

Environment, Social, Governance (ESG) Committee

Best Practice Guide for Environmental
and Sustainability Claims

PREAMBLE

This *Best Practice Guide for Environmental and Sustainability Claims* draws on advice provided by the Australian Competition and Consumer Commission (ACCC) in 2 documents^{1,2}

The advice provided in this Guide does not constitute formal legal advice regarding obligations under Australian Consumer Law (ACL) described in the Australian Competition and Consumer Act (2010) and relevant State and Territory legislation. This Guide is designed to assist understanding of the essential intent of the ACCC's *Making Environmental Claims: A guide for business 2024*, and compliance with that guidance.

Readers are encouraged to become familiar with relevant aspects of Australian Consumer Law.

SCOPE OF THIS BEST PRACTICE GUIDE

Types of business

This best practice guide is designed to assist retailers and their suppliers. It covers environmental and sustainability claims which may be made about a specific product or service through to broader statements which companies may be making about their overall commitment to reducing their impact on the environment. It is applicable to companies of all sizes from single outlet businesses through to large retail chains reflecting the fundamental maxim that all consumers have a right to informed choice no matter where or how (including on-line) they are making their purchases.

Scope of claims

Environmental and sustainable claims suggest or create the impression that a product or service has a positive impact, neutral impact or less damaging impact on the environment. There are no formal definitions of the 'environment' in the scope of claims, but it is likely that any facet of the natural world would be included - i.e. flora and fauna, their habitats and interactions, and the balance of natural phenomena which sustain them. Companies making claims should ensure that it is obvious and relevant to issues which consumers would associate with protection of the environment such as the circular economy, climate change (i.e. carbon emissions, and renewable energy), biodiversity, water saving etc.

Sustainability claims have a wider scope and may not be restricted to the natural world. They may include sustainable development issues such as worker's welfare, animal welfare and other types of ethical, social and governance (ESG) claims. This invokes the concept of 'not doing harm' rather than a binary detriments vs benefits framing. The approaches and principles described in this best practice guide apply to broad as well as specific claims.

>> DISCLAIMER

Every effort has been taken to ensure that the advice provided in this guide is accurate, but it does not of itself constitute legal advice.

Companies should seek legal advice from a qualified legal practitioner regarding the environmental and sustainability claims they are considering for their products, processes and services.

¹ Advertising and selling guide. A guide for business. July 2021 ACCC available [here](#)

² Environmental and Sustainability Claims 2024 ACCC available [here](#)

THE ROLE OF LEADERSHIP AND GOOD GOVERNANCE

Making environmental claims which are responsible, comply with regulations, and carry a low risk of misleading consumers or investors (in the case of publicly listed companies), requires leadership starting at the board and senior management level with implementation through appropriate company governance structures and practices.

Regulatory and technical expertise, either in-house or commissioned, to advise management on regulatory obligations and compliance and technical matters when making environmental claims is indispensable to the development of responsible claims and the safe promotion of the environmental credentials of the company and its products.

MAKING CLAIMS IS CENTRAL TO PRODUCT MARKETING

Making claims is recognised, and accepted as being central to product marketing as it is critical to the concept of 'informed consumer choice'. As such, it is the principal mechanism for differentiating products in the marketplace, driving competition, encouraging product and service innovation leading to greater productivity across the economy, and ultimately generating wealth for the nation, and benefits across the entire community.

Whilst exaggeration, hyperbole and rhetoric is acceptable marketing 'puffery' in some areas, when it comes to critical issues such as the health and welfare of people or the planet, policy makers and regulators are becoming less and less tolerant of over-claiming. Claims in these areas have to be made carefully to avoid misleading consumers and incurring the displeasure of regulators.

