not be misled about the likely cost....



Clear

- Any important qualifications should be presented clearly and prominently, as close as possible to the headline price so that the consumer can easily see them.

Careful in how you refer to access to government funding

- Suppliers should make it clear that access to funding is subject to the consumer meeting the eligibility criteria and not give the impression that a consumer is automatically eligible.

Open about the bundling of products

- Where green heating or insulation products are provided along with other products or services in a bundle, the individual price of the aspects of the bundle should be made clear.

Making product claims

The guidance indicates that businesses are more likely to stay on the right side of the law when making claims about green heating and insulation products if they follow these principles:

Have evidence – if you can't back it up, don't say it.

- Claims must be supported with up-to-date documentary evidence that is specific and relevant to the consumer product concerned.

Explain everything that the consumer needs to know.

- Claims must be clear and comprehensive and should not omit important information which the consumer needs to understand the claim and make an informed decision.
- Any qualifying information should be presented clearly and as close to the claim as possible.
- Qualifying information shouldn't be used to correct a misleading claim.

Be careful when using “up to” claims.

- If “up to” claims are used, these should reflect what consumers are likely to achieve.

Be realistic and representative.

- Claims should be based on real world conditions for most consumers and should not be based on very specific or limited circumstances, such as testing in lab conditions or in other countries.
- Comparisons must be reasonable, fair and transparent and comparisons should only be made like for like.

Choose your words carefully.

- Make sure that any colours, images and logos presented alongside a claim do not exaggerate the potential benefit to the consumer.
- Claims should be specific, using simple, easy to understand language (as opposed to jargon or acronyms).



Comparisons must be reasonable, fair and transparent...

Undertakings accepted from Worcester Bosch (green heating and insulation sector)

On 9 August 2024, the CMA announced that it had secured undertakings from Worcester Bosch committing it to an agreed set of rules regarding how it markets the ability of its boilers to operate with a blend of up to 20% hydrogen.

Amongst other things, the undertakings state that:

- Worcester Bosch must not make any statements or otherwise give the impression that a consumer will reduce their carbon footprint or achieve an environmental benefit or improvement by having a Worcester Bosch boiler because it can run on a hydrogen blend;
- Worcester Bosch must not make any statements or otherwise give the impression that purchasing or having a Worcester Bosch boiler will prepare a consumer for the introduction of a hydrogen blend into the gas network that's certain or inevitable in the near future; and
- within a set timetable, Worcester Bosch must contact its networks of accredited installers and third-party retailers to inform them of the content and effect of the undertakings.



Guidance on complying with consumer law when making environmental claims in the fashion retail sector

On 18 September 2024, the CMA published an important practical compliance guide to help businesses operating in the fashion retail sector to comply with consumer protection law when making environmental claims about their products.

On the same day, the CMA also sent a letter to 17 well-known fashion brands advising them to review their sustainability claims amid an ongoing crackdown on greenwashing.

The guidance draws upon the conclusions from the CMA's recent investigation into ASOS, boohoo and George at ASDA and the formal commitments given by all three parties.

The guidance sets out a number of key recommendations and practical tips (many based on the CMA's Green Claims Code) supported by visual examples to help fashion retailers comply with consumer protection law. This includes the following:

Clear and accurate claims

Environmental claims must be clear and accurate whether they are made on a product, in advertising materials, in-store or online.

Don't hide important information

Important information that consumers need to ensure that a claim is not misleading should be easily accessible and not hidden behind a QR code or displayed separately from the environmental claim being made.

Avoid using unclear terms

Broad, general, or absolute claims like "green", "sustainable" or "eco-friendly" are much more likely to be inaccurate

and to mislead consumers. Where these terms are used, consumers are likely to assume that the product as a whole has a positive environmental impact. This is very difficult to demonstrate through substantiation.

Imagery and icons

Do not use visual signs such as logos, icons and imagery in such a way that creates a misleading impression of the product's impact on the environment.

Comparative claims

Comparative claims, such as saying that a product has a lower carbon footprint than another, should be accompanied by a summary of the basis for the comparison made.

Navigational tools and filters

Navigational tools shouldn't be presented in a way that misleads consumers. Businesses shouldn't give the impression that a group of products, or individual products in the group, are better for the environment than they really are. Importantly, only products that meet the characteristics of the navigational tool should be included in the search results.

Product ranges

The criteria for the inclusion of products in more sustainable ranges must be clear and available to consumers in an easily accessible location.

A summary of the criteria should also be included when a more sustainable range is advertised or marketed, or a product is advertised as part of the range. This should include the minimum thresholds and a link to the full criteria.

Products should only be included in a range if they meet the criteria for inclusion in that range.



Fabric Description

Businesses should refer to the objective characteristics of each fabric – e.g. recycled polyester or organic cotton, rather than by more subjective or ambiguous descriptions like “environmentally-conscious nylon” or “responsible cotton”.

Businesses should not describe a product as recycled or organic if it contains fibres that are not recycled or organic, unless the portion of non-recycled or non-organic fibres is negligible.

The percentage of relevant fabric to which claims relate should also be made clear (e.g. 80% recycled polyester).

Affiliations or Accreditations

You should only refer to affiliation or accreditation schemes in relation to an individual product where the product has those particular characteristics.

Where environmental claims are made which are based on or reference an affiliation or accreditation scheme, businesses should provide a summary of the environmental benefits associated with the affiliation or accreditation, details about any material connection (where relevant) and a link to the third party website.

Environmental targets

Claims which are based on, or that reference, corporate targets should only be made where the business has a clear and verifiable strategy in place to meet them. Where such claims are made, businesses should include a link to further information about what the target is aiming to achieve, the date on which the target is expected to be met, and how the business will achieve the target.

Policies and procedures

Businesses should have internal processes in place to make sure all environmental claims are accurate and do not mislead consumers. These should include training for staff, appropriate policies, and systems to check that listings are correct and products meet the advertised range criteria.

Due Diligence

Retailers must ensure that suppliers can back up the claims made by retailers with evidence. Suppliers should be able to provide scope and transaction certificates on request and retailers should carry out regular spot checks on these certificates and obtain confirmations from suppliers that product information is accurate before offering the product for sale.

Third party brands

The guidance reminds retailers that if they sell third-party branded products, they are responsible for ensuring any claims made about these third-party products are not misleading, and that retailers should have processes in place to carry out such checks (e.g. self-assessment questionnaires completed by third party product suppliers). Each business in the supply chain has a responsibility for ensuring that its claims are accurate and substantiated.

Conclusion of investigation into Unilever (FMCG)

On 6 November 2024, the CMA announced that it had decided to close its investigation into Unilever.

In making this decision, the CMA noted that a range of factors had been taken into account, including the changes already made by Unilever to claims on some of its products, and the wider impact of the CMA's work on tackling misleading green claims.

The CMA noted that the Green Claims Code, and successful enforcement action to date, has helped businesses understand how they can promote their green credentials whilst remaining compliant with consumer protection law.

The decision, may, however, also be a nod to the potential unintended consequences that CMA enforcement action in this area may be having – particularly in so far as greenhushing is concerned.



Critical timeline – ASA

New ASA advice on environmental claims

Travel marketing

On 3 May 2023 the ASA published new advice focussing specifically on the making of environmental claims in travel marketing.

The advice reflects recent ASA rulings against the likes of Deutsche Lufthansa and Etihad Airways, and provides guidance on two categories of claim that have featured frequently within advertising material in this sector – aspirational claims and claims regarding CO2 and low emissions.

Aspirational claims

- Claims such as “environmentally friendly” or synonymous claims should not be used unless marketers can provide convincing evidence that their product will cause no environmental damage, taking into account the full life cycle of the product; and
- marketers must ensure that claims which are based on only part of the advertised product’s life cycle do not mislead consumers about the product’s total environmental impact.

