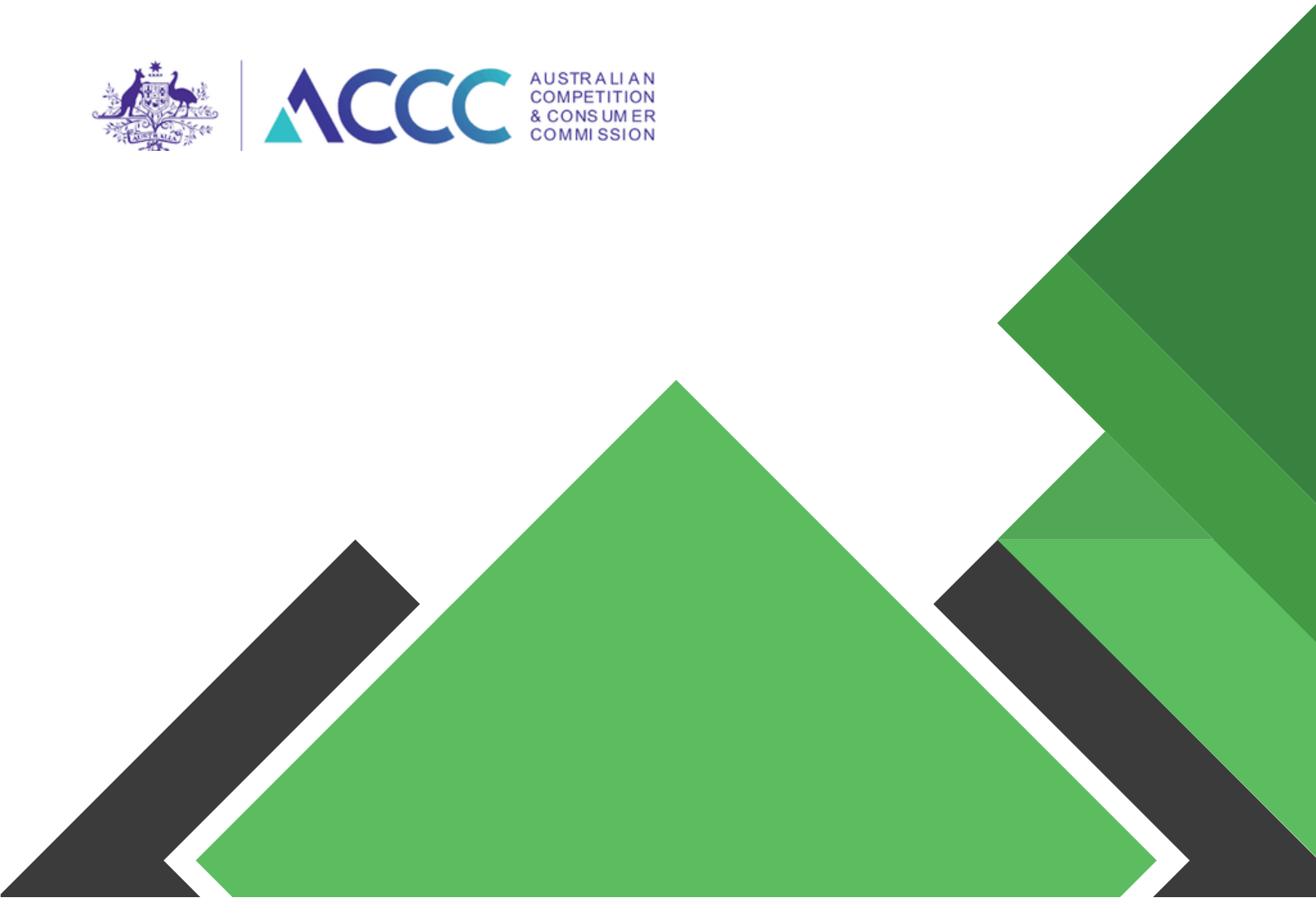




# Have Your Say: Understanding the Nature and Prevalence of Environmental Claims Made by Businesses in Australia

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The Australasian Promotional Products Association (APPA) and Australian Competition and Consumer Commission (ACCC)



## Introduction

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In October 2022 the Australian Competition and Consumer Commission (ACCC) undertook a review (the sweep) of the websites of 247 Australian businesses to assess whether the environmental and sustainability claims being made by these businesses were compliant with Australian Consumer Law (ACL).

The sweep revealed that of the 247 of the businesses reviewed, 57% were making concerning claims.

A concerning claim is a claim that has the potential to mislead consumers. When looking at claims, the sweep focused on what the ordinary consumer would understand the claim to mean. The sweep also aimed to identify where further guidance for both businesses and consumers is needed.

Eight key issues were identified in the sweep (see below) and the sweep identified where further guidance was needed.

Following the sweep, the ACCC has written a draft guidance for businesses on environmental and sustainability claims, and they are currently seeking feedback from businesses and associations on these guidelines through a series of in person and virtual forums.

APPA was recently invited to attend the forum held in Melbourne on the 17th August 2023 and APPA has also been invited to make a submission to the ACCC on behalf of the promotional products industry.

