

NOTE

This is an extract from the September 2021 CMA Green Claims Code that relates to the comparative principle (of the 6 principles) specifically. The Code is linked immediately below

<https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims/environmental-claims-on-goods-and-services>

Comparisons must be fair and meaningful

It is important that consumers are not misled by the way comparative claims are made. This is linked to the principle that claims must be truthful and accurate. Comparisons should be based on clear, up to date and objective information. They should not benefit one product or brand to the detriment of another if the comparison is inaccurate or false.



What this means is:

Comparisons should enable consumers to make informed choices about competing products and businesses or between different versions of the same product. They should not say or imply, through the use of language or imagery, that one product (or one version of a product) is, for example, 'greener' or 'environmentally friendlier' or 'more energy efficient' than another, if it is not.

Businesses may make claims comparing their products with identifiable competitors' or making comparisons between aspects of their own products (like old and new versions). Either way, the same considerations apply.

Comparative claims should compare like with like. That means:

- any products compared should meet the same needs or be intended for the same purpose, with a sufficient degree of interchangeability;

- the comparison should be between important, verifiable and representative features or aspects of the relevant products; and
- the basis of the comparison, and the way it is presented, should allow consumers to make an informed decision about the relevant merits of one product over another.

A claim which compares 2 similar products' recyclable content, CO2 emissions or organic composition, for instance, should calculate these measurements in the same way for each product. The values used to measure these comparisons, and the way they are presented, should be clear enough for consumers to understand.

In addition, the comparative claim should indicate how the information that forms the basis of the comparison can be accessed in order for the comparison to be verified for accuracy.

It is also important to ensure that a comparative claim is up to date and relevant. Where, for example, a claim compares a new product against an existing or previous one, a business should carefully consider the appropriate period of time for which the claim can be made. A claim relating to a product's 'new and improved' environmental credentials, for example, will have a limited shelf-life.

There are also similar rules applicable to comparative advertising made from business-to-business. Such advertising must only compare goods or services meeting the same needs or intended for the same purposes. For more information on the rules applicable to claims made between businesses, see the Appendix.

Before making a claim, you should ask yourself:

- **Is the claim comparing like with like?**

The claim must make clear against what or whom the comparison is made. A product should only be compared to another that is similar and used for similar purposes. Businesses can test whether they are doing this by considering whether consumers would be likely to buy the comparator product, instead of theirs, and use it in the same way.

- **Is the like for like comparison a fair and representative one?**

Some claims will compare products with a range of competitors in a market. Claims that appear to make market-wide comparisons, but are actually based on a limited sample, have the potential to mislead consumers.

Example 8

A business makes a general comparative claim that its toothbrush X contains 50% less plastic than other toothbrushes on the market. (This example assumes a reduction in plastic has delivered an improvement in the environmental impact of the product. However, the claim could be misleading if the reduction in plastic results in the product having a greater adverse environmental impact. For instance, if the reduced amount of one harmful component has been replaced by another similarly or more environmentally harmful one.) It bases the comparison on a group of selected products.

The specific comparison between toothbrush X and the selected group may be accurate. However, the claim may still be misleading if the selected products are not representative of the wider range of toothbrushes on the market and the average plastic content of most toothbrushes is less than in toothbrush X.

A claim would be less likely to mislead consumers, if it makes clear the products against which the comparison is made and the proportion of the market covered.

- **Is the basis of the comparison fair and clear?**

If businesses consider the following when making comparative claims, they are less likely to mislead consumers:

- claims should make clear to consumers what is being compared and how the comparison has been made
- claims should compare important and representative features or aspects of the relevant products
- businesses should make sure products are compared using the same measures and that the same attributes of the product or service are being compared
- claims should not omit or hide material information relevant to the comparison
- comparative claims should be capable of being substantiated by transparent and accurate evidence that consumers can verify for themselves (see Principle (f)).

Example 9

A comparative claim that a clothing range is now 'greener' is unlikely to be fair and meaningful on its own and risks misleading consumers.

The claim does not make clear the basis for the comparison. Consumers are left facing a range of uncertain possibilities about whether:

- the comparison is with a previous or competing clothing range
- what is being compared and the basis for any comparison
- the measure by which the clothing range is 'greener'

A claim which states that 'All our X brand of shirts contain 50% more recycled fibres than our Y brand of shirts' and provides a list of the remaining materials is more likely to involve a fair and meaningful comparison.

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