

TaylorWessing

Making environmental claims

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TaylorWessing

Brands Forum
2021

Private and confidential

Regulatory focus



- Advertising Standards Authority (ASA)
 - New guidance coming
 - Enquiries on aviation, cars, waste, animal-based foods and heating
 - Research on Carbon Neutral, Net Zero and Hybrid
 - Report a concern [tool](#)
- Competition and Markets Authority (CMA)
 - Guidance dated 20/9/21: [Link](#)
 - Green Claims Code and [video](#)

CAP Code



Rule 11.1

The basis of environmental claims must be clear. Unqualified claims could mislead if they omit significant information

Rule 11.2

The meaning of terms used in marketing consumers must be clear to consumers

Rule 11.3

Absolute claims must be supported by a high level of substantiation

Comparative claims such as "greener" or "friendlier" can be justified, for example if the advertised product provides a total environmental benefit over that of the marketer's previous product or competitor products and the basis of the comparison is clear

Rule 11.4

Marketers must base environmental claims on the full life cycle of the advertised product, unless the marketing communication states otherwise, and must make clear the limits of the life cycle

If a general claim cannot be justified, a more limited claim about specific aspects of a product might be justifiable. Marketers must ensure claims that are based on only part of the advertised product's life cycle do not mislead consumers about the product's total environmental impact

Dalradian gold mine (2021)

Press ad:

"100% carbon neutral from day one. The mine will not contribute to climate change"

NOT MISLEADING

"There are also substantial quantities of silver and copper, metals which will be critical to enable the building of a renewable energy industry"

MISLEADING



Shell (2020)

Radio ad:

"...Although you might not be able to see it, your small actions can have a real impact with Shell. Drive carbon-neutral by filling up and using ShellGo+ today. Make the change. Drive carbon-neutral"

MISLEADING

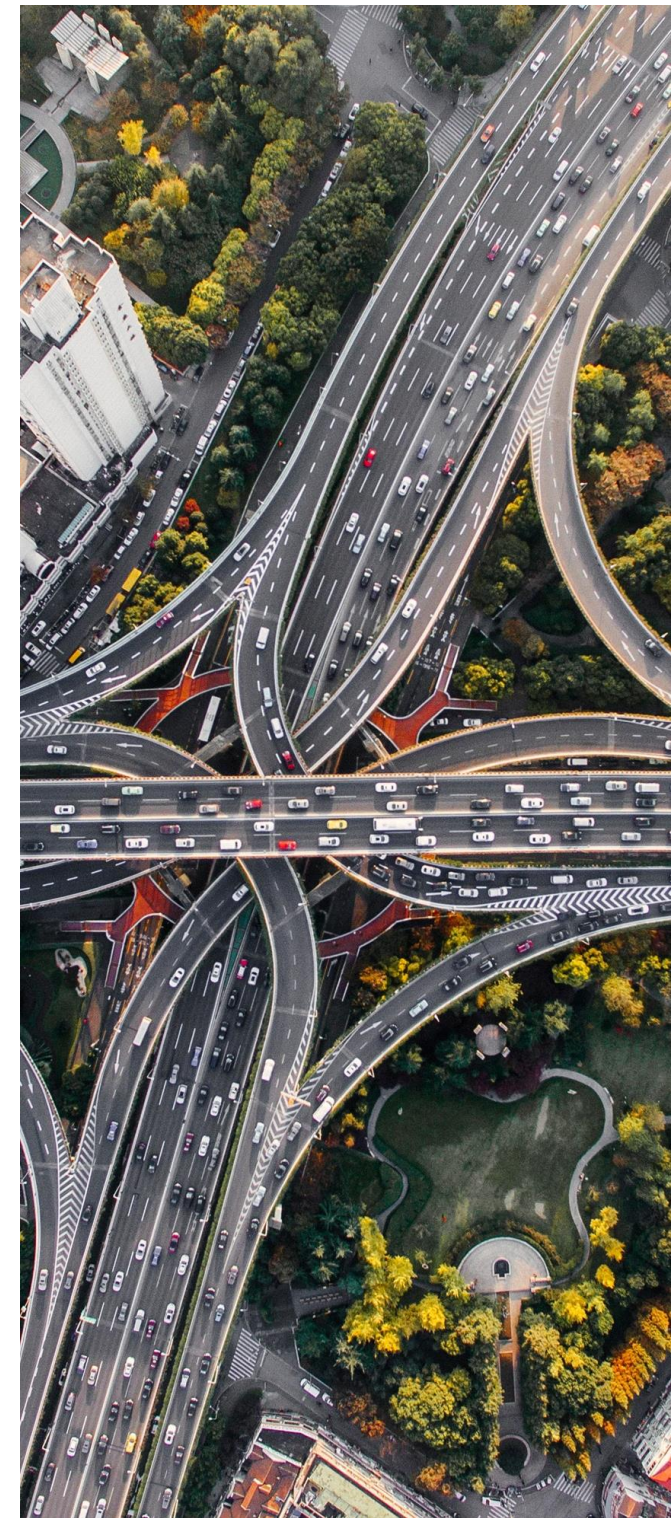


Hyundai (2021)

