



GREENWASHING

A FU⁺UREPLUS GUIDE



+ INTRODUCTION

'Greenwashing' is a term used to describe misleading claims or untrue actions published or advertised by an organisation. These statements often allude to the positive impact of goods or services on the environment or the climate.

+ ANTI-GREENWASHING LAWS IN THE UK

In the UK, consumer protection laws cover what businesses say about their products, goods or services, and how they present information, as well as what they *fail* to say.

The Competition and Markets Authority (CMA) is the UK's primary competition and consumer authority. The CMA's view is that in order to be lawful, businesses must ensure that their environmental claims:

- are truthful and accurate
- are clear and unambiguous
- do not omit or hide important relevant information
- compare goods or services in a fair and meaningful way
- consider the full life cycle of the product or service
- are substantiated

In February 2023, the organisation responsible for UK advertising rules, the Committee of Advertising Practice, updated its guidance on making environmental claims to include specific sections on claims relating to being "carbon neutral" or "net zero".

In addition to this, the new UK SDR legislation proposed last Autumn, is starting to come into place. This affects the finance industry's ability to use certain sustainability language unless they meet specific criteria. Final clarification of the rules is expected later in 2023, and some elements of this will come into effect immediately.



+ Both the Advertising Standards Authority (ASA) and the Competition and Markets Authority (CMA) have become increasingly stringent when it comes to punishing businesses for greenwashing:

- The CMA is an independent non-ministerial department of the UK government. It is currently performing an [industry review](#) of green claims (currently looking at food, drink, cleaning products, toiletries – but this will expand to other products). The CMA is able to take civil action or criminal enforcement if a business is found to be in breach of Consumer Protection Laws.
- The ASA is an independent advertising regulator that responds to concerns and complaints from consumers and businesses and takes action to ban adverts that are misleading. For example, the ASA [ruled against Etihad Airways](#) using the term “sustainable aviation” in April 2023.

+ OUTSIDE THE UK

European Union

The [EU proposed the Green Claims Directive](#) in March 2023, which aims to establish the first set of detailed EU rules for the substantiation of voluntary green claims and, by extension, regulate the use of environmental claims in marketing communications in Europe. This proposed directive has not yet been approved, so as of July 2023 is not yet mandatory.

United States

In December 2022, the US Federal Trade Commission (FTC) launched a review of the [Guides for the Use of Environmental Claims](#). The FTC plans to update the Guides to reflect developments in consumers’ perception of environmental marketing claims.

France

The French government has taken a leading stance against greenwashing. In 2022, France became the first country in the world to ban fossil fuel advertising, and all advertisers are now required by law to prove their green claims publicly or face a financial penalty of up to 80% of the cost of the false promotional campaign.



+ HOW TO PREVENT GREENWASHING

Greenwashing can occur even if an organisation has good intentions and it's important to understand how to avoid it. Greenwashing characteristics include:

- **Fluffy language** – words or terms that may not have a clear meaning (e.g., “eco-friendly” or “natural”).
- **Green product vs. dirty processes** – a company's product or service may positively impact the climate or environment, but its manufacturing processes are polluting.
- **Evocative imagery** – the use of branded images that give an unjustified “green” impression (e.g., flowers blooming from vehicle exhaust pipes).
- **Designations that are not credible** – attempts to “green” a dangerous or unsustainable product to make it seem safe (e.g., “clean” coal).
- **False claims and endorsements** – the use of fabricated claims, data, or labels that look like a third-party endorsement but are made up.

Tips to avoid unintentional greenwashing:

- **Make your claims clear and easy to understand** – include details on methodologies and include specific units of measurement.
- **Back up all sustainability claims with clear data** – keep data readily available, and only use data that can be verified.
- **Reasonable comparison** – be wary of making any comparative claims that your product or service is environmentally ‘superior’ to another without backing it up with robust data which meets relevant environmental standards.
- **Clean up your operations** – to market your products as sustainable, you should engrain sustainability within your entire business model and operations.
- **Be honest about your brand's sustainability practices and plans** – when discussing plans or goals, be specific and transparent about targets and timelines.
- **Make sure images don't mislead** – avoid any green marketing that may imply that your products or brand are sustainable if that's not the case.



+ GREENWASHING ACCUSATIONS

Volkswagen - In 2015, vehicle manufacturer Volkswagen admitted installing defeat devices in its diesel cars to cheat emission tests, leading to lawsuits and billions of dollars in fines. Despite promoting environmentally friendly features, the cars were found to emit nitrogen oxide pollutants far above the US limit, with 482,000 vehicles affected.

Goldman Sachs - The investment bank was fined \$4m by US regulators in 2022 for misleading customers about investments advertised as having an “environmentally friendly” focus. The Securities and Exchange Commission said the charges involved Goldman’s asset management unit, which had several policies and procedures failures involving the Environmental, Social and Governance research its investment teams used to select and monitor securities.

H&M - Fashion brand H&M released an “eco-friendly” clothing line called the Conscious Collection in 2012, claiming the use of recycled polyester and organic cotton. Critics argued that such efforts are mere marketing tactics to create an image of environmental concern, and H&M also faced criticism from the Norwegian Customer Authority for insufficient information and false advertising regarding the sustainability of the collection.

+ NEED MORE HELP?

As greenwashing legislation continues to emerge, we advise that companies take early legal advice on the potential implications of product descriptions.

Companies should stay up to date with legal and regulatory developments and provide training for marketing teams. Training should also extend to Boards to ensure green claims stay up to speed with legal standards and public opinion. We can help with this!

For more information and support, please feel free to contact us at: team@future-plus.co.uk

If you're operating in the UK, you can also click [HERE](#) to access the UK Government's full Green Claims Code checklist.