



## Consultation response on the proposed update of Defra's *Guidance on Green Claims*

The Advertising Association is the only body representing all sides of the advertising and promotional marketing industries. Its membership represents advertisers, agencies, media and support services in the UK. The Advertising Industry employs nearly 250,000 people, and has a Gross Valued Added (GVA) of £6.2bn to the UK Economy each year. In 2009, Advertising expenditure was £14.5bn. Further information about the organisation is available at: <http://www.adassoc.org.uk/>

### 1. Introduction & Summary

- 1.1 This is the Advertising Association (AA) response to the consultation being conducted by the Department for Environment, Food and Rural affairs (Defra) on its proposals for the future guidance on green claims.
- 1.2 The aim of Defra's guidance is "to ensure that in marketing and advertising goods and services, industry has up-to-date and relevant information to enable it to make clear and accurate environmental claims". This consultation response is in three parts; 'Consultation queries', 'Defra's Quick Guide' and an Impact Assessment.
- 1.3 In this submission the AA points out that 'green claims' in advertising are still largely infrequent, and the level of complaints to the Advertising Standards Authority (ASA) remains low. Advertiser compliance is high. (4.4-4.6)
- 1.4 The AA notes that there is no value to the consumer for mandatory information in advertisements (2.11). The AA repeats its call for an official glossary of key environmental terms to be published by the Government. (2.12, 2.14-15)
- 1.5 The AA was pleased to sit on the Department's Green Claims Steering Committee. We look forward to the publication by Defra of the Government response in due course. No part of this submission should be treated as if it were confidential in nature.

### 2. Consultation Queries (Part 1)

**Q1. Overall, is this guidance helpful? Are there any particular aspects of this guidance where more detail or advice would be helpful?**

- 2.1 This is a question best left to practitioners. Any measure of how helpful the guidance is, must address how useful it is. The core principles and aims of the guidance are welcome, but implementation will be difficult.



- 2.2 It would seem to logical to consult further with the ASA, on how this guidance aligns with the new CAP/BCAP Codes<sup>1</sup>, that enter into force later this year. Chapter 11 (p.54) of the new CAP Code is dedicated to Environmental Claims.

**Q2. Do you think there is a need to produce additional guidance for particular sectors? Why? Why not?**

- 2.3 The AA notes that the Incorporated Society of British Advertisers (ISBA), the Society of Motor Manufacturers and Traders (SMMT) and LowCVP are producing automotive guidelines, a process handled by the industry bodies, heavily involving the car firms. This cross-industry approach should be encouraged as the more cost-effective, accurate and relevant alternative to Government guidelines.

**Q3. Is this guidance user-friendly? What should the final format of the document look like?**

- 2.4 The final format should be online, easy to navigate, and embedded into the Defra site.

**Q4. Do you agree with the proposed aims and scope of the updated guidance?**

- 2.5 The AA agrees that the aim and scope of the updated guidance is to; support businesses in making environmental claims in advertisements, advocate best practice standards and reduce unfair competition.
- 2.6 The AA also acknowledges that the guidance is an aide to marketers. They align with, but in no way supersede the existing regulations, such as the CAP/BCAP Codes and the OFT Consumer Protection from Unfair Trading Regulations.

**Q6. Do you think it is important to understand/consider the overall environmental impact of a product, service or organisation before making an environmental claim?**

- 2.7 The AA agrees that environmental claims should be evaluated based upon the field in which an organisation operates. However, the net effect of an entire industry should not deter one organisation from reducing their environmental impact. That organisation must then be free to inform consumers accordingly.
- 2.8 Whilst it is important to understand the overall environmental impact of the product, advertisements ultimately have to be judged on a case-by-case basis.

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<sup>1</sup> New UK Advertising Codes enter into force on 1<sup>st</sup> September 2010 - <http://bcap.org.uk/>



- 2.9 Companies should always be able to substantiate any claims that they make, as reflected in the advertising codes.

**Q7. Do you agree with the guidance and examples on relevance? Do you know of any others that could be helpful?**

- 2.10 The AA agrees with the guidance on relevance, which reminds businesses to put claims in context. Compliance with this section should ensure that businesses act within the spirit of the existing regulations.

**Q8. Are there any legislative requirements that you consider need to be stated in an environmental claim?**

- 2.11 Although an organisation must be able to substantiate any claims they make, this should not have to be done in the advertisement. There is no consumer utility in mandatory information, something which would also contravene Article 10 of the European Convention on Human Rights, which recognises commercial freedom of speech.

**Q9. Given the high use of vague terms like 'environmentally friendly' should we include the following guidance on vague terminology to promote robust and consistent standards if/when they are used?**

- 2.12 Instead of further guidance, the AA believes that a Glossary of key terms (such as 'zero carbon') would solve any issues of ambiguity.

**Q10. Is the guidance on ensuring that claims are truthful and accurate helpful?**

- 2.13 The AA strongly agrees that advertisements should not contain false information or seek to deliberately mislead consumers. This is reflected in the advertising codes.

**Q11. Can you highlight any terminologies where you consider clearer definition of these terminologies is important?**

- 2.14 As in 2.12, the Advertising Association would welcome Defra compiling a simple glossary of key terminology to be used across Government.
- 2.15 Society would be better placed to judge the integrity and relevance of a claim, if there was no ambiguity around environmental terms. This would apply to Government, business and consumers.

**Q12. Is the guidance around the use of language and terminology helpful? Do you have any research or guidance of your own about consumer understanding of environmental terminologies that could inform this guidance?**



- 2.16 The information addressed in this section is clear. The AA is concerned that rather than concentrate on the best ways to express environmental claims, the emphasis is placed too much on terms to be avoided.
- 2.17 By limiting the use of, 'green' and 'environmentally friendly' the consumer will be done a disservice. It is important to strike a balance between accurate descriptions of products/services, and using terms that allow consumers to easily recognise the message of the advertiser.

**Q13. Do you have any better examples relating to comparative claims?**

- 2.18 They can be found in EU law and the UK advertising codes

**Q14. Is the guidance on imagery realistic? What types of imagery do you think is 'appropriate' in environmental claims?**

- 2.19 The key element of this section is that wording and imagery should be evaluated together. The AA would oppose any suggestion that imagery alone should constitute grounds for concern, such as a scenic backdrop or colour scheme.
- 2.20 The AA supports the core principles; that advertisements should be relevant, clear, accurate and not misleading. Advertisers should not use a combination of wording and imagery to breach any of these principles.
- 2.21 The AA is however keen to ensure the idea of an image being 'relevant' to a product does not infringe upon freedoms to innovate.

**Q15. Do you agree with the guidance on 'assurance of accuracy'? Are there other examples of standards or best practise or guidance that should be referred to in this section?**

- 2.22 The AA agrees that all organisations should substantiate any environmental claim that is made. Any relevant information should be made easily available to the general public.

**Q17. Do you agree with the guidance and principles on third party labelling?**

- 2.23 Yes in principle. 3<sup>rd</sup> party labelling can be effective, and is a matter for individual organisations. The AA would advise that this guidance allude to Defra's "Pitching Green" publication<sup>2</sup>.

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<sup>2</sup> Defra 'Pitching Green – green labels and credentials: a guide to the options' Published October 2008  
[http://ecolabel.defra.gov.uk/pdfs/Pitching%20Green\\_Oct%2008.pdf](http://ecolabel.defra.gov.uk/pdfs/Pitching%20Green_Oct%2008.pdf)



### 3. Defra's Quick Guide to making a Good Environmental Claim (Part 2)

**Q2. Is there enough detail in the summary? Or is there too much detail? How could it be improved?**

- 3.2 There is too much detail. The most useful 'Quick Guides' are usually one or two page documents.
- 3.3 The AA would recommend removing much of the unnecessary verbiage in the Guide. Replace 'How do I ensure my claim is presented clearly and accurately?' with 'Is it clear and accurate?', and so on.
- 3.4 The first page could be deleted, as could the short introductions under each heading. The 13 main bullet points would suffice as an effective one-page guide.

### 4. Impact Assessment (Part 3)

**Q1. Do you agree with the rationale for government intervention?**

- 4.1 The AA agrees that updating the Guidance was timely.
- 4.2 In Defra's 'Rationale for Intervention' we challenge the assertion on p.6 that there is a "*principal-agent failure in marketing, where the agent (marketing professionals) has different information and incentives than the principle (Government). For example, the advertiser may only be interested in pushing an environmental feature of a product based for marketing reasons, without meeting standards to verify the environmental features of the product*".
- 4.3 It is hard to argue that marketers and Government have such 'different information and incentives' in marketing. The advertising and marketing industry is uniquely placed to drive innovation, and develop new products that are better for the environment. Advertisers and Government can both implore the general public to take steps to reduce their environmental impact. Proctor & Gamble's 'cold is the new hot' campaign<sup>3</sup>, which encourages people to wash their clothes at a lower temperature, is a fine example.
- 4.4 Whilst environmental claims in advertisements for companies have been relatively low-profile, Government ad campaigns around the environment have attracted a significant number of complaints and a great deal negative press attention. Such examples only serve to make environmental claims in marketing a more sensitive issue.

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<sup>3</sup> P&G Ariel Excel Gel 'cold is the new hot' <http://www.coldisthenewhot.com/>



- 4.5 Defra also point to an increased appetite for making environmental claims. It would be pertinent to point out that 'green claims' are generally infrequent amongst UK advertising. Research for Defra found that 'green adverts' accounted for 0.69% of advertisements during 2008<sup>4</sup>.
- 4.6 Defra also report an increase in the number of complaints to the ASA from 2007. Although 'number of complaints' can be a good barometer of public opinion, it makes more sense to analyse the number of adverts that have attracted complaints, in order to understand advertisers' activity. Since 2007, those cases have more than halved in number. There were only 183 cases in 2009, down from 408 in 2007<sup>5</sup>.

**Q2. Do you agree that option 1 (i.e. to update the guidance) should be preferred over option 2 (i.e. to increase regulation and enforcement)? Can they provide additional information on costs and benefits on option 2?**

- 4.7 The AA industry fully supports the current regulatory regimes that govern commercial communications.

**Q4. Do you agree with the costs and benefits of the proposed update to Defra's Green Claims Guidance, as outlined in the Impact Assessment? Evidence is invited to assist in quantifying costs and benefits further.**

- 4.8 The Department for Culture, Media and Sport (DCMS) estimate that there are 248,600 people employed in 'advertising'.<sup>6</sup>
- 4.9 If Defra aim to create awareness of this guidance amongst advertising and marketing professionals across the UK workforce, there will be considerable marketing and implementation costs.

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<sup>4</sup> p.25, *Defra* Impact Assessment of Proposed Updated Guidance on Green Claims' Annex A

<sup>5</sup> Annual ASA complaint figures (cases containing 'environment'); '06 120 cases, '07 408 cases, '08 264 cases, '09 183 cases

<sup>6</sup> DCMS 'creative industries economic estimates' Economic Estimates – Employment (Table 3).

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