There is a tight turnaround on writing the submission and to ensure we represent our members' views accurately; APPA will be seeking your feedback and insights for the submission via a member survey. To enable us to meet the deadline we ask that you submit the online survey before the 5th of September 2023.

The survey will be sent to members on Thursday 24th of August 2023.

To provide APPA members with additional background information on the ACCC sweep, the outcome of the sweep and the recommendations under consultation we have provided in this document the following edited extracts from two ACCC publications (details below).

1. Greenwashing by Businesses in Australia: findings of the ACCC's internet sweep of environmental claims (March 2023)
2. Environmental and sustainability claims. Draft guidance for business (July 2023)

# Greenwashing by Businesses in Australia: Findings of the ACCC's Internet Sweep of Environmental Claims

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This is an extract from an Australian Competition and Consumer Commission (ACCC) publication of the same name, released by the ACCC in March 2023.

## BACKGROUND

Sustainability is a topic of critical importance both in Australia and internationally. There is significant community support for the transition to a Net Zero economy and to solve problems relating to climate change, emissions reduction, and product durability and recyclability. Consumers are also increasingly interested in purchasing sustainable or environmentally friendly products.

These sentiments are reflected in government commitments relating to emissions and waste reduction. The use of environmental and sustainable claims is becoming more common in the marketing of consumer goods. However, there are concerns that a significant proportion of the claims made by businesses may be false, misleading, or have no reasonable basis. This is often known as 'greenwashing'.

Sustainability claims may be made in a variety of ways:

- Product specific claims: These appear on packaging, websites, advertisements, or social media posts by influencers.
- Company-wide claims: These will generally appear on websites or in corporate social responsibility statements and reporting documents.
- Claims using logos and symbols (including certification trademarks): These appear on product packaging, websites, or advertisements.

More consumers are now using sustainability claims to make purchasing decisions. However, consumers cannot readily verify the accuracy of a business' environmental credentials and must trust the claims or impressions made.

Environmental or sustainability claims will only help consumers make informed purchasing decisions if the claims are clear, are not misleading and do not omit relevant information. A misleading, meaningless, or unclear claim breaches consumer trust and hurts confidence in both the claim itself and sustainability claims in general.

Businesses genuinely pursuing more sustainable products and services often incur additional production or research costs. This fact combined with consumers' increasing interest in purchasing sustainable products means false or misleading sustainability claims unfairly disadvantage businesses making genuine claims. This undermines effective competition and can create a disincentive for businesses to invest in sustainability.

## **THE SWEEP**

To understand the nature and prevalence of environmental and sustainable claims made by businesses in Australia, the ACCC conducted an internet sweep ('the sweep') between the 4th October 2022 and 14th October 2022. It looked at 247 different businesses across eight different sectors:

1. Energy
2. Motor Vehicles
3. Electronics and home appliances
4. Textiles, garments and shoes
5. Household and cleaning products
6. Food and beverages
7. Cosmetics and personal care
8. Takeaway packaging

### **Aims**

The aim of the sweep was to identify industries or sectors which commonly use environmental and sustainability claims, and to assess whether these claims have the potential to mislead consumers. When looking at claims, the sweep focused on what the ordinary consumer would understand the claim to mean. The sweep also aimed to identify where further guidance for both businesses and consumers is needed.

### **Results**

Key Takeaways:

- 57% of businesses identified as making concerning claims.
- 43% of businesses identified did not raise concerns.

### **Key Issues**

#### **1. Vague and unqualified claims.**

The main issue identified in the sweep was the high proportion of vague and unqualified claims. Many businesses used terms like 'green', 'kind to the planet', 'eco-friendly', 'responsible' or 'sustainable' to describe their products. These claims have little value for consumers as they can have a variety of different meanings and rarely provide enough information to allow consumers to make an informed purchasing decision.

#### **2. Use of absolute claims.**

The sweep identified a range of businesses making absolute claims about their products or services. These types of absolute claims give a very strong impression to consumers. If the product does not live up to this impression, the claim may be misleading. These included products that are;

- 100% plastic free
- 100% recyclable
- Made from 100% recycled content
- Non-polluting
- 100% carbon positive
- Zero emissions

### **3. A lack of substantiating information.**

Many businesses made environmental and sustainable claims without providing any evidence to back up their claims. While some of the concerning claims identified in the sweep may be accurate, this was difficult to verify without evidence.

### **4. Use of comparisons.**

Some businesses made claims which compared the benefits products sold by other businesses, or products made from other materials. Businesses also made comparisons between their own products to highlight improvements. There were many instances where these comparisons were not useful for consumers.

### **5. Exaggerating benefits or omitting relevant information.**

Throughout the sweep there were concerns that businesses may be exaggerating the sustainability benefits of their products or omitting negative attributes that might be relevant to a consumers' purchasing decision.

### **6. The use of aspirational claims, with little information on these goals will be achieved.**

A key trend identified in the sweep is that many businesses made aspirational claims about their environmental and sustainability goals. ... In many cases it was unclear what practical changes were being implemented to achieve these goals. In other cases, goals were (found to be) very general and not able to be measured.