The characteristics of acceptable claims can be summarised as follows:

1. **Specific** - the attribute of the product, process or service, which leads to a particular benefit must be described clearly and completely.
2. **Objective** - the magnitude of the benefit must be appreciable and able to be measured objectively. Comparative measures required particular caution; aim for like-with-like.
3. **Relevant** - all products have a range of environmental impacts; describing a benefit in one area when the product performs poorly in another important area should be avoided. Total lifecycle analysis (LCA) can assist in identifying whether making a specific environmental claim is appropriate.
4. **Practical** - claims which set performance targets must be realistic - i.e. achievable in a reasonable time period.
5. **Presentation** - the text of a claim rarely exists in isolation. Other elements of branding such as trust marks, symbols, emblems, logos, graphics, colours and product brand names are frequently also presented which can suggest positive environmental attributes of the product (and can potentially mislead consumers).

ALL ENVIRONMENTAL AND SUSTAINABILITY CLAIMS MUST BE TRUTHFUL

All claims must be truthful. If they are not truthful, they are by definition dishonest and deceitful and so are a direct breach of ACL.

The truthfulness of some claims may be obvious to the consumer, but other claims made by companies about the products, services or their operational policies require extra care and thought to avoid being misleading. These are premium, or credence claims and statements, where the information cannot readily be independently verified. In these cases, the community must trust that the company is being truthful. This is the case with most environmental and sustainability claims or statements. Verification relies on the company producing evidence as to the truthfulness of the claim.

Environmental and sustainability claims about a business, service or product must be honest, accurate and able to be substantiated. The claim should, in simple language, describe the detail and the significance of the benefit to the environment.

THE “DO’S” WHEN MAKING A CLAIM

The ACCC Guidance document lists 8 principles or “do’s” when making a claim.

1. **Make accurate and truthful claims:** Claims must be factually correct and represent the genuine environmental impact and be supported by relevant and robust scientific studies. Be clear on what gives rise to the claim.
2. **Have evidence to back up your claims:** Substantiating evidence must be readily and independently accessible to consumers.
3. **Don't hide or omit important information:** All information necessary for consumers to make informed decisions must be provided, with key information not being omitted or buried in the fine print.
4. **Explain any conditions or qualifications on your claims:** Special conditions or qualifications relevant to the accuracy of the claim must be clearly stated.
5. **Avoid broad and unqualified claims:** Broad, vague, and unsubstantiated claims are more likely to mislead consumers and should be avoided - disclaimers or limitations should be clearly stated.
6. **Use clear and simple language:** Clear and simple plain English without obscure technical terms or scientific jargon is less likely to mislead consumers.
7. **Visual elements should be accurate:** Diagrams and images should not give a wrong impression as to the environmental benefits of a product or service. The overall impression given to an ordinary and reasonable consumer is important.
8. **Be direct and open about your sustainability transition:** Claims about transitioning to more sustainable practices should be achievable in a reasonable timeframe and supported by a documented company business/action plan. Aspirational targets should be used with caution and possible to achieve.

The “DON'Ts” WHEN MAKING A CLAIM

Further advice by the ACCC:

- Do not make claims which are technically correct if their impact is limited i.e. do not overstate the scientific evidence of impact.
- Do not rely on the consumer/reader of the claim to be technically savvy enough to understand the nature of the claim.
- Do not omit information which undermines the validity of the claim – critical information for consumer/reader to understand the environmental benefit (i.e. type, magnitude, time period) must not be hidden.
- Do not mix claims with other marketing ‘puffery’ which might otherwise be acceptable.

- Do not make comparative claims which are meaningless or exaggerate or suggest a greater benefit to the environment than has, or will, occur – such claims must compare ‘like with like’ to avoid deception.

BEFORE MAKING A CLAIM

It is also essential to comply with any sector- or product-specific laws that apply to a product or service. Before making a green claim, businesses should understand how their product, brand or business has an impact – both positively and negatively – on the environment for its whole life cycle.

When making a green claim, a business should be able to answer ‘yes’ or agree to each of the following statements:

Governance Processes

1. Are the risks associated with environmental claims appreciated by the board and senior management (e.g. it is on the company’s risk register)?
2. Have resources been allocated for the appropriate management of environmental claims (e.g. legal and technical expertise internal or outsourced)?
3. Have formal internal review and approval processes for environmental claims been developed?