The ASA refers to its ruling against Deutsche Lufthansa in March 2023, which held that the claim “PROTECTING ITS FUTURE” was likely to mislead because it suggested that the advertiser had already taken significant steps to mitigate their environmental impact, whereas the initiatives described on the website linked in the ad were mainly intended to deliver results some years in the future.

The ASA also make reference to the 12 April 2023 Etihad Airways ruling, which concluded that the evidence provided of the ongoing and proposed steps to reduce the environmental impact of Etihad’s service was insufficient to support an absolute claim of “sustainable aviation”.

CO2 and low emissions

- Marketers comparing the amount of CO2 produced per passenger with other forms of transport, should hold rigorous evidence to support their claims. This should include the source of their data. The basis of the claim should also be clear.

The ASA refers back to its 2020 ruling against Ryanair which held that the claim “Europe’s...Lowest Emissions Airline” which had “low CO2 emissions” breached the Code because the ads did not make the basis of the claims clear, and because the advertiser did not provide sufficient evidence to substantiate the claims.

Motoring marketing

On 3 May 2023 the ASA published new advice focussing specifically on the making of environmental claims in motoring marketing. The advice reflects recent ASA rulings against the likes of Shell and BP and provides guidance on the use of environmental claims relating to fossil fuels and fuel consumption/emissions, as well as marketers social responsibility obligations.



Fossil fuels

- Advertisers making environmental claims in relation to fossil fuels or other products or services which are environmentally harmful should take particular care to fully explain and clarify the meaning of these claims.

The ASA refers to its 2020 ruling against Shell, where it held that a radio ad featuring the claim “Drive carbon-neutral by filling up and using Shell Go+ today. Make the change. Drive carbon-neutral” breached the code as it did not adequately explain that Shell Go+ was a loyalty programme which consumers would have to sign up for. The ASA concluded that the ad was misleading as it could be understood that Shell Go+ was a fuel for which Shell would offset emissions.

Social responsibility

- Advertisers are urged to be cautious when using green imagery or language which might imply a lack of environmental impact without clarifying the basis on which the claim is being made.

Fuel consumption and emissions

- Marketers should take care when making comparisons about fuel consumption, range and emissions at any stage of production or use.

The ASA continues to refer to its 2007 ruling against Lexus as relevant. Here it held that the headline “HIGH PERFORMANCE. LOW EMISSIONS. ZERO GUILT” implied that a car had low emissions compared with all cars, not merely similar ones.



Advertisers are urged to be cautious when using green imagery or language.

ASA updates guidance on misleading environmental claims and social responsibility

Claims about initiatives designed to reduce environmental impact

On 23 June 2023, the ASA issued an updated version of its guidance on misleading environmental claims designed to provide clarity on the new and emerging issues raised in some of its latest rulings against the likes of Shell, Petronas, Lufthansa and Etihad.

These rulings all concerned ads that made positive environmental claims about specific aspects of a business, where much of the business was responsible for a significant amount of environmental harm/emissions.



...much of the business was responsible for a significant amount of environmental harm/emissions.

The ASA found that these ads breached the CAP Code as the ads were likely to be understood as making claims about the business' wider environmental impact and claims about their positive initiatives, therefore exaggerating the business' overall environmental credentials.

The updated guidance document includes a new section, acting as a useful reference point for marketers seeking to make claims about initiatives designed to reduce environmental impact. The section advises that:

- claims which relate narrowly to specific products should make this scope clear, to ensure that they are not understood as being representative of the entire business;

- where businesses are responsible for a significant amount of harmful emissions or other environmental harm, marketers should include balancing information about the business's significant ongoing contribution to emissions or other environmental harm, particularly in sectors in which consumers are less likely to be aware of the business's overall contribution to emissions or other environmental harm;
- advertisements which refer to a business' lower-carbon activities without including information about its overall harmful environmental impact may provide a misleading impression of the proportion of the business' overall activities that are lower in carbon;
- care should be taken with imagery of the natural world, which may, depending on the context, contribute to the impression that the business is making a significant contribution towards reducing greenhouse gas emissions;
- absolute green claims (such as 'sustainable' or 'environmentally friendly') must be supported by a high level of substantiation;
- advertisements which present a business' negative environmental impact as being in the past are likely to mislead if the business is still creating a significant negative impact;
- advertisements which focus on specific initiatives as a way of achieving net zero should clearly contextualise those claims with information about the role that the initiative would play in that net zero plan, and how and when net zero emissions will be achieved; and
- when making claims about initiatives intended to meet net zero, the timeframe to achieve a net zero goal is likely to be considered material information, and should be stated in the advertisement.

Green disposal claims

On 28 November 2023, the ASA published the findings of its consumer research and issue-led review of what it calls “green disposal claims”.

Green disposal claims are claims about how products can be disposed of in environmentally responsible ways and include terms such as ‘recyclable’/ ‘recycled’, ‘biodegradable’, ‘compostable’ and ‘plastic alternative’.

Amongst other things, the review found that:

- there were varying degrees of consumer understanding of the terms “recycled”, “recyclable”, “biodegradable” and “compostable”; and
- certain information should be clearly and prominently displayed in conjunction with the claims “recyclable”, “biodegradable” and “compostable”. Specifically:
 - information about the product composition, where the claim only refers to part of the product;
 - where and how a product should be disposed of;
 - how long the disposal process takes; and
 - the outcomes of the disposal process, including the potential creation of by products.

The research led to CAP and BCAP updating their environmental claims guidance to include a section on the use of green disposal claims in advertising. This section advises advertisers to:

- **clearly qualify green disposal claims, such as “recycled” or “recyclable,” by specifying which parts of a product or packaging the claim refers to;**
- **if the disposal process referred to in an ad is likely to differ from the average consumer’s expectations, advertisers should clearly explain where and how the product should be disposed of;**

- **ensure that claims relating to biodegradation or composting are clearly qualified with information about how long it takes for a product to fully biodegrade or compost;**
- **make clear any harmful by-products produced during the disposal process;**
- **avoid unqualified claims that a product produces less waste than alternatives if this is based only on part of the product’s life cycle;**
- **substantiate claims with evidence that relates to the likely conditions of use for a product;**
- **ensure that the terms “biodegradable” and “compostable” are used appropriately – the terms refer to different processes; and**
- **ensure claims that a product is widely recycled are supported by evidence that shows that the product is recycled by the majority of local authorities in the UK.**

The ASA’s announcement of the changes advised that it would be conducting additional monitoring and carrying out additional enforcement work to tackle ads in breach of established positions already set down in rulings (e.g., “100% recyclable” claims) from January 2024.



The ASA’s announcement of the changes advised that it would be conducting additional monitoring and carrying out additional enforcement work

From 1 April 2024, the ASA would then begin proactively investigating potentially problematic claims, with a focus on:

- claims that omit end of use green disposal information;
- claims that suggest a product has multiple green disposal options where that is misleading; and
- claims where substantiation to back up green disposal claims is not present.



ASA research into environmental claims in food advertising

In 2021, the ASA announced that it would be launching proactive enquiries into the sectors most likely to have the biggest roles in contributing to the UK's compliance with its environmental targets. One of those sectors was the food and beverage sector, with a focus on meat, dairy and plant-based alternatives.

In April 2024, the CMA published the findings of its recent research in this space, which included research on how green claims are interpreted by consumers.

The key findings from the ASA's consumer research included the following:

- nutrition and healthy eating were frequently cited as the primary drivers of dietary preferences and food purchasing decisions, though habit/preference and affordability also play a role. The environmental impact of food was at most a secondary driver of purchase for most, and often used as post-rationalisation for choices rather than a catalyst;
- broad claims like “good for the planet” were usually taken at face value and not challenged by consumers, but there were some concerns that these claims were simply a method of making green claims without providing any evidence;
- the use of specific terminology like “plant-based” or “vegan” was assumed to be accurate as it was viewed as clear and verifiable;
- certain terminology and imagery could lead to a cascade of associations and implied claims (e.g. the word “natural” could lead to the assumption that the product was “organic”, even if that word was never used); and

- visual imagery could evoke assumptions that a product or brand was generally good for the environment. Green, both as a colour and word, was reported to be powerfully evocative of environmental and plant-based themes, signalling a brand's environmentally conscious ethos, and images of produce which appeared fresh could elicit beliefs in much the same way as the terms natural or plant based could.

While the ASA did not find anything to warrant enforcement action in this space, it did say that there are still some areas in which advertisers are falling short and it will be continuing to monitor this area closely.



Broad claims like “good for the planet” were usually taken at face value...

The ASA noted that the power of environmental claims and terminology in food and drink advertising is likely to lie in their uncritical acceptance and the halo effect such claims have on brands through the assumptions made by consumers. It noted that the case for further regulation in this area was particularly strong for:

- green visuals/imagery and terminology such as ‘natural’/‘fresh’ which have an overall halo effect, evoking assumptions about environmental credentials and potentially implying wider environmentally conscious practices;
- comparative environmental impact claims, which would be ideally based on like for like comparative information across a given product life cycle, including the supply chain and waste disposal; and
- vague nutritional claims such as “healthy”, “good for you” and “balanced”, given the importance nutritional quality carries to consumer purchase decisions.

New ASA advice on environmental comparisons made by the Rail industry

Ads encouraging people to leave their cars at home and take public transportation instead are increasingly common. Against this backdrop, the ASA released new advice on **31 July 2024** focussing on the use of comparative claims about one mode of transport versus another.

If you make a comparison between, for example, emissions from taking the train instead of driving, the ASA will expect you to make clear exactly what is being compared and how it is calculated.

Take, for example, the claim “reduce your emissions by 50% by taking the train instead of driving between London and Birmingham”.

Are the driving emissions calculated from a journey driving from Euston Station in London to Birmingham New Street? Or another point within the cities?

Is this based on one person, two or a family of four?

While it's unlikely that someone planning that journey and deciding whether to drive or get the train would drive directly from one station to the other, a comparison which uses a different start and end point for each mode of transport would not be a like-for-like comparison, and it's likely the ASA would consider that an unfair, unclear and misleading comparison.

Comparisons like this should also explain any other factors which could affect whether the figures apply to someone seeing the ad. If a broad claim about car emissions is made, it should be made clear whether this is based on the emissions from the average car on UK roads today. It should also indicate whether this only considers petrol, diesel and hybrid cars, or if it includes electric vehicles.

EU Update

While, at a UK level, the CMA continues to use general consumer protection laws and sector-wide guidance to target businesses making misleading green claims, the EU has chartered a very different path by adopting a highly prescriptive and standardised approach to green claims.

The past twelve months has seen the European Commission take decisive action to update EU consumer law to protect and empower consumers to actively contribute to the green transition, as well as to encourage the adoption of sustainable practices throughout global value chains.

Empowering Consumers for the Green Transition Directive

In February 2024, the Council of the EU adopted the Empowering Consumers for the Green Transition Directive (“GTD”) as part of the EU’s Green Deal.

The GTD aims to promote sustainable consumption by:

- i. tackling unfair commercial business practices such as greenwashing that prevent consumers from making sustainable consumption choices; and
- ii. improving consumer information to enable sustainable transactional decisions.

The GTD forms part of the EU Commission’s Circular Economy Action Plan and is complemented by other circular economy initiatives, such as the Green Claims Directive.

Potentially misleading business practices

The GTD introduces changes to Articles 6 and 7 of the Unfair Commercial Practices Directive (“UCPD”), which relate to practices that may be considered misleading if they cause consumers to take a different transactional decision.

Environmental and social characteristics, as well as circularity aspects, have been added to the list of main features of a product about which consumers must not be misled. The recitals to the Directive advise that these characteristics should be understood in a broad sense to also encompass the impact and performance of the product.

The GTD also specifically addresses certain practices that are potentially misleading.

- Under the Directive, environmental claims relating to future environmental performance will be considered misleading if they are not substantiated with a publicly accessible, comprehensive and practical implementation plan verified by third party experts. These findings must also be made accessible to the public.
- Advertising benefits to consumers that are irrelevant and not directly related to any feature of that product or business may also be considered misleading in so far as consumers might believe that these products are more beneficial to the environment than others of the same type.
- Comparisons of products based on their environmental or social characteristics or circularity aspects must be accompanied by information about the method of comparison, the products which are the object of comparison, the suppliers of those products, and the measures to keep information up to date.



New blacklisted practices

Importantly, the GTD extends the list of misleading practices that are prohibited in all cases by amending Annex 1 of the UCPD. The GTD bans:

- generic environmental claims unless they are properly substantiated by demonstrating recognised excellent environmental performance in accordance with EU law. The recitals provide some indication of the types of claims that will be caught by this provision, with claims like “environmentally friendly”, “eco-friendly”, “green”, “nature’s friend”, “climate friendly”, “carbon friendly”, “energy efficient” and “biodegradable” all likely to be caught;
- environmental claims about the entire product or business, when the claim actually concerns a certain aspect of the product, or a specific activity of the business only;
- claims that a product has a neutral, reduced or positive impact on the environment if the claim is based on offsetting of greenhouse gas emissions. Claims like “climate neutral”, “climate net zero” “reduced climate impact” and “limited CO2 footprint” should only be used when they are based on the actual lifecycle impact of the product in question, and not based on the offsetting of greenhouse gas emissions;
- the use of sustainability labels which are not (i) based on official certification schemes or (ii) established by public authorities; and
- claims which present requirements imposed by law on all products as a distinctive feature of the offer.

Timeline

Member states need to transpose the Directive into national law by 27 March 2026, with a further 6 months to apply the new rules.

The new provisions leave little room for manoeuvre on substance for the member states. Some member states, such as France, will have to review their existing laws in light of the amended Unfair Commercial Practices Directive, while others, such as Germany or Spain, will need to create new rules.

Where the GTD does leave a lot of leeway to Member States is in relation to enforcement. Under the GTD, it is up to the Member States to determine the consequences of non-compliance, and it is therefore crucial that companies familiarise themselves with the enforcement practices available in the Member States in which they operate.

Green Claims Directive

The EU Commission published its proposal for the Green Claims Directive (“GCD”) on 22 March 2023. After the European Parliament adopted its position on the proposed draft, the European Council reached a common position on **17 June 2024**, after several months of negotiations. The Directive is currently being negotiated with the European Parliament, with a final agreement on provisions expected to land at the beginning of 2025.

The proposed GCD complements the GTD by setting out more detailed rules on substantiating and communicating explicit environmental claims about products, in business-to-consumer commercial practices.



As such they would have implications not only for EU based companies, but also for businesses that are based outside of the EU...

If adopted, the new rules would exclusively cover voluntary claims in the context of B2C transactions taking place in the EU. As such they would have implications not only for EU based companies, but also for businesses that are based outside of the EU which make voluntary environmental claims directed at EU consumers.

Only micro-SMEs (companies that have fewer than 10 employees or generate less than €2 million annual turnover) would be exempt from the rules.



Substantiating green claims

Under the proposed GCD, businesses would be required to substantiate explicit environmental claims before publishing, providing consumers with transparent, reliable and valuable information.

The GCD outlines specific requirements for substantiating explicit environmental claims:

- specify if the claim concerns the whole product or part of it, or if the claim concerns all activities of a company or only some of them;
- base claims on widely recognised scientific evidence, using accurate information and international standards;
- take a life-cycle perspective (from raw materials to end of life);
- take all the significant environmental aspects and impacts into account to assess the environmental performance;
- demonstrate that the claim is not equivalent to requirements imposed by law;
- determine whether a positive achievement in one environmental impact leads to significant worsening of other environmental impacts (such as on climate change, pollution, biodiversity and/or resource consumption);
- include primary information (directly measured or collected by the company) or secondary information (when no primary information is available) in the analysis;
- base comparisons with other products' or organisations' environmental impacts and performance on the equivalent data and information, including the same environmental impacts, life cycle stages, data sources and assumptions; and
- review and update any data and information used in the analysis when there are circumstances that may affect the accuracy of the claim, or at least every 5 years.

The proposed Directive does not prescribe a single method for the assessment.

Communicating claims

The GCD would also require businesses to ensure that the communication of explicit environmental claims complies with a number of requirements:

- claims must only cover environmental impacts, aspects or performance that have been assessed in accordance with the substantiation requirements outlined above, and that are identified as significant for the respective product or business;
- provide a weblink, QR code or equivalent to provide information on the substantiation and third-party verification of the claim. This includes a conformance certificate;
- for claims related to future environmental performance of a product or organisation, include a time-bound commitment for improvements in own operations and value chain; and
- state the extent to which climate-related claims, such as 'carbon neutral', are based on carbon offsets by being transparent on emission reductions and emission removals.

Third party verification

The draft Directive provides that the substantiation and communication of environmental claims and labels will have to be verified by an independent third party who has been accredited in accordance with Regulation No 765/2008 before the claim is used in a commercial communication.

Once a verifier has verified the claim, it will decide whether or not to issue a certificate of conformity.

If issued, this certificate will be recognised across the EU, shared between Member States via the Internal Market Information System, and will allow companies to use the claim in a commercial communication to consumers across the internal market.

Enforcement

The Draft Directive requires Member States to designate the appropriate competent authorities to enforce the requirements of the Directive.

Member States may either choose to adopt the draft Directive's rules on penalties or opt to continue using the current mechanism in place to combat unfair commercial practices.



Member States will have 18 months to implement it into national law, with the measures applying 24 months from the date of entry into force.

The penalties should include fines that effectively deprive the company of the economic benefit derived from the using of misleading or unsubstantiated claims or non-compliant labelling schemes (up to 4% of annual turnover), confiscation of revenues gained from the non-complaint activity, and temporary exclusions for a maximum period of 12 months from public procurement processes and from access to public finding.

Next steps

Once the final text of the Directive has been published in the Official Journal of the European Union and entered into force, Member States will have 18 months to implement it into national law, with the measures applying 24 months from the date of entry into force.

Action against green claims made by Airlines

On 20 March 2024, the District Court of Amsterdam found that 15 green claims made by KLM were misleading and breached Dutch consumer protection law. These included claims which suggested:

- i. that flying is, or could become, environmentally “sustainable”; and
- ii. that purchasing or contributing to KLM’s carbon offsetting or Sustainable Aviation Fuel projects reduced the climate impact of flying.

The judgment follows similar decisions by the UK’s ASA against airlines for misleading green claims (see page 20 for further details).

Following this ruling, the European Commission and EU Consumer authorities wrote to 20 airlines identifying several potentially misleading green claims, such as:

- creating the incorrect impression that paying an additional fee to finance climate projects with less environmental impact or to support the use of alternative aviation fuels can reduce or fully counterbalance the CO₂ emissions;
- using the term “sustainable aviation fuels” (SAF) without clearly justifying the environmental impact of such fuels;
- using the terms “green”, “sustainable” or “responsible” in an absolute way or using other implicit green claims;
- claiming that the airline is moving towards net-zero greenhouse gas emissions (GHG) or any future environmental performance, without clear and verifiable commitments, targets and an independent monitoring system;
- presenting consumers with a “calculator” for the CO₂ emissions of a specific flight, without providing sufficient scientific proof on whether such calculation is reliable and without the information on the elements used for such calculation; and
- presenting consumers with a comparison of flights regarding their CO₂ emissions, without providing sufficient and accurate information on the elements the comparison is based on.



Member states need to transpose the Directive into national law by 27 March 2026, with a further 6 months to apply the new rules.

The European Commission and CPC authorities invited the companies to provide a response within 30 days, outlining their proposed measures to address the concerns arising from their environmental marketing claims under EU consumer law.

After receiving replies from the companies, the European Commission stated that it would organise meetings with the CPC network and the airlines, to discuss the solutions proposed by the companies and monitor the implementation of the agreed-upon changes.

If the airlines involved do not take the necessary steps to solve concerns raised in the letter, CPC authorities can decide to take further enforcement actions, including sanctions.

EU certification framework for permanent carbon removals, carbon farming and carbon storage in products

On 19 November 2024, the Council gave the final green light to a regulation establishing the first EU-level certification framework for:

- permanent carbon removals (that capture and store atmospheric or biogenic carbon for several centuries);

- carbon farming activities that enhance carbon sequestration and storage in forests and soils, or that reduce greenhouse emissions from soils, carried out over a period of at least 5 years (e.g. reforestation, improved fertiliser use); and
- carbon storage activities that capture and store carbon in long-lasting products for at least 35 years (e.g. wood based construction products).

Carbon removal activities will have to meet four overarching criteria in order to be certified:

- they must bring about a quantified net carbon removal benefit or net soil emission reduction benefit;
- they must be additional, meaning that they go beyond statutory requirements;
- they must aim to ensure long-term storage of carbon while minimising the risk of carbon release; and
- they should do no significant harm to the environment and should be able to result in co-benefits to one or more sustainability goals.

In addition, activities eligible for certification will need to be independently verified by third-party certification bodies.

Organisations that comply with the framework will receive certification that investors, partners and clients will be able to utilise to determine a company’s efforts at carbon reduction.



ASA rulings compendium

Airlines in the spotlight

The ASA's adjudications throughout the year have shown that it has had a close eye on claims made by those operating in sectors with a high environmental impact. One of the latest sectors to fall under the ASA's spotlight is the aviation industry.



The ASA noted that air travel produced high levels of both CO2 and non-CO2 emissions...

Air France	Lufthansa	Etihad Airways
<p><i>“Manchester to Bangkok [...] Air France flights [...] Air France is committed to protecting the environment: travel better and sustainably”.</i></p> <p>The ASA considered that the claim would be understood by consumers to mean that Air France offered a sustainable and environmentally friendly way to travel by air.</p> <p>The ASA noted that air travel produced high levels of both CO2 and non-CO2 emissions, which were making a substantial contribution to climate change.</p> <p>It also noted that there were currently no initiatives or commercially viable technologies in operation within the aviation industry that would adequately substantiate absolute green claims, such as those made by Air France.</p> <p>In the absence of any evidence demonstrating that Air France was protecting the environment and making aviation sustainable, it concluded that the claims gave consumers a misleading impression of the impact that travelling with Air France would have on the environment.</p>	<p><i>“Fly now with Lufthansa [...] Book your ticket directly with Lufthansa and explore destinations around the world [...] Fly more sustainably”.</i></p> <p>The ASA noted that the ad did not clarify how the claim “Fly more sustainably” worked in practice, and the basis of the claim was likely to be material information which consumers would need in order to make an informed decision.</p> <p>Although they accepted that space in a search result ad was limited, it did not consider that this meant that material information of such relevance could be omitted.</p> <p>It therefore concluded that the ad gave a misleading impression of Lufthansa’s environmental impact, and that the ad breached the Code.</p>	<p><i>“Etihad Airways – Book Your Flight Today [...] Enjoy Great Discounts, Offers and Deals on Your Flight Bookings. Explore The World With Confidence and Total Peace Of Mind With Etihad Airways. Environmental Advocacy. Award-Winning Service”</i></p> <p>The ASA noted that the claims that Etihad allowed consumers to explore the world with “Total Peace of Mind”, alongside the phrase “Environmental Advocacy”, would be understood by consumers to mean that Etihad actively worked to protect the environment and, consequently, consumers could use their services with “Total Peace of Mind” with regard to the environmental impact of doing so.</p> <p>As in the Air France Ruling, the ASA reiterated the high levels of CO2 and non-CO2 emissions produced by the aviation industry and the fact that there were currently no initiatives or commercial viable technologies in operation within the industry that would adequately support absolute claims, such as those made by Etihad.</p> <p>As Etihad provided no evidence that they were engaged in environmental advocacy, or that they actively worked to protect the environment in a way that meant consumers could use their services with “Total Peace of Mind” with regard to the environmental impact of doing so, they concluded that the ad gave a misleading impression of Etihad’s environmental impact.</p>

Key Takeaways?

In December 2023, the ASA issued rulings against paid-for Google ads published by three airlines, Air France, Deutsche Lufthansa and Etihad, adding to two previous decisions against the latter two airlines. All three adverts were found to give a misleading impression of the advertiser's environmental impact. Central to its findings was the fact that there are currently no viable initiatives or commercially viable technologies in use today to facilitate sustainable air travel.

These latest rulings were all identified by the ASA's Active Ad Monitoring System, which uses Artificial Intelligence to proactively search for online ads that might break the rules. The ASA processed three million ads using AI during 2023 and plans to scale this to 10 million during 2024, showing how vital the tool is becoming for regulators cracking down on green claims, and the evolution of the ASA from a passive to an active regulator.

Those operating in industries that are particularly high contributors to climate change and producers of high levels of CO2 and non-CO2 emissions, such as

airlines, should take great care when seeking to make environmental claims.

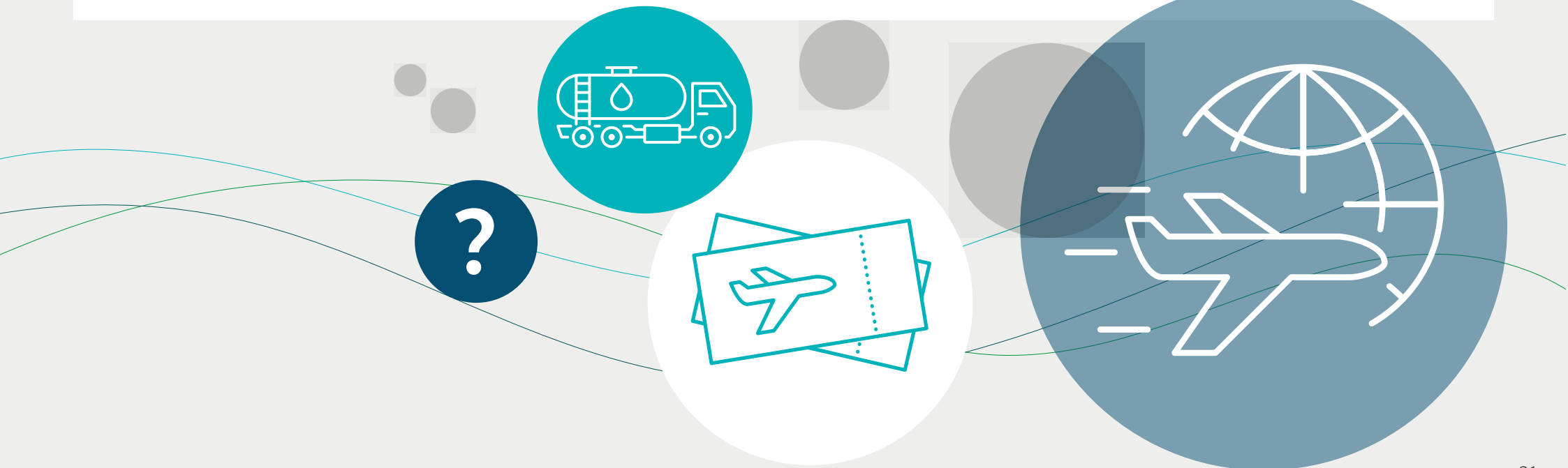
A fundamental principal of the ASA's environmental rules that advertisers operating in high-polluting industries are frequently falling foul of is CAP Code rule 11.1 – “unqualified claims could mislead if they omit significant information”.

Some of the most highly publicised recent ASA rulings have dealt with omissions of this nature - as well as the above examples of airlines insufficiently clarifying the level of their environmental impact when talking about environmental initiatives, there have been instances of banks not being clear enough about the level of their investments in high-polluting industries, and energy companies omitting information about the about the proportion of their overall business model that comprised lower carbon energy.

Going forwards, and in line with the ASA's updated guidance on “the environment: misleading claims and

social responsibility in advertising”, airlines and other advertisers operating in high-polluting industries who are looking to make claims about initiatives designed to reduce environmental impact should ensure that:

- advertisements include “balancing information” about the business' ongoing contribution to emissions or other environmental harm to avoid giving a misleading impression of the company's overall environmental credentials;
- environmental claims which relate narrowly to specific products should make this clear, to ensure that they are not understood as being representative of the entire business; and
- absolute environmental claims are supported by a high level of substantiation. Advertisers cannot hide behind their choice of media being limited in terms of time or space as a reason for not providing consumers with all the material information needed to understand a claim.



Charging up compliance: ASA zaps misleading “Zero emissions” claims

In recent rulings against MG, BMW and Ford the ASA considered whether the use of the claim “Zero Emissions” in paid-for Google ads misleadingly represented the vehicles’ environmental impact. MG and BMW, the ASA ruled, had used the claim in a misleading way; whereas, the ASA considered that Ford’s use of the claim was unlikely to mislead (though there were still some improvements to be considered in future).

“
...the claim was likely to mislead...

MG Motor UK Ltd – 7 February 2024	BMW (UK) Ltd – 7 February 2024	Ford Motor Company Ltd – 21 February 2024
<p>MG had included the text “Zero Emissions” at the end of a paid for Google ad which was advertising the opportunity to save £1,000 on the MG HS Plug-in Hybrid, MG ZS (a petrol-engine car) or MG5 EV Trophy Long Range Renewed.</p> <p>Without any explanation of the basis of this claim, the ASA considered that this was misleading. Not only did two out of three of the MG models listed have a petrol engine, thereby not producing “zero emissions”, the claim was not qualified to make clear that it referred only to emissions while the vehicle was being driven (and, in the case of the plug-in hybrid, when the vehicle was driven with the electric motor). The ASA said that “zero emissions” claims that do not make explicitly clear that they relate to emissions produced while driving (rather than the full lifecycle of the product) are likely to be misleading.</p>	<p>BMW had included the text “Zero Emissions Cars – Download your Brochure Today” in a paid for Google ad for BMW’s range of electric cars.</p> <p>BMW said that they had bid on terms such as “Zero Emissions Cars” to target consumers that used that phrase when searching for information about electric vehicles, and this phrase had made its way into the ad due to Google Ads’ automatic keyword feature.</p> <p>The ASA ruled that, without clarifying that the “zero emissions” claim related to emissions produced while driving the car (rather than its lifecycle, including its manufacture & charging), the claim was likely to mislead; this clarification must be made explicitly clear.</p>	<p>In contrast to MG & BMW, Ford had used the term “Zero-emissions driving”. This term was included in a list of features of Ford’s new all-electric SUV, along with “fast charging” and “driver assistance tech”.</p> <p>The ASA considered that, in isolation, “Zero-emissions driving” was still ambiguous (and did not make explicitly clear that it related to emissions while the car was being driven); however, it concluded that when included alongside other specific features of the car, this claim was unlikely to mislead – when seen in the context of the car’s other features, the claim was unlikely to be understood to relate to the vehicle’s overall lifecycle emissions.</p>

Key Takeaways?

