

## “Green”, “eco-friendly” and “good for the environment” – Commerce Commission releases new guidance on making environmental claims

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The Commerce Commission has issued new [Environmental Claims Guidelines](#) to help businesses understand their Fair Trading Act obligations when making environmental claims. The Guidelines replace the Guidelines for Green Marketing that were published in 2008, and reflect that environmental claims are a current priority area of the Commission.

While the new guidelines contain similar key messages to the previous guidelines and recent cases, they provide a good reminder of the types of environmental claims that can raise issues under the Fair Trading Act. The new guidelines also include new guidance on specific claims such as “compostable”, “organic”, and “free of” claims. We recommend that you review any environmental claims that your business is making in light of the new guidelines and check that they are consistent with the Commission’s guidance.

### Key messages

The guidelines set out key general steps to “getting it right” when making environmental claims:

- **Be truthful and accurate** – Consider what a ‘reasonable consumer’ would understand the claim to mean, and do not make claims that stretch beyond what has been proven. Regularly review claims to ensure they remain accurate
- **Be specific** – Claims that are vague or provide incomplete information are risky. Clearly detail the specific part of a product or the production process that a claim relates to
- **Substantiate your claims** – You must have reasonable grounds for a claim at the time that it is made, which means having evidence, research, test results, or similar credible information to demonstrate a solid factual foundation for the claim. Claims referring to scientific proof (eg “independent tests prove”) must be supported by reliable and credible scientific evidence
- **Use plain language and make sure claims are easy for consumers to understand** – Avoid scientific or technical language that may confuse or mislead consumers
- **Do not exaggerate or overstate the environmental benefit** – For example, a claim of “50% more recycled content” could be misleading if a product only contained 1% recycled content in the first place
- **Take care when relying on tests or surveys** – Only make claims that accurately reflect the results. Do not show results in a way that makes them look better than they are (eg, by leaving out material information about the test conditions), or describe testing as “independent” if that is not the case
- **Consider the overall impression** – Whether a claim is misleading depends on the overall impression created by the product, packaging, or promotional material. Fine print cannot be relied on to correct a misleading impression.

### Types of claims to look out for

The guidelines provide examples of types of claims that may raise issues under the Fair Trading Act. While the guidelines are not themselves a statement of law, they provide a useful indication of the Commission’s position on certain types of claims. Some examples of claims discussed in the guidelines are set out in the table below.

Type of claim	Examples	Guidance
Composition and disposal claims	100% recycled Made from recycled material Recyclable	Clearly explain whether a recyclable claim relates to the entire product, including the packaging, or only part of it (eg “packaged in recycled material”). If the product cannot be accepted at kerbside recycling/council drop-offs, recyclable claims should be carefully considered and specify where the product can be recycled.

	Free of harmful chemicals Plastic free	“Free-of” claims can be misleading if the product contains other ingredients/components that have similar effects to the omitted ingredient, the omitted ingredient/component is not commonly used in comparable products, or the product is free of the ingredient/component but the packaging is not.
	Biodegradable	Biodegradable claims must be clearly explained to avoid misleading consumers about the ability of the product or packaging to break down in environments where it is commonly disposed of (eg a landfill), and the rate and amount it will biodegrade.
	Compostable	Back up compostable claims with firm evidence that the product/packaging will break down into usable compost, and clearly explain the correct way of composting. Prominently show any limitations or qualifications (eg that the product requires an industrial composting facility).
Claims about production processes	Renewable energy	Claims about cost, amounts supplied, and associated benefits must be accurate when advertising renewable or ‘green’ energy.
	Made from sustainable materials	Claims must be accurate and able to be substantiated (eg it must be clear which part of the product is made from sustainable materials).
	Carbon neutral	Carbon-offset claims should clearly inform consumers about what is being offset and how it is being offset. Carbon neutral claims must take into account the whole lifecycle of the product.
Comparative claims	Better for the environment Greener	Carefully consider the context in which the claim is being made, what it will likely be understood to mean, and whether it can be substantiated.
	Uses 30% less energy Breaks down 50% faster	Ensure that the comparison has been made using comparable conditions, and regularly confirm that the comparison continues to be accurate.
Branding and imagery	Images such as the Earth, forests, or glistening water Green / Eco	Be aware that claims can be inferred from images or branding, and could be misleading if they imply environmental benefits that are not true.
Certification claims	Certified organic	Goods described as organic must be organic and produced organically – both the raw ingredients and the production

process. A certification claim should only be made if the product/trader has been duly certified, and that fact can be substantiated.

If you have any questions about the Commission's new guidelines or would like advice on potential Fair Trading Act risks relating to environmental claims that you're making, please contact a member of our consumer law team.

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