Claim on www.hyundai.co.uk

"Introducing the next generation of fuel cell vehicles: All-New NEXO. A Car so beautifully clean, it purifies the air as it goes"

MISLEADING

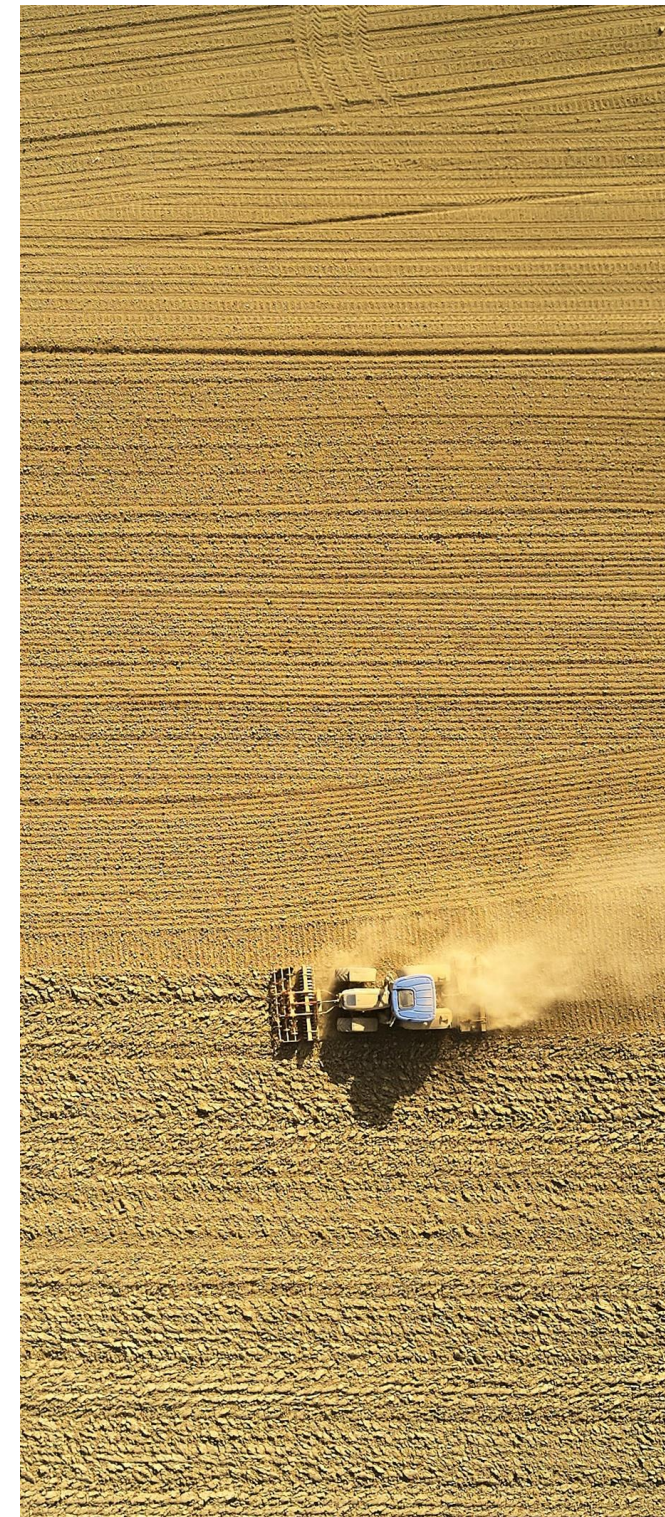


Arla Foods (2017)

Press ad for Arla organic farm milk

"Good for the land... helping to support a more sustainable future"

MISLEADING



Plenish Cleanse (2019)

Posters for almond milk drink:

"IT'S TIME TO GO NUTS". A recent study by the University of Oxford showed that the single biggest thing that you can do to reduce your impact on the planet is switch to a plant-based diet

Search 'Plenish' to get started. PLENISH... START SOMEWHERE"

NOT MISLEADING



Gousto/SCA Investments (2020)

Meal kit subscription service blogs on www.gousto.co.uk:

"Why Gousto's Packaging Innovation Is A Huge Step Forward for Sustainability

... Eco Chill is a plastic-free insulation box...

...made of recycled paper and zero plastic...

... And most importantly, it's 100% recyclable!"

MISLEADING



BrewDog (2020)

Posters in cities and press ads in Metro, The Week and the Economist

*"F**k You CO2. Brewdog Beer is Now Carbon Negative"*

The letters between F and K were obscured by a can of Brewdog Punk IPA

Likely to offend in the untargeted media



Conclusion

- Scrutiny by regulators
- Be clear when making claims
- Substantiate claims with objective technical evidence