- “Zero emissions” claims must be used with caution. These should always explicitly state that they refer to the emissions produced while driving the vehicle. Even “Zero emissions driving” is unlikely to be sufficient on its own. There is a suggestion in the Ford case that “Zero emissions while driving” may be sufficient, but the ASA refrained from confirming this in their decision. See more guidance from the ASA here.
- All 3 of these cases were brought by the ASA themselves, i.e. the ASA did not receive complaints about the ads, they were instead picked up by the ASA’s Active Ad Monitoring system. Traders should be aware that the ASA is actively monitoring environmental claims.
- Beware of the automatic functions of Google ad words! BMW has said it will turn off the automatic keyword feature when bidding on “Zero Emissions Cars” from now on so that these unqualified claims don’t slip into consumer facing marketing material again



Kellini Technology International Co Ltd: importance of substantiation

What was the green claim?

While promoting the use of a portable heater, Kellini encouraged consumers to use its plug-in mini heater to “Combat Soaring Energy Bills”. It also claimed that its “new type of ceramic heater has an incredible efficiency. Almost no energy is wasted” and “It heats every area in your room in just 60 seconds”.

What was the ruling?

Complaint upheld. Kellini produced no evidence that their product could supply the equivalent heating capabilities of other heating systems, either in a single room or in a whole price, at a cheaper price and therefore save consumers money.

They also provided no evidence to support the claims “This new type of ceramic heater has incredible efficiency. Almost no energy is wasted” and “it heats every area in your room in just 60 seconds”.

The ASA concluded that the claims had not been substantiated and were therefore likely to mislead.

Intrepid Travel Group UK Ltd: Use of absolute claims

What was the green claim?

A poster advert seen on the London Underground featured two women in front of the Giza Pyramids in Egypt alongside text stating: “People & planet-friendly small group adventures since 1989.”

What was the ruling?

Complaint upheld. The ASA determined that the claim would be understood to mean that taking part in an Intrepid Travel tour caused no environmental damage through its full life cycle.

The ASA considered the environmental schemes Intrepid Travel participated in, but concluded these did not specifically relate to the life cycle of a holiday with Intrepid Travel, nor were they referred to in the ad. Many of the initiatives and targets that Intrepid said they were committed to delivering were also targeted to deliver results years in the future.

Because the basis of the claim had not been made clear and the ASA had not seen evidence based on the full life cycle of the product to support the absolute claim “people & planet-friendly small group adventures”, the ASA concluded that the ad misled as to the environmental impact of Intrepid Travel’s holidays.

Repsol SA: Net zero emissions claims

What was the green claim?

A paid-for online display advert for Repsol on the Financial Times’ website featured text stating: “At Repsol, we are developing biofuels and synthetic fuels to achieve net zero emissions” and “Renewable fuels for more sustainable mobility”.

What was the ruling?

Complaint upheld. Although developing biofuels and synthetic fuels did come under Repsol’s general business activities and was visible on its website, the ASA highlighted that further information to contextualise how and when Repsol would achieve net zero emissions, and the role that the development of biofuels would play, was material to consumers’ understanding of the advert’s overall message and should have appeared in the advert itself.

Additionally, the claim “At Repsol, we are developing biofuels and synthetic fuels to achieve net zero emissions” lacked contextual information explaining that the initiative was part of a wider plan to achieve net zero by 2050.



Shell UK Ltd t/a Shell: do lower carbon initiatives make up a significant proportion of the business?

What was the green claim?

Shell released a poster, TV ad and YouTube video intending to raise awareness of, and demand for, their lower emissions energy products and services. They included the claims “In the South West 78,000 homes use 100% renewable electricity from Shell Energy” and “In the UK, 1.4 million households use 100% renewable electricity from Shell”.

What was the ruling?

Complaint upheld in part. The adverts gave the overall impression that a significant proportion of Shell’s business comprised lower-carbon energy products.

As Shell’s business activities also included on-going and expanding fossil fuel production, the advert should have made clear what proportion of Shell’s overall business model was made up of lower-carbon energy products.

In the absence of this information, the ads were likely to mislead the consumer as they misrepresented the contribution that lower-carbon initiatives played, or would play in the near future, as part of the overall balance of the company’s activities.

Petroleum Nasional Berhad t/a Petronas: information about the balance of current activities material information?

What was the green claim?

A TV advert for Petronas began with audio and images highlighting the current environmental disasters in the world. Petronas verbally acknowledged their role in these issues, and stated “we started connecting the dots, to become a progressive energy and solutions partner, enriching lives for a sustainable future.” The voice-over continued by saying, “To reduce emissions, grow renewable energy, bring education to more, champion social impact and promote a circular economy, as well as achieve net zero carbon emissions by 2050”.

What was the ruling?

Complaint upheld in Part. The ASA considered that information about the balance of Petronas’ current activities, its emissions, and the pathway to reducing them in line with the claims made in the advert was material information likely to affect consumers’ understanding of the advert’s overall message.

As the advert omitted this material information, the ASA concluded that the claims were misleading, as they exaggerated the total environmental benefit of Petronas’ products and services.

Repsol SA: lower carbon energy a significant proportion of the energy products developed and sold?

What was the green claim?

A paid-for online ad on the Financial Times website featured an image of a water droplet with text saying: “Renewable hydrogen, another alternative to reduce emissions. At Repsol, we are committed to renewable hydrogen as an energy source that offers up different uses such as zero net emissions synthetic fuel production”.

What was the ruling?

Complaint upheld. The ASA considered that consumers and business readers would likely understand the claim to mean that lower carbon energy, such as renewable hydrogen, formed a significant proportion of the energy products Repsol developed and sold, or were likely to develop or sell in the near future.

In reality, this was not the case. While Repsol was in the process of transforming several of its complexes to aid in the production of renewable hydrogen, it was not yet producing any hydrogen. Repsol also had a substantial oil and gas exploration strategy, which formed the vast majority of its business interests.

As the ad omitted significant information about the overall environmental impact of Repsol’s business activities, the ASA found the claims to be misleading.



Imiracle (HK) Ltd t/a Elfbar: green claims and disposable vapes?

What was the green claim?

A poster on the side of a bus and a digital billboard featured the following text: “RECYCLING FOR A GREENER FUTURE GreenAwareness”

What was the ruling?

Complaint upheld. The ASA concluded that consumers were likely to expect that if they purchased Elfbar’s single-use vapes, they would be able to recycle them through a wide variety of routes, including through general recycling provisions at home. As this is not the case, information about how to recycle the products should have been included within the ad.

The ASA also considered the claim “for a greener future” was ambiguous, and without qualifying information was likely to be understood by a significant proportion of consumers to mean that Elfbar’s recyclable vapes had less environmental impact than other vape products on the market. Elfbar had provided no evidence to support this. Given that single use vapes have a significant impact on the environment based on their full life cycle, the ASA concluded that the claim “for a greener future”, combined with the incorrect impression that the products were fully recyclable exaggerated the environmental benefits of the product and were therefore misleading.



Charles Tyrwhitt Shirts Ltd: Carbon neutral claims

What was the green claim?

A paid-for Facebook advert for Charles Tyrwhitt seen on 28 July 2023 featured an image of a print cotton shirt. Text on the post stated “We’re proud to be a Carbon Neutral business.”

What was the ruling?

Complaint upheld. The ASA considered that the basis for the “carbon neutral” claim was significant information that consumers needed to know in order to fully understand the claim’s meaning.

Although it acknowledged that Charles Tyrwhitt Shirts had based their claim on a report by a sustainability consultancy which they said demonstrated their carbon neutrality, as there was no qualifying information in the ad which outlined the basis for the “carbon neutral” claim, the ASA concluded that the ad was misleading.