The claim

1. Has the claim been assessed through the business’ approval processes?
2. Is the claim not misleading to customers, suppliers, or investors?
3. Is the claim truthful, accurate and easy to understand?
4. Is the claim supported by facts, and robust, relevant and up-to-date evidence?
5. Does the claim comprehensively cover the complete product or service, or a specified component, without being misleading about the overall environmental impact?
6. If the claim has several elements, are they all independently correct?
7. Is a total life-cycle analysis needed to support the claim and has it been done?
8. Are conditions which apply to the claim easy to understand?
9. Are environmental benefits described or implied by the claim truthful and not embellished?
10. Are industry certifications, logos and symbols indicating environmental benefits supported by robust governance systems? *Note: Trust marks of any kind must be used with caution as they may imply verification.*
11. Is all information for informed consumer choice clearly displayed with the claim?
12. Are directions to consumers regarding sources of further information (e.g. website or QR code) about the claim displayed in proximity to the claim?
13. Are all mandatory environmental labelling requirements (e.g. recycling symbols) used to support environmental claims?
14. Are comparison claims logical and easy to understand?

Further advice regarding making claims is presented in the appendices. Examples of potentially misleading claims are also provided.

APPENDIX 1

Every business must be able to substantiate their claims so that consumers can understand the environmental benefit(s) and if there are any restrictions that can limit the benefit(s).

Make accurate and truthful claims	• Are all statements correct for where this product/service is sold?
	• Have you verified supporting information provided by suppliers? <i>(ACCC enforcement will consider if genuine steps and appropriate actions were taken by the business to verify information relied on)</i>
	• Do you explain the basis of any comparison?
	• Are your comparisons fair and easy to understand?
Provide evidence to back up claims	• How can customers verify your claim?
	• Can you support the claim with independent and scientific evidence or data?
	• Is your supporting evidence publicly available?
Don't leave out or hide important information	• Are your terms meaningful without further explanation?
	• Do you provide all relevant environmental impact information?
	• Do you give an accurate, transparent overall impression?
	• Have you acknowledged/balanced positive and negative aspects?
	• Do disclaimers, disclosures or clarifications agree with your headline claim?
Explain any conditions or qualifications on claims	• Is the environmental claim only true under certain conditions?
	• Do you clearly and prominently explain any circumstances, steps or conditions required for the claim to be true? i.e. recycling conditions.
Avoid broad and unqualified claims	• Have you used any broad claims such as 'sustainable', 'environmentally friendly', 'eco-friendly'? Does your use match its normal meaning?
	• Can you be more specific? E.g. Where and how and what parts are recycled, recyclable or plastic free?
	• Do your technical terms have a baseline, all calculations explained and consider all types of emissions (Scopes 1, 2 and 3)? Do carbon emission claims clearly state whether calculations are based on "offsets", or "reductions" in emissions?
Use clear and easy-to-understand language	• Check your words with a dictionary – do they fit their ordinary meaning?
	• Check your technical and scientific terms - can they be substituted with simpler common language, so the message is clearer?
	• Check your statements – are they easily understood?
Visual elements should not give the wrong impression	<ul style="list-style-type: none"> • When reviewing your use of colour, images and symbols: <ul style="list-style-type: none"> ○ do they fit the product/service/company environmental impact? ○ could they give a false connotation or impression? ○ change symbols that resemble trust marks or certifications that you do not have for this product/service/business.
Be direct and open about your	<ul style="list-style-type: none"> • Do you state any future/aspirational goals? • If yes, include clear action plans showing how you will achieve targets. • Are your transition targets and timelines realistic?

sustainability transition	<ul style="list-style-type: none"> Do you report honest progress, including failures to meet targets?
Regular review	<ul style="list-style-type: none"> It is good practice to regularly review claims you make to ensure that they are correct and up to date. Have you set a calendar reminder for review?

