



How to communicate your corporate sustainability credentials without overstating the truth



The good news

As consumers become more aware of the environmental impact of their product and service choices, there are great opportunities for forward-thinking businesses in the green or “low-carbon” economy, and environmental claims (or “green claims”) are becoming a key part of communicating the values of your business to customers.

The risks of over-promising

According to the Competition and Markets Authority (CMA), a “green claim” is one that suggests that a product, service, process, brand or business is better for the environment.

However, as the number of so called “green ads” has increased, so has the number of complaints about “greenwashing” or “climate-washing”. Greenwashing happens when a business makes unsubstantiated or misleading claims about its operations or products as being sustainable and environmentally friendly without having the data to back this up. It can also occur when a business selectively discloses the positive environmental or social impact of their business practices without complete disclosure of the negative impact.

Environmental claims can be explicit or implicit. They can appear in ads, marketing material, branding, on packaging or in other information provided to consumers. All aspects of a claim may be relevant, including even the colours, pictures and logos used.



This article focuses on advertisements and public communications, but it's important to note that greenwashing can also occur in relation to misleading environmental, social and governance (ESG) credentials and false or misleading carbon credit claims.

So, how do you stay on the right side of the law on greenwashing?

1. Know the law in this area

In the UK, the content of marketing communications (including any claims made about the products being marketed) is regulated by a combination of legislation and industry self-regulation.

The Advertising Standards Authority (ASA) is the UK's independent advertising regulator and is primarily responsible for enforcing the UK advertising codes (such as CAP) which lays down the rules for advertisers, agencies and media owners to follow.

The CMA has published the [Green Claims Code](#) that companies making environmental claims need to adhere to.

There are also sector or product specific laws for certain industries that govern the use of green claims, for example, energy-labelling requirements for certain products.

2. Understand the risks if you get it wrong – image is everything

The ASA cannot impose penalties, such as fines, but its rulings are a matter of public record and are published on its website, which can undermine the credibility of the product and the advertiser.

The ASA can also refer an advertiser to the CMA and other bodies, such as Trading Standards Services, who can bring court proceedings. In some cases, businesses may be required to pay redress to any consumers harmed by the breach of consumer protection law.

3. Learn from the mistakes of others

Anglian Water was found to be in breach of the advertising code following an ad about creating wetlands and making homes for wildlife. Anglian had previously carried out activities that caused harm to the environment (in particular, releasing sewage into the environment), and this was held to be material information which should have been made clear – the ad was therefore found to be misleading because these activities contradicted the overall impression of the ad.

This is in contrast to the ruling of the ASA in relation to Severn Trent when it ran an ad raising awareness about their work planting trees and protecting nature. In this case the ASA did not consider that Severn Trent's history of releasing sewage into the environment was material information that needed to be included in the ad to prevent viewers from being misled.

At a glance, these two ads appear to be very similar, which raises the question why would the outcome be different in each case? This was due to the consideration of the overall environmental performance analysis of each brand. Severn Trent had overall ratings of four stars (out of a possible four) in the Environmental Performance Assessment (EPA) from the Environment Agency, which meant that they were classed as an 'industry leading company', whereas Anglian Water had a low EPA score. This meant that Severn Trent's overall environmental performance did not contradict the overall impression of their ad.

There is also a case of Shell advertising their investment in renewables which was considered an overstatement because this is in fact only a tiny percentage of their overall business expenditure.

4. Follow our top tips to make sure your sustainability claims are a true reflection of your business

Before making a claim, ask yourself:

1. Is the claim accurate and clear for all to understand?
2. Is there up-to-date, credible evidence to show that the claim is true?
3. Does the claim clearly tell the whole story of a product or service, or relate to one part of the product or service, without misleading people about the other parts or the overall impact on the environment?
4. Does the claim contain any partially correct, or incorrect, aspects or conditions that apply?
5. Where general claims (“eco-friendly”, “green” or “sustainable” for example) are being made, does the claim reflect the whole life cycle of the brand, product, business or service and is this justified by evidence?
6. If conditions or caveats apply to the claim, are these clearly set out and can be understood by all?
7. Will the claim mislead customers or suppliers?
8. Does the claim exaggerate its positive environmental impact, or contain anything untrue (whether clearly stated or implied)?
9. Is the durability or disposability information clearly explained and labelled?
10. Does the claim miss out or hide information about the environmental impact that people need to make informed choices?
11. Does any information that can’t fit into the claim be easily accessed by customers in another way (such as via a QR code or on a website)?
12. Are there any features or benefits being claimed as environmental benefits that are necessary standard features or legal requirements?
13. If a comparison is being used, is the basis of it fair and accurate, and clear for all to understand?

5. Get expert advice where needed

Getting your message across is not always straightforward, and the stakes are high for those that get it wrong. As well as investigations by the ASA, there are potential claims under consumer protection legislation for misleading green claims in relation to which proposed new legislation will give the CMA the power to fine businesses up to 10% of their annual global turnover. Those trading in Europe will need to ensure compliance with stricter rules there, and those issuing financial communications (to potential investors for example) may have another layer of requirements in addition to potential exposure to actions from shareholders and from the FCA if statements about their environmental credentials are inaccurate.

Conclusion

Some businesses find it too tricky to communicate their corporate sustainability credentials without overstating the truth and instead they don’t say anything at all – this is known as “greenhushing”. The key is to ensure that your marketing and operations are joined up, so that what you say matches up with what is happening in reality.

It’s important to remember that no business is perfect. Honesty and transparency usually helps to build trust with customers and can help bring them inside your brand to champion you as a responsible business and a leader in your market.

Legal guidance can help ensure your green marketing campaigns help publicise your business for the right reasons. For more information or advice, [speak with a member of our commercial team](#).



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