...significant information that consumers needed to know...



Brewdog plc: space limitations in social media captions

What was the green claim?

An Instagram post by BrewDog featured an image of a poster containing a drawing of Earth covered in flames. Text on one half of the poster said: “BEER FOR YOUR GRANDCHILDREN”, alongside an image of BrewDog IPA Lager, and a badge with the text “Positive Planet CERTIFIED CARBON NEGATIVE COMPANY”. The caption stated “Beer for your Grandchildren. From the World’s First Carbon Negative brewery. Find out how we’re working to ensure we have a planet to enjoy beer on via the link in our bio”.

What was the ruling?

Complaint upheld in part. The ASA considered the basis for the “carbon neutral” claim was significant information consumers needed to know to fully understand the claim. Although the ad referred consumers to a link for the BrewDog website which contained further information about their carbon reduction and offsetting project, it did not include information which explained the basis of the claim. BrewDog argued that it was limited by space and functionality constraints in Instagram, which was why a link was used instead.

The ASA found that the 2,200 character limit in Instagram did not amount to significant special limitations and, in the absence of qualifying information outlining the basis for the “carbon neutral” claim, the ad was misleading.





Equinor: renewable energy a significant proportion of business activities?

What was the green claim?

An ad in the Economist magazine for energy company Equinor stated “Wind, oil, gas, carbon capture [...]” and “IT’S ALL PART OF THE BROADER ENERGY PICTURE”. A footnote at the bottom of the ad stated “Equinor has been delivering energy solutions to the UK for 40 years, and we are now working to help the UK achieve a smooth energy transition [...] we’re producing the oil and gas the UK needs now; and will be powering millions more homes with wind, capturing and storing carbon safely [...]. It’s broad energy for a brighter future”.

What was the ruling?

Complaint upheld. Equinor held significant interests in oil and gas which formed the majority of its business activities.

While the ad was clear that the UK energy blend was in transition, the overall impression given was that CCS and energy sourced from windfarms made up a significant proportion of Equinor’s business activities.

As oil and gas formed the majority of Equinor’s business activities, further information about the overall proportion of Equinor’s business model comprising renewable energy and CCS was material information that should have been included within the ad. As the ad did not include this information, the ASA concluded that the ad was misleading.

Greater London Authority: Ultra low Emission Zone

What was the green claim?

A radio ad for the expansion of the Ultra Low Emission Zone (ULEZ) in London stated: “According to research, one of the most polluted places in London is inside your car. That’s why the ULEZ is expanding across all London boroughs. Search ULEZ 2023 to find out about the support available. Lets clear the air”.

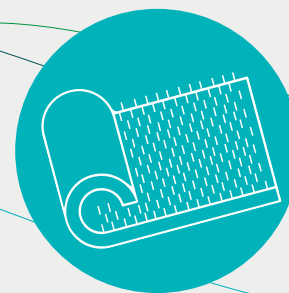
What was the ruling?

Complaint upheld. The ASA considered that listeners would understand the claim to mean that the level of air pollution in a car in London ranked amongst the places with the highest level of air pollution in the city.

The ASA therefore expected to see evidence that compared the level of air pollution in cars to the level of air pollution in a variety of other locations and contexts in which a person in London might find themselves in.

As this direct comparison had not been made, the ASA concluded that the claim had not been adequately substantiated and was likely to materially mislead.





Transport for London: Explanation of the basis of the claim is key

What was the green claim?

Transport for London (TfL) released a TV ad, four radio ads and a press add for its ULEZ expansion. They included the following claims:

1. *“London has an urgent air quality problem”;*
2. the ULEZ expansion would *“help clear the city’s air”*;
3. as a result of ULEZ *“we have seen almost a halving of levels of nitrogen dioxide”* and that ULEZ is *“helping to reduce harmful nitrogen dioxide pollution by nearly half”*;
4. *“most air pollution related deaths actually occur in Outer London areas”*; and
5. *“recent reports have shown a link between air pollution and an increased risk of developing dementia”*.

What was the ruling?

Complaint upheld in part – two of the claims were found to be misleading.

In relation to claim (3) the ASA considered that these claims were likely to be understood as representative of the reduction of NO₂ as recorded by, for example, air quality sampling before the introduction of the charges and since the implementation of the ULEZ, rather than being based on the calculated difference between a non-ULEZ and a ULEZ scenario.

They felt that clear clarification was required to ensure the claim would be fully understood and because the basis of the claims had not been given, the claim was likely to be misleading.



...because the basis of the claims had not been given, the claim was likely to be misleading.

In relation to claim (4), the ASA considered that listeners were likely to understand from the claim, which referred to ‘actual’ deaths, that the evidence supporting the claim was not estimated or modelled in any way. As the evidence was based on modelled estimates, using the latest available data, clear qualifying information to explain the basis of the claim was therefore required.

Because the basis of the claim was not explained and evidence to support the claim as it was likely to be interpreted was not supplied, ASA concluded that the ad was likely to mislead.

Easigrass (Distribution) Ltd: meaning of “recyclable”

What was the green claim?

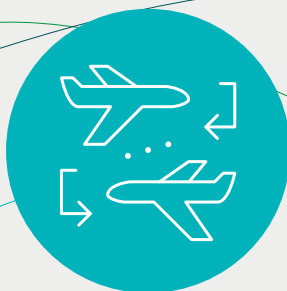
In a Facebook post and on a product webpage on its website, Easigrass promoted an artificial grass product, labelling the product “Kensington Eco Grass” and described the product as “fully recyclable” and claimed that “it offers a range of environmental benefits” and “ticks all the environmental boxes”.

What was the ruling?

Complaint upheld. The ASA considered that consumers would understand the claim “fully recyclable” to mean that the entire product was easily recyclable and that the recycling process is widely available and easily accessible to UK consumers.

As the ASA were not provided with sufficient evidence that the product was fully recyclable, and because the product could only be fully recycled at specialist recycling centres (of which there was only 1 in the UK), the ASA concluded that this claim was misleading.

The ASA also concluded that the inclusion of “Eco” in the name of the product implied that the product was eco-friendly, and that together with the claims that the product “ticks all the environmental boxes” and “offers a range of environmental benefits”, consumers would interpret this to mean that the product would positively impact the environment. As the ASA had not seen evidence of that, they concluded that these claims were also misleading.



Wessex Water Services Ltd: Is it really all positive?

What was the green claim?

In a TV ad, Wessex Water claimed that they were “*following a different course*” when it came to storm overflows and that they were “investing £3 million a month to tackle storm overflows. Building more storm tanks to increase storage. Separating rainwater from sewage”. They claimed that “*a better way, for our waterways, is already underway*”.

What was the ruling?

Complaint upheld. The ASA considered that Wessex Water’s storm overflow problems had also caused harm to the environment (by discharging storm sewage into natural water sources), which contradicted the overall impression of the ad.

The ASA considered that this was significant information which should have been made clear in the ads, but as it was omitted, the claims were likely to mislead.

London Luton Airport t/a Luton Rising: Don’t omit material information!

What was the green claim?

In a magazine ad and a poster, Luton Airport stated that “*If we miss our environmental limits, our expansion will be stopped in its tracks*”.

The ads also made references to the airport’s “Green Controlled Growth Framework” stating that it will “*introduce limits for the airport’s noise, carbon, air quality and road traffic impacts*” and that “*these would be legally binding, and independently monitored*”.

What was the ruling?

Complaint upheld. The ASA considered that people would understand that the main source of emissions from the airport’s expanded operations would come from additional air traffic movements, and so they would likely expect environmental limits on carbon emissions to include those derived from that source.

They would not expect those emissions to have been omitted from the Framework’s limits.

