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Are you sure you can make that environmental claim?

By Andrew Skinner - 19 Jul 2020

Consumers are increasingly basing their purchasing decisions on the environmental impact of the product or service. As a result, environmental claims made by businesses about their goods or services are becoming more common in advertising.

The Commerce Commission has recently released guidelines for businesses making environmental claims to help businesses understand their obligations and how to avoid breaching the Fair Trading Act (available at comcom.govt.nz). The guidelines emphasise how accurate businesses must be when making environmental claims as the penalties for getting it wrong can be serious (the maximum fine is \$200,000 for individuals or \$600,000 for corporates).

Some of the main points from the guidelines are:

Claims must be truthful and accurate

Businesses must ensure that their claims do not mislead the 'reasonable consumer'. Vague claims can often mislead a consumer, leaving room for interpretation. Claims must be regularly reviewed and updated so they do not become incorrect or untrue.

Certification stamp

Businesses must be careful not to mislead consumers with their own certification stamps that may be interpreted as their goods or services being independently certified.

Substantiate claims

It is important to ensure that claims are supported by reasonable grounds and from a reliable source. Businesses are advised to keep relevant information and evidence to substantiate any claims made. The basic rule of thumb to follow is "if you can't back it up, don't say it".

Overall impression

The advertising material must not give a misleading impression of the good or service. It is very important that the fine print does not contradict the main message.

The key for making environmental claims is for businesses to be transparent, accurate and truthful in all parts of their claim. Any claim that can be misinterpreted by the reasonable consumer, or cannot be substantiated, may be in breach of the Fair Trading Act.

This is a complex area and the guidelines are a useful reminder for businesses to rigorously review all advertising and promotional material. We have checklists that can be used by businesses to review marketing materials before publication. If you would like to know more or require assistance please contact [Andrew Skinner](#).

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