APPENDIX 2

Examples of Claims*

Claim	Examples	Concern	Comment
Lack of distinction between the benefits of product, package, or service	A shower curtain in a plastic package is labelled "recyclable".	The claim does not make it clear whether the package or the curtain is recyclable.	The claim is misleading and deceptive if any part of the package or curtain (other than a very minor component) is not recyclable
	A soft drink bottle is labelled "recycled"	The bottle is made completely from recycled plastic, except for the cap.	The claim is best practice as the cap is only a minor component.
Overstatement of environmental benefit	A carpet is labelled "50% more recycled content" when the increase has been from 5% to 7.5%.	The claims is technically true, but the actual increase is minor, and the total benefit is negligible.	The claim is misleading and deceptive as it suggests the manufacturer has made a substantial change to the carpet's environmental impact.
	A garbage bag is labelled "recyclable".	The garbage may be made from recyclable material but consumers rarely, if ever, recycle garbage bags	The claim is misleading and deceptive as it asserts an environmental benefit which is unlikely to be realised.
Comparative Claims	A claim on a product is made for "30% more recycled content" with no further information.	The context of the comparison is omitted. It should include if the comparison is with, for example, a previously available product, or a competitor's product, or the industry average.	The claim is misleading and deceptive as it does not provide enough information for an informed consumer choice.
	For 5 years a claim has been made that a product "creates less waste than another brand"	There is no additional information about the currency of the data and if it is still the case.	The claim is misleading and deceptive if the advertiser has not updated their information about the other brand.
General Benefit Claims	A product has the brand name "Eco-friendly"	The claim suggests the product has no environmental impact.	The claim is misleading and deceptive as there is no qualification or additional information such as "made with recycled materials".

Claim	Examples	Concern	Comment
	A product label claims “25% less plastic than our previous packaging”.	This suggests a 25% environmental impact improvement without evidence being provided.	The claims is misleading and deceptive as the reduction in plastic may be accurate, but it is unlikely the overall benefit to the environment is also improved by 25%. This can only be demonstrated by a life cycle analysis.
Third Party Certification	A product label displays a “Green Environmental Logo”	The logo is meaningless as it does not refer to a specific environmental issue, or the magnitude of benefit	The claim is misleading and deceptive as it relies on consumers determining independently the meaning of the logo. Certification schemes should have independent consumer promotion activities.
	A product is labelled with a “Natural Ingredients Association Certified” seal of approval.	The manufacturer paid the Association to use the seal of approval, which consumers would expect.	The claim is best practice if the product is compliant with the standard to which the seal of approval applies.
Compostable claims	A product is labelled “compostable”.	Consumers will assume the label refers to domestic garden composting.	The claim is best practice as long as the company has substantiating evidence that the product will break down completely in a domestic compost in a reasonable time.
Degradable	A shampoo product in a plastic bottle is labelled “biodegradable shampoo” without qualification.	There is no information on conditions under which the shampoo is biodegradable.	The claim is best practice as most consumers would realise the claim refers when the shampoo enters the sewage system. The company should hold scientific evidence that the shampoo is biodegradable in sewage treatment.
Free-of	A cotton product is labelled “Chlorine free bleaching” but the product still contains other chemicals associated with bleaching.	Consumers are not being made fully aware of the environmental impact of the products manufacturing process.	The claim is misleading and deceptive as it contains chemicals which can harm the environment and the ‘free-of’ claim is absolute.
Non-toxic	A cleaning product is labelled “Non-toxic” but contains chemicals which are harmful to the environment if not disposed of properly.	Consumer may assume the product is safe for humans, pets and the environment.	The claim is misleading and deceptive due to its potential impact on the environment.

* This list of claims is not exhaustive; it is illustrative only.

Further information

Further sources information about making environmental and sustainability claims are listed below.

Best Practice Guide for Environmental and Sustainability Claims

1. *Advertising and selling guide. A guide for business.* July 2021 ACCC available [here](#).
2. *Environmental and Sustainability claims 2024* ACCC available [here](#).
3. *Making environmental claims on goods and services.* UK Competition and Markets Authority available [here](#).
4. See the [Australian Competition and Consumer Commission Green Marketing guidance](#) for more information.