Despite the reasons given in the Framework for excluding air traffic emission from the expansion’s environmental limits, the ASA considered that their exclusion was material information that was likely to affect people’s understanding of the ads’ overall message and should have been made clear. They therefore concluded that the ads omitted significant information and were therefore misleading.

Hurtigruten UK Ltd t/a HX Hurtigruten Expeditions: tread carefully with absolute claims

What was the green claim?

A paid-for ad for cruise company Hurtigruten Expeditions (HX) featured the headline “*Free flights to Svalbard and more*” with further text stating “*Selected Svalbard cruises with free flights [...] Since 1896, we’ve been the leaders in sustainable expeditions*”.

What was the ruling?

Complaint upheld. The ASA stated that “sustainable expeditions” was an absolute claim, which would be understood as referring to the full life cycle of the holiday, including travel to and from the destination (i.e. that it would include the flights, not just the cruise component of the holiday).

Because the basis of the claim had not been made clear and the ASA were not presented with any evidence based on the full life cycle of the product to support the absolute claim “*sustainable expeditions*” as it would be understood by consumers, the ASA concluded that the ad had misleadingly minimised the impact of HX holidays.



Virgin Atlantic Airways t/a Virgin Atlantic: negative environmental impacts require qualification

What was the green claim?

A radio ad for Virgin Atlantic stated “On the 28th of November, Virgin Atlantic’s Flight 100 will take to the skies on our unique flight mission from London Heathrow to JFK to become the world’s first commercial airline to fly transatlantic on 100% sustainable aviation fuel.”

What was the ruling?

Complaint upheld. The ASA considered that most consumers were unlikely to be aware of the extent to which fuels described as “sustainable aviation fuel” still had negative environmental impacts, and in what ways. Those listeners who interpreted the claim “100% sustainable aviation fuel” to mean that the fuel was 100% sustainable were likely to expect that it had no negative environmental impacts at all. Virgin Atlantic were able to point to evidence to demonstrate that the specific fuel used for Flight 100 delivered savings of 64% in greenhouse gas emissions compared to fossil derived aviation fuel – but this was not stated in the ad, nor was the fact that sustainable aviation fuel still produced significant emissions over its lifecycle.

The ASA considered this to constitute material information that would have an impact on the transaction decision of those listeners and therefore concluded that the unqualified claim “100% sustainable aviation fuel” was misleading.

Mazda Motors UK Ltd: absolute claims require full lifecycle analysis

What was the green claim?

A paid-for Meta ad for Mazda featured an image of the Mazda2 Hybrid car and stated “The Mazda2 Hybrid combines the power of a petrol engine and the efficiency of a battery-powered electric motor. Exciting, efficient and sustainable”.

What was the ruling?

Complaint upheld. Whilst the ASA acknowledged that the Mazda2 Hybrid would result in lower carbon emissions when driving compared to the petrol version of the Mazda2, this comparison had not been made in the ad.

They therefore considered that “sustainable” was an absolute claim and was likely to be understood by consumers as referring to the full life cycle of the hybrid Mazda2.

The ASA understood that when the Mazda2 Hybrid’s electric battery engine was used, no emissions were produced from the tailpipe, but when the car used its petrol engine, greenhouse gases were produced. They also understood that other circumstances, such as manufacturing of the car and charging the battery using electricity from the national grid, generated emissions. As evidence in relation to the entire life cycle of the car had not been produced, the absolute claim “sustainable” had not been adequately substantiated. The ASA therefore concluded that the ad had misleadingly minimised the impact of the Mazda2 Hybrid.

Wizz Air Hungary Ltd: the basis of the claim should always be clear

What was the green claim?

A paid for Google ad for Wizz Air stated “Fly Wizz Air – one of the greenest choices in air travel”.

What was the ruling?

Complaint upheld. The ASA considered consumers would understand the claim “one of the greenest choices in air travel” in the ad as meaning that Wizz Air’s environmental impact was among the lowest of all the airlines operating to and from the UK.

While the ASA acknowledged that Wizz Air had based the claim on the type of aircraft they used, and the carbon emissions per passenger, that was not stated in the ad.

Furthermore, the ad had not included information that would allow consumers to understand the comparison with identifiable competitors.

Because the ad had not made clear the basis of the claim, or provided verifying information, the ASA concluded that it had breached the Code.



Lloyds Bank plc: balancing information is material information!

What was the green claim?

Lloyds released the following ads in May 2024:

- a poster featuring an image of a person in a laboratory coat handling seaweed and text that stated *“Growing the business as fast as the seaweed used to make their packaging. Right now, good things are happening at [business name]”*;
- a paid for LinkedIn post featuring an image of grass, wildflowers and butterflies with text that stated *“We’re partnering with Projects for Nature to support nature recovery and engage communities across projects in England”*;
- a paid for LinkedIn post featuring the same image as ad (b) with text that stated *“We’re teaming up with Projects for Nature to help protect our natural environment”* and went on to detail the three projects that Lloyds’ funding would be supporting; and
- a paid for LinkedIn post which detailed the steps Lloyds were taking to reduce its carbon footprint, which included reducing their operational emissions and helping consumers and their business customers become more sustainable. A video in the ad showed an electric car driving through a suburban setting before entering a more rural area with haybales and a forest. A final scene showed Earth with the text *“Helping Britain Prosper”*, with the word *“Prosper”* showing in green.

What was the ruling?

Complaint upheld in part – The ASA found that, in relation to ads (a) – (c), consumers would understand the ads as making limited claims about Lloyds’ contribution to the nature recovery projects, and about how Lloyds supports businesses to develop and expand more generally, rather than as wider environmental claims about Lloyds’ business practices. The complaints made in relation to these ads were accordingly not upheld.

However, in relation to ad (d), the ASA considered that the wider claims made about Lloyds’ financing of clean and renewable energy and contribution towards a low carbon economy, including that it is *“putting the weight of its finance into renewable energy”*, gave the impression that renewable energy formed a significant proportion of Lloyds’ investments.

The ASA referenced Lloyds’ 2023 Sustainability Report, which noted that its emissions in 2022 stood at 32.8 million tonnes of carbon dioxide equivalent, and the fact that investment in areas of climate risk comprised a notable amount of the companies’ activities. The ASA concluded that this was material information and should have been made clear. As this information was omitted, the ASA concluded that the ad was likely to mislead.

eDreams: substantiation is key

What was the green claim?

Two paid-for online display ads for eDreams, an online travel agency:

- the first ad stated *“PUERTO RICO A sustainable destination”*; and
- the second ad stated *“Discover our sustainable trips”*.

What was the ruling?

Complaint upheld – The ASA found that neither ad was qualified to explain the basis of the claim “sustainable” and that without this required qualification, the claims were ambiguous and unclear. They considered that the claims were absolute and a high level of substantiation in support needed to be produced to evidence that Puerto Rico as a destination, and the trips offered by eDreams, were not environmentally damaging.

Because the basis of the claim had not been made clear, their meaning was unlikely to be understood, and as the ASA were not presented with sufficiently robust evidence to support the claims, they concluded that the ads were likely to mislead.

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We're your business advisers as well as your lawyers, working in step with you to protect your interests today and progress your ambitions for tomorrow.

With local, national and international reach, we draw on our diverse expertise to find solutions and look ahead to create new opportunities. In an unpredictable world, your business adapts and evolves to succeed, and so do we.

Bringing together our expertise with efficient processes and integrated technology, we'll anticipate change to keep you ahead of your challenges.

Whether it's building relationships or the sustainability of our actions, we think long term – working with you to put people, communities and the environment at the forefront.

Your success is our responsibility. No half measures, part of your team and with you every step of the way.

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Risk & Compliance audits

Assessing your current green claims, identifying risks, and ensuring alignment with regulatory standards.



Policy development & strategy

Helping you build clear, sustainability policies that are legally compliant and enhance consumer trust.

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