

19 September 2023

Australian Competition & Consumer Commission
Submission made via: enforcementcoordination@acc.gov.au

Re: Environmental and sustainability claims – Draft guidance for business

CHOICE welcomes the opportunity to provide feedback on the ACCC's draft guidance on environmental and sustainability claims (green claims). Consumers are increasingly looking to make environmentally friendly and sustainable choices, but are currently overwhelmed with confusing, vague, obscure and/or unsubstantiated green claims. Strong ACCC guidance on this topic will help clarify expectations on businesses making these claims, within the existing legal framework.

ACCC guidance part of the solution

CHOICE welcomes the ACCC developing guidance for businesses and our submission recommends some areas where it could be stronger. We also highlight that this guidance is just one piece of what is required to ensure consumers can trust green claims. Further legislation and powers for enforcement are also needed. For example, CHOICE supports the introduction of an unfair trading ban with a blacklist mechanism prohibiting the use of uncertified trustmarks, as well as the eventual development of a single standardised labelling scheme for sustainability (similar to the energy efficiency rating system).

Stronger guidance about trustmarks

There are a number of different certification schemes in operation in Australia as revealed by the internet sweep conducted by the ACCC¹ earlier this year. In some cases, there are multiple certification schemes for the same kind of product, making it very difficult for a consumer to be able to trust or assess how sustainable or environmentally friendly a product actually is.

CHOICE recommends the ACCC strengthen the proposed guidance for businesses by specifically stating that businesses should not use self-certified trustmarks. The ACCC should also provide businesses with a list of recommended trustmarks to encourage the use of certified schemes that consumers will more easily recognise and understand.

¹ ACCC, 'Greenwashing by businesses in Australia – findings of ACCC's internet sweep', March 2023

Clearer expectations about the information that should be published with green claims

The proposed guidance should expect businesses to provide enough information and evidence to consumers about their green claims to enable consumers (and regulators) to verify and/or monitor green claims. For example:

- businesses should provide the information consumers need to take advantage of the environmental features of a product (e.g. details of how to compost a compostable product); and
- businesses should be able to show that they are making progress on and report on green claims about the future (e.g. showing how they are achieving net zero emissions targets or progressing on making products with 100% recyclable materials etc.).

Encourage consumer testing of green claims

All information and evidence about green claims should be provided clearly and transparently and should not require the consumer to go searching for it. The ACCC should also encourage businesses to ensure that their green claims are understood and fit for purpose, including by testing how information is best communicated on the packaging.

As noted earlier, CHOICE also supports the introduction of a single standardised labelling scheme for sustainability. A well designed labelling scheme would make it far easier for consumers to compare products and services.

Recommendations

In the proposed guidelines, the ACCC should:

1. State that businesses should not use self-certified trustmark schemes
2. Provide businesses with a recommended list of certified trustmark schemes
3. Expect businesses to provide consumers with enough information to verify their green claims and report on future claims
4. Encourage businesses to test the best ways to display green claims to ensure they are understood by consumers.

Yours sincerely,



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CHOICE