### **7. Use of third-party certifications.**

Many businesses reviewed throughout the sweep claimed affiliation with a variety of certification schemes. This included the use of trademarks (CTMs). While many businesses used certifications appropriately, the sweep also identified several instances where the use of CTMs could potentially mislead consumers. Several businesses did not clearly describe the nature of the certification scheme, or how it applied to their product or business. In many cases, it was unclear whether the certification applied to the entire product range, only certain products, or to business operations. It was unclear how or why the certification was relevant to individual products.

### **8. Use of images which appear to be trustmarks.**

Several businesses identified in the sweep used logos or symbols on their websites and packaging that appeared to be trustmarks. These symbols commonly used nature-based imagery such as leaves and the planet and the colour green. It was found that these images did not appear to be associated with a certification scheme. The use of these types of images raises concerns, as consumers may be misled into believing that the business or product is certified by a third-party, when this is not the case.

### **What the ACCC will do**

The sweep has identified several high-level concerns across the range of industries targeted. The ACCC will be conducting further analysis of these issues and will undertake enforcement, compliance, and education activities where appropriate.

This will include producing updated economy-wide guidance material, as well as targeted guidance for specific sectors. The ACCC will also engage directly with businesses and industry associations to improve compliance with the Australian Consumer Law (ACL).

## Draft Guidance

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This is an edited extract from the July 2023 ACCC publication “Environmental and sustainability claims. Draft guidance for business.” To download the full briefing pack, please visit [www.accc.gov.au/about-us/publications/environmental-and-sustainability-claims-draft-guidance-for-business](http://www.accc.gov.au/about-us/publications/environmental-and-sustainability-claims-draft-guidance-for-business).

### PURPOSE AND GOALS

The ACCC draft guidance explains the obligations under the Australian Consumer Law (ACL) which businesses must comply with when making environmental and sustainability claims. It sets out what the ACCC considers to be good practice when making such claims, to help businesses provide clear, accurate and trustworthy information to consumers about the environmental performance of their business.

The goals of this guidance are to:

- Encourage accuracy by businesses who choose to make environmental and sustainability claims.
- Demonstrate how businesses can make true, clear, evidence-based claims that consumers can understand and trust.
- Decrease instances of ‘greenwashing’ which is the practice of making false or misleading environmental or sustainability claims.
- Assist consumers to make more informed choices if they want to make purchasing decisions based on environmental or sustainability claims.
- Explain the general approach the ACCC will take in investigating whether environmental and sustainability claims contravene the ACL and potential enforcement outcomes.

### PRINCIPLES FOR TRUSTWORTHY ENVIRONMENTAL CLAIMS

#### **Principle 1: Make accurate and truthful claims.**

Any environmental claims you make should be accurate, true and factually correct. If your claim is not true or is only partially true, you should either change the claim or not make the claim at all.

#### **Principle 2: Have evidence to back up your claims.**

It is good practice to be able to substantiate any environmental claim you make – whether the claim is made on your packaging, in your advertising, through your employees, or in other ways – with clear evidence. Where relevant, evidence that is scientific and independent is most credible.

#### **Principle 3: Do not hide important information.**

In many cases, giving consumers incomplete information is also misleading. This can be the case if you provide some information but leave out important details which might contradict or qualify the environmental claim.

#### **Principle 4: Explain any conditions or qualifications on your claims.**

Some environmental claims may only be true under certain conditions. For example, a biodegradable product may only break down at a certain temperature or after a very long period of time. Other claims may only be realised if certain steps are carried out.

**Principle 5: Avoid broad and unqualified claims.**

Broad or unqualified claims risk misleading consumers because they may not clearly explain the environmental impacts of your product, service, or business. The risk of misleading consumers is reduced when you qualify your claims with specific environmental impacts and have a reasonable basis for making the claim. Common broad or unqualified claims used by businesses include:

- Green, go green or choose green.
- Environmentally friendly.
- Eco-friendly
- Sustainable.

**Principle 6: Use clear and easy to understand language.**

Claims can be misleading if they are worded in a way that is difficult for ordinary and reasonable consumers to understand. It is good practice to use clear and easy-to understand language when making environmental claims.

**Principle 7: Visual elements should not give the wrong impression.**

The visual elements of your marketing, products and packaging also convey certain things to consumers. This includes the use of certain colours (e.g. green), images (e.g. of dolphins and trees) and symbols (e.g., the mobius loop for recycling). Images and visual elements should be used with care. The use of environmental images may be interpreted by consumers to be making a broad claim of an environmental benefit. This risks misleading consumers if it is not true.

**Principle 8: Be direct and open about your sustainability transition.**

The ACCC encourages businesses to take genuine steps to improve their environmental performance and share their progress with consumers. Businesses should also feel confident to advertise the environmental benefits of their products and services, and the steps they are taking to reduce their environmental impact.

Transitioning to a more sustainable business model takes time and is often not linear. During this transition, your products and operations will inevitably continue to have detrimental environmental impacts. You can mislead consumers if claims about your business' environmental improvements give the impression that you are further along in your sustainability transition than you actually are.