

SECTION 11: ENVIRONMENTAL CLAIMS

Question 35: Given CAP's policy consideration, do you agree that rule 11.7 (claims for environmental benefit) should be included in the Code? If your answer is no, please explain why.

<i>Responses received in favour of CAP's proposal from:</i>	<i>Summaries of significant points:</i>	<i>CAP's evaluation of those points and action points:</i>
<p>Low Carbon Vehicle Partnership</p> <p>Society of Motor Manufacturers and Traders</p> <p>An organisation requesting confidentiality</p>	<p>The respondents listed in the left hand column agreed with CAP's proposal.</p>	<p>CAP welcomes the respondents' comments.</p>
<i>Responses received against CAP's proposal:</i>	<i>Summaries of significant points:</i>	<i>CAP's evaluation of those points and action points:</i>
<p>An organisation requesting confidentiality</p>	<p>The rule unreasonably prevents marketers from referring to the action they have taken to meet their legal obligations, which might be of benefit to consumers (such as the provision of energy-saving lightbulbs) and from highlighting any action they take beyond their legal obligations</p>	<p>The rule prevents marketing communications from misleading consumers by exaggerating the benefit of choosing one product over others; it does not prevent properly-explained references to environmentally responsible behaviour.</p>

Question 36:

i) Taking into account CAP's general policy objectives, do you agree that CAP's rules on Environmental

Claims are necessary and easily understandable? If your answer is no, please explain why.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and that should be retained or otherwise be given dedicated consideration?

iii) Do you have other comments on this section?

Responses received from:

Low Carbon Vehicle Partnership

Summaries of significant points:

11.3 (Substantiation of absolute and comparative claims) raises the question of what evidence is reliable.

CAP's evaluation of those points and action points:

The type and source of substantiation required depends on the claim. The ASA considers the adequacy of substantiation and the Code should not be prescriptive on this matter. Help Notes are a more suitable vehicle for guidance on the substantiation of environmental claims, because they can be adapted more quickly to reflect changes in consumer perception and in the nature of evidence available to advertisers.

Action: none

Two organisations requesting confidentiality	The Code does not explain what level of knowledge and understanding consumers may be assumed to have. Can marketers assume a higher level of background knowledge when an ad is targeted at a specialist audience but might be seen by less informed consumers who happen to read, for example, trade publications?	Consumers can be assumed to be reasonably well-informed and circumspect; claims are considered in the context of the likely audience. This principle applies throughout the Code and is set out in Appendix 1. So an ad directed at a better-than-averagely informed audience can use terms that, in a general consumer ad, would require greater explanation.
Kao	11.2 should be amended to “The meaning of all terms used in advertisements must be clear to reasonable consumers aware of environmental concerns. If a term is new and not currently used widely by the general public, the general meaning of the term should be adequately conveyed within the context of the advertisement.”	
An organisation requesting confidentiality	We seek guidance on how to present proof points in scientific and/or high-level position terms in advertisements to support product performance claims. Is it still acceptable to give scientific data and explain terms in the “small print”?	CAP already has a Help Note on “Claims that require qualification” the guidance given there will continue to apply under the new Code.
Low Carbon Vehicle Partnership	LCVP questions whether fuel economy and emissions figures are well understood by consumers	The ASA makes a case-by-case analysis of whether claims are likely to be clear to consumers, taking the nature of the audience into account.

Kao	Rule 11.4 is unreasonable because it allows advertisers to make claims about partial life cycle impact only if they are able to make a comprehensive assessment of total life cycle.	CAP carefully considered its policy and decided that the relaxation to allow claims based on partial life cycles was justified, on the basis that advertisers cannot be expected to account accurately for environmental impact that is beyond their control. Even those claims that are based on partial life cycles must not mislead when considered in the context of the total life cycle, so the rule does not entirely relieve advertisers of the obligation to consider the full life cycle.
Low Carbon Vehicle Partnership	Some, but not all, members considered that claims should comply with ISO standards and be based on whole life cycles.	
Low Carbon Vehicle Partnership	The word “significant” in 11.5 is open to interpretation	CAP acknowledges that the judgement is a matter of interpretation and believes that the Code allows the ASA to make the necessary subjective judgements on a case-by-case basis.
An organisation requesting confidentiality	The respondent supports the principle-based rules but notes that it can succeed only if there is clarity and consistency in their interpretation.	CAP agrees that consistency and clarity of interpretation is important, but also notes that developments in consumer understanding and scientific knowledge mean that environmental claims need to be considered on a case-by-case basis and policies may change over time. It considers that Help Notes and guidance are the best vehicles to help marketers interpret the rules in relation to specific issues or technologies.
An organisation requesting confidentiality	The respondent calls for rules on sustainability issues beyond the environment.	The respondent does not point to specific sustainability claims or issues on which rules are required. CAP considers that the general clauses allow the ASA to properly consider complaints about sustainability claims. It does not at present

		believe specific rules are warranted.
An organisation requesting confidentiality	The respondent calls for Guidance on specific terms	CAP already publishes guidance, primarily through AdviceOnline, and will continue to do so.
An organisation requesting confidentiality	The respondent questions whether the statement "Absolute claims must be supported by a high level of substantiation" implies that environmental claims must be substantiated to a greater degree of certainty than claims on other topics	CAP included that sentence as a warning to advertisers that absolute environmental claims are in practice, if not in theory, almost impossible to substantiate. The standard of proof required is the same; but no marketer has ever supplied adequate evidence to justify an absolute environmental claim.