



Environmental Claims in Fashion: CMA publishes NEW 'Fashion Supplement' to its Green Claims Code

September 18, 2024

Green claims are in vogue. One might say green is the new black, except that creates the impression this might be some passing trend. Here today, gone tomorrow. But that is very unlikely to be the case! Environmental claims are more like that elegant and timeless piece in your wardrobe that you've had for years and plan to keep for many more!

Anyway, before I stretch and jumble my metaphors and analogies more than a tussle at a sales rack, I'll stop there... because this is big news.

News

The news here is that the Competition & Markets Authority (CMA) has now (finally) issued an updated guidance note which is 'tailored' to retailers in the fashion industry. While the guide focuses on retailers, the CMA states makes clear it is also relevant to those who

manufacture or distribute products in this sector.

This follows the CMA's protracted investigation into the fashion industry - specifically into 'eco' ranges by George at ASDA, Boohoo, and ASOS. If that investigation feels 'so last year', that's not surprising, because it officially started in July 2022 and dragged on until March 2024.

In any event, as of 18 September 2024, we now have more focused guidance, designed specifically to help retailers (and others) in the fashion industry comply with their obligations under consumer legislation to avoid creating misleading environmental claims. It relates to clothing, footwear, fashion accessories and related services, for example packaging, delivery and returns.

As well as issuing the new guidance, the CMA has written to 17 well-known fashion brands to review their business practices. These letters highlight areas of concern regarding their green claims, such as the use of broad or general terms and whether certain products are being wrongly included in 'eco' ranges. Whether or not you received such a letter, if you are involved in the fashion industry, now is a good time to take stock of the green claims your business makes.

Where to find the new guidance

The CMA's Fashion Guide is accessible here: [Guide for fashion businesses - Green claims code](#)

Highlights

We will not repeat the guidance here in full, save to spotlight the main

areas that it covers.

The guidance starts with a general reminder that environmental claims have to be **clear and accurate**, and that **important information** must not be presented clearly and must not be hidden. Those making claims should consider the **overall impression** being created.

When it comes to **qualifications**, it states that important information relating to green claims should be clear and prominent. In other words, it should be:

- in plain language and accurate
- presented in a way that consumers can easily identify, read and understand the relevant information as a whole
- clearly visible, and not hidden by other information shown to consumers such as information displayed in signs, banners and as pop-up text and images that may be seen online
- presented close to the environmental claim made

Your customers should not have to take further action such as following a hyperlink, scanning a QR code or expanding a drop-down list to access important information. Important information must be displayed close to the location of the claim, for example on the same side of a tag, or next to the claim on a website.

You can provide *some* **supporting or further information** separate to the claim, and useful examples are set out in the guidance. Where you provide supporting or further information, this should not contradict the claim itself. Depending on how and where you make a claim, there might be limits on how much information you are able to include. Those limits do not give your business an excuse to miss out or hide important information about a claim. If there is not enough

space for the information, and the claim could be misleading without it, think carefully about whether it is appropriate to make the claim at all.

The new guidance also sets out more information under the following headlines, outlining in broad terms the CMA's position in each case:

- avoid using unclear terms (like green, sustainable or eco friendly) unless the product as a whole has a positive environmental impact or no adverse impact - usually unlikely!
- avoid using logos, imagery and icons in a misleading way (leaves, globes, etc)
- ensure comparisons are clear
- if it relies on consumer action, make that consumer action clear
- be clear when using filters and other navigational tools (e.g. filters and drop down menus that group together products with green credentials)
- product ranges that are held out as being better for the planet, or less harmful, should be handled with care - that was at the heart of the investigation into ASOS, Boohoo and Asda
 - consider the name of the range carefully, ensuring it is not misleading
 - explain the range criteria
 - ensure marketing for the range is not misleading
 - describe fabrics clearly and precisely
- when referring to affiliations and accreditation schemes - exercise caution
 - make clear if they apply to ranges or products, be careful not to mislead
 - provide sufficient details about the schemes
- make clear if a claim is based on specific parts of a product's life cycle

- ensure environmental targets are presented clearly, using terms that consumers understand and avoid creating a misleading impression about the overall impact your fashion retail business has on the environment

The guidance also makes clear that businesses must **put in place processes to ensure claims are true, accurate and not misleading**. It is good practice that these processes include appropriate **policies and regular training for staff**, and systems to **check** your product listings are correct and that particular products meet advertised range criteria. The guidance states you should:

- be able to back up any claims you make before you make them
- have robust, credible, relevant and up-to-date evidence that supports the claims
- have internal processes in place to minimise and correct mistakes when listing products for sale

The guidance also makes clear that **retailers ensure suppliers can back the claims made** by retailers. In the fashion sector this means providing evidence in the form of final scope certificates and final transaction certificates. Retailers must ensure suppliers can provide those on request. It also urges retailers:

- to do regular spot checks of relevant certificates,
- get confirmation from your suppliers that they have read, understood and will comply with your policies and contractual terms regarding environmental claims
- such as a declaration from your supplier, that product information is accurate, prior to offering products for sale

Finally, the guidance reminds retailers they are responsible for claims made about third-party products they sell, so retailers need to satisfy themselves that these claims are not misleading. The guidance states

that: If you sell third-party branded products, then you should have in place proper processes to make sure that your third-party suppliers can back up the claims they are making about their products. For example, you could require suppliers to complete a self-assessment questionnaire or provide evidence of an independent verification process. Again, each business in the supply chain has a responsibility for ensuring that its claims are accurate and substantiated.

Spotlight on the fashion industry

With the introduction of this guidance, those in the fashion industry, particularly retailers, are on notice about the CMA's interpretation of the consumer protection laws in this area. The CMA will gain significant new powers in 2025 to issue financial penalties of up to 10% of annual global turnover, and the message to the sector is clear: when making green claims, now is the time to cut your cloth accordingly - don't wait for others to fall in line.

It is very likely the Advertising Standards Authority (ASA) will also refer to this guidance when applying the CAP and BCAP Code to claims in its remit, so advertisers should take note of the new guidance.

“This hands-on guide will allow fashion retailers to really get to grips with their obligations under consumer law – and also means there’s no excuse for using misleading green claims.

We’ve cautioned a number of well-known brands to take a close look at their practices, consider this guide, and make sure they’re not

overstepping the mark when they promote their green credentials. All fashion companies – from designer labels to budget-friendly brands or independent boutiques – must be transparent and honest with their customers or risk enforcement action.” · Hayley Fletcher, Interim Senior Director of Consumer Protection,

 <https://www.gov.uk/government/news/greenwashin...>