



From Contract Flooring Association “Guide to Sustainability 2014 2015”

How to write and recognise a good self-declared environmental claim

There can be little doubt that the prevalence of “greenwashing” in promotional claims for flooring and other construction products has created scepticism in the minds of specifiers and customers regarding any and all green claims when taken at face value. Two years ago when reviewing the Ecobuild exhibition the editor of this publication wrote *“.....Clearly one man’s “eco-friendly” is another man’s greenwash. Understandable is the anger of businesses which have invested heavily to make their products and processes more sustainable, when they see competitors exhibiting in the next aisle, broadcasting buckets of greenwash. Companies who contemptuously cash in on the Ecobuild bandwagon are seriously undermining those businesses who are valiantly trying to clean up their acts and appear as examples of sustainability in the traditionally wasteful world of construction. They are also, perhaps deliberately, compounding the confusion among consumers, and even some specifiers who are looking for products that are genuinely sustainable.....”*

Today the picture has changed little and so it is still possible to find vague and undefined phrases along the lines *“...all our tiles are 100% ecological”* on the web page of a major manufacturer. This is only one among many vague self-declared environmental claims which may be found in the advertising of flooring products. And yet there are legal requirements and all environmental claims about consumer products in the UK are subject to fairness tests in the Consumer Protection and Unfair Trading Regulations 2008. Under these regulations a commercial practice is unfair if it amounts to conduct towards consumers that is below a level which may be expected in accordance with honest market practice or good faith i.e based on information which may be misleading or inaccurate. Environmental claims, as with all promotion, are overseen by the independent Advertising Standards Authority (ASA) in the UK and their brief covers all media and direct marketing promotion. The role of the ASA is to investigate complaints and to proactively monitor adverts to ensure that they are legal, decent, honest and truthful and there are specific codes (CAP and BCAP) which include sections on environmental claims. Enforcement of any breaches is carried out under the Consumer Protection from Unfair Trading Regulations by the Office of Fair Trading and local authority trading standards services and other bodies. Therefore any company making a self-declared environmental claim which may be construed to be unclear or misleading is at risk of being the subject of a complaint and may even be at risk of a breach of contract claim (see article by Chris Scott of Taylors on page). Environmental claims that use vague and undefined terms are therefore vulnerable to legal challenge on a number of fronts.

I am not aware of very much current enforcement activity by the advertising authorities in the flooring market at present but it is my belief that the days of greenwashing are in any event numbered. Specifiers and customers increasingly look for more independently verified claims such as BRE Environmental Certificates other eco labels and Environmental Product Declarations will become part of EU Construction Product Regulations. However the manufacturer will continue to be

the most relied upon source of information about products and self-declared environmental claims can be extremely helpful if presented in a fair and proper fashion. There is nothing more valuable to a brand than the trust of the consumer in its product claims. By emphasising eco claims the manufacture is implying that they put the long term safety of the consumer and the planet high up the list of their priorities and is therefore a trustworthy and responsible organisation whose products you should prefer over others who are less focused on issues outside making profits. I believe that simply playing the greenwashing game because everybody else does represents a significant threat to that trust. For example a particular issue here is the reasonable belief of the consumer that any product marketed along eco-friendly lines will not contain toxic material. However as regulations such as REACH and the Biocidal Products Regulations are gathering momentum and introducing new labelling and communication requirements, information is now spreading about what toxins are present in products and who is using them. An extension of this is the recently introduced Safer Consumer Products Regulations which has been implemented in California but which will have global implications. This legislation introduces previously unimagined scrutiny of product content to ensure that they are free from toxins. This will no doubt keep the courts of California busy for years as challenges and counter challenges are mounted against disclosure requirements and the listing of certain chemicals as toxic. However I can confidently predict that there will be a boom in research into replacement of some suspect chemicals that have been present in flooring products for decades and which are key to their performing to the required technical standards. There will be new levels of vigilance and increased demands by manufactures and government to suppliers of raw materials for full disclosure of their chemicals content and extra care about what is said on labels and in promotional messages overall. There will be an increase in self-declared environmental claims regarding the absence of certain toxins from products.

There is an ongoing tendency in some self-declared environmental claims to focus on a single issue that is favourable to the product and which may not be the most important environmental issue, while failing to mention other issues where the performance is below the market norm or make the claim somewhat spurious. Take for example the case of a company that claimed that its local sourcing of raw materials was good for the environment while ignoring the fact that its greenhouse gas emissions from its operations had been found to be significantly greater than those of its competitors. Another example would be a complaint against a claim that a product was recyclable when most areas of the UK did not have the correct infrastructure to recycle it.

The Defra publication "Green Claims Guidance" from February 2011 sets out a clear approach to ensuring that any self-declared claim reflects an additional benefit to the environment which I have summarised below and the adjacent figure from the same publication provides a useful checklist.

- Ensure that, where a claim promotes an environmental improvement for one aspect of a product, this has not resulted in an undisclosed environmental burden or impact elsewhere
- A claim based on pre-existing but previously undisclosed aspects should be presented in a manner that does not imply a new environmental benefit based on a recent modification.
- A claim should not be based on the absence of ingredients or features which have never, or have not for some time, been associated with this product category.
- A claim should not imply that a product is exceptional when all products in the market place share the same characteristic.
- Something which only reflects current compliance with the law (i.e meets the minimum legal requirement) should not be claimed as an additional benefit e.g the product is REACH compliant.
- If a claim is about any environmental performance above the minimum legal requirement, it should be explicit about the additional benefit.

I believe that what is now required is a new mind set on green advertising that actually supports flooring businesses in making environmental claims and gives confidence that claims meet good practice standards around the world. We should set out to improve the standard of environmental claims found in the UK flooring market and reduce unfair competition by minimising claims that may be unfair or misleading. I can do no better than to suggest that the industry takes up adherence to the ISO 14021:1999 Type II Environmental Labelling standard for all future self-declared environmental claims. This standard may even be the base requirement for any environmental claims in a number of international markets. The standard is fully supported by Defra, ASA and the other enforcement bodies and requires very little financial outlay other than the purchase of a copy. There is clear guidance on good and bad practice and the permitted use of phrases and symbols covering issues such as recycling and bio-degradability. Use of the standard does not in any way detract from the creativity of the marketing people or prohibit the use of symbols or pictures from nature. Neither does this require presenting complex environmental product data from deep in the bowels of the company website, but instead using clear language and images that portray a fair representation of the environmental benefits that a product offers over and above the norm for any particular market and demonstrating that this may be supported by easily accessible data or third party endorsement.

My consultancy has carried out a number of projects where we have reviewed and modified environmental claims in promotional materials and there are an encouraging increase in enquiries for this type of assistance. Free sources for prepublication review of content and other information are available from the following websites:

Sources of advice on the content of green claim advertising.

Defra Green Claims Guidance- February 2011

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69301/pb13453-green-claims-guidance.pdf

Environmental labels and declarations how ISO Standards help

<http://www.iso.org/iso/environmental-labelling.pdf>

The Committee of Advertising Practice – CopyAdvice service www.copyadvice.org.uk

TV advertising can be cleared through Clearcast www.clearcast.co.uk

Radio advertising can be cleared through www.racc.co.uk

The ASA provides a range of guidance on www.asa.org.uk/Resource-Centre/preventing-breaches.aspx

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3. HOW TO MAKE A GOOD ENVIRONMENTAL CLAIM

This section outlines the key principles to making a good environmental claim. The step-by-step diagram below includes a checklist of questions you can use to check you have covered the key elements of making a good environmental claim. Use the links within the diagram to point you towards the relevant section of the guidance for further detail.

STEP 1

(pages 10-16)

Check the content is relevant and reflects a genuine benefit

- Do you have a clear idea of the main **environmental impacts** of your product, service or organisation?
- Is the claim **relevant** to these environmental impacts, and/or your business and consumer interests?
- Does the claim convey **additional benefits** to what is already happening or is required?
- If performance is compared to others on the market, is the **comparison** fair and meaningful? Is the basis for comparison clear?

STEP 2

(pages 17-24)

Present the claim clearly and accurately

- Is the claim a **truthful and accurate** representation of the scale of the environmental benefit or what is likely to happen in practice?
- Are the **scope and boundaries** of the claim **clear**?
- Does it use **plain language** that is not vague or ambiguous, or jargon that may be misunderstood?
- Is the amount and type of **supporting information** clear and appropriate?
- Is all **imagery** (i.e. symbols, pictures or labels) relevant to the claim and not likely to be misinterpreted?

STEP 3

(page 25-29)

Check the claim can be readily substantiated

- Is the evidence to substantiate a claim clear and **robust**, or is there uncertainty? Has it been tested using **the most appropriate standard methods**?
- Can claims of **aspirations of future environmental performance** be substantiated by evidence and action?
- Can the information to **substantiate** a claim, if not already publicly available, be made available on reasonable request (e.g. enforcement authorities)?

From Defra "Green Claims Guidance" February 2011