

DRAFT 'Making Emissions Claims: A guide for Business'

Feedback template

Organisation Name

**Business Council for Sustainable
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Date

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Consultation questions:

- 1. Does the guidance address current problematic behaviour in the market? Are there further areas or gaps the guidance should address? Or areas where the guidance requires further clarification or detail (including additional examples)?**

Feedback:

BCSDA supports the draft guidance's overall direction. It addresses the central consumer-law risks that arise when emissions claims are made in consumer-facing markets, including misleading dominant impressions, incomplete claim boundaries, vague or absolute terminology, insufficient transparency about credits, double counting, claims based on legal obligations or system-wide change, and future-oriented claims that lack reasonable grounds.

The final guidance should preserve this clear consumer-law focus. BCSDA's suggested refinements are not intended to lower the standard for substantiation. They are intended to help businesses distinguish between claims that should not be made, claims that require clearer qualification, and claims that can be made responsibly where the evidence supports them.

Three areas would benefit most from additional clarification.

First, the guidance should give clearer direction on material Scope 3 emissions and data limitations. Businesses need to understand when excluding Scope 3 emissions is likely to mislead an ordinary consumer, even if the exclusion is technically permissible or explainable in another reporting context. The final guide should make clear that the appropriate boundary depends on the claim being made and the likely consumer impression, not only on the reporting framework used.

Second, the guidance should more clearly explain renewable electricity and certificate-based claims. This should include practical treatment of on-site generation, power purchase agreements, renewable electricity certificates, and situations where certificates are sold rather than cancelled. These issues are technically complex and commercially common, and they go directly to whether consumers may wrongly believe a business is using renewable electricity or has reduced its own emissions.

Third, the guidance should more clearly distinguish direct emissions reductions, carbon removals, avoided-emissions credits and broader beyond-value-chain mitigation. These categories have different implications for consumer understanding and should not be presented as interchangeable support for claims such as "reduced emissions", "carbon neutral", "net zero" or "climate positive".

BCSDA recommends that the ACCC prioritise targeted additions in these three areas, rather than substantially expanding the whole guide. The most useful additions would be a small number of safe-pathway examples, showing how a risky claim can be reframed into a narrower, accurate and substantiated claim.

- 2. Are the hypothetical examples of good practice, misconduct, and risky behaviour useful to your business or stakeholders?**

Feedback:

Yes. The hypothetical examples are useful because they show how the ACCC is likely to assess the practical effect of a claim, not just its technical wording. They are particularly useful where they test the dominant impression created by a claim and show how omissions, boundaries, credits or future assumptions can make an otherwise plausible statement misleading.

The examples would be more useful if the final guide included more “safe pathway” examples. Businesses need to know not only what claims are likely to be misleading, but how a genuine emissions action can be communicated accurately. This would support the ACCC’s consumer-protection objective by reducing both over-claiming and unnecessarily vague or defensive communication.

BCSDA suggests adding side-by-side examples that show three versions of the same claim: a misleading claim, a risky claim, and an improved claim. The highest-value areas for this treatment are:

- product-level versus company-level claims;
- claims that exclude material Scope 3 emissions;
- claims based partly on renewable electricity certificates;
- claims involving purchased credits;
- future targets such as “net zero by 2040” or “net zero by 2050”; and
- short-form formats such as packaging, digital advertising and social media.

The examples should remain clearly anchored in the Australian Consumer Law. They should not become a substitute accounting manual. Their purpose should be to show how the ordinary consumer impression can be aligned with the evidence available.

3. Are there any areas where the guidance does not align with existing regulatory requirements or industry practices?

Feedback:

The draft is broadly aligned with existing legal and technical frameworks. It appropriately sits within consumer law rather than climate-policy design, and it is consistent with the ACCC’s broader approach to environmental claims. It also uses Scope 1, 2 and 3 concepts in a way that broadly reflects established emissions-accounting practice.

The main issue is not direct inconsistency. It is the interface between consumer-facing claims and other reporting or accounting frameworks. The final guide should state more explicitly that compliance with an emissions accounting, sustainability reporting or disclosure framework does not automatically make a consumer-facing claim safe under the Australian Consumer Law. Technical language that may be appropriate for investor-facing reporting can still mislead ordinary consumers if used in marketing without sufficient context.

Conversely, the guide should avoid implying that every consumer claim must reproduce the full complexity of formal climate reporting. The practical question should remain whether the claim, in context, gives consumers an accurate impression and whether the business has reasonable substantiation for that impression.

BCSDA recommends that the ACCC include concise interoperability guidance explaining how businesses should translate technical emissions information into consumer-facing claims. This should include references to claim boundary, baseline, material exclusions, renewable electricity certificates, carbon credits, and future-target evidence.

4. Do you anticipate any unintended consequences or risks associated with the guidance, or challenges for your business in implementing it?

Feedback:

The main implementation risk is not that businesses will be prevented from making claims they cannot substantiate. That is an appropriate outcome under consumer law. The risk is that businesses with genuine, evidence-backed emissions progress may avoid making accurate claims because the pathway for communicating that progress is unclear, especially where the underlying evidence involves Scope 3 estimates, renewable electricity arrangements, certificates or purchased credits.

This distinction matters. Guidance should deter claims that overstate, oversimplify or misrepresent emissions performance. It should also help businesses communicate substantiated progress in a way that consumers can understand.

Implementation challenges are likely to be greatest where claims sit between technical sustainability reporting and short-form consumer communication. Examples include packaging claims, online retail claims, social media advertising, product labels, comparative emissions claims and claims made by businesses that rely on supplier data. In these contexts, the dominant impression can be created quickly, while the evidence base may be complex.

BCSDA recommends that the final guidance include three practical implementation aids:

1. a short substantiation checklist for consumer-facing emissions claims;
2. a decision tree for when a claim should be narrowed, qualified or not made; and
3. safe-pathway examples showing how to convert broad claims into accurate, supportable claims.

These tools would not reduce the standard expected of business. They would improve compliance by making it easier for legal, marketing, communications and sustainability teams to apply the ACCC's expectations consistently before claims reach the market.

Feedback on the prompt content and examples:

Prompt 1: The focus on audience, context and dominant message is appropriate and important. The final guide should give more practical guidance for short-form digital advertising, packaging and labels, where space constraints are real but the dominant message can still mislead.

Suggested clarification: where character or space limits apply, businesses should simplify the main claim rather than rely on a disclaimer elsewhere to correct an over-broad impression.

Suggested additional example: a sponsored social media advertisement stating "40% lower emissions", where the landing page explains that the claim is cradle-to-gate and excludes use-phase emissions. The guide should show both compliant and non-compliant versions.

Suggested revised prompt wording: "What is the clearest main message an ordinary consumer would take from this claim in its full marketing context, and can that main message be substantiated without relying on fine print?"

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- Prompt 2:** The prompt correctly insists on complete, reputable and clear accounting. However, “reputable” should be made more operational for business users.
- Suggested clarification: add a non-exhaustive list of recognised methodologies, including the GHG Protocol and relevant Australian standards or schemes, while making clear that the suitability of any method depends on the claim being made and the likely consumer understanding of that claim.
- Suggested additional example: a product claim backed by a life-cycle assessment that discloses the boundary, baseline year, functional unit, exclusions and evidence source.
- Suggested revised prompt wording: “What accounting method, claim boundary, baseline, and evidence source support this claim, and would those choices match what an ordinary consumer would expect the claim to mean?”
- Prompt 3:** The warning on broad or vague claims, including terms such as “neutral”, “positive” and “net zero”, is useful. However, the prompt could be read as discouraging concise claims altogether.
- Suggested clarification: concise claims may be used if the qualification is immediate, prominent, accurate and does not contradict or materially narrow the main message.
- Suggested additional example: packaging that says “Lower emissions than our 2023 pack” with an on-pack boundary statement and a nearby QR code to supporting information. The example should explain when that wording is adequate and when it is not.
- Suggested revised prompt wording: “Is the claim too broad, too absolute, or too vague for the evidence available, and would a narrower comparative or contextual claim be more accurate?”
- Prompt 4:** The treatment of credits is strong and timely. It should, however, use sharper language to distinguish direct reductions, removals, avoidance credits and beyond-value-chain mitigation.
- Suggested clarification: add a short taxonomy explaining what each category can and cannot support in consumer-facing claims. This would help avoid the impression that all credit-backed claims are equivalent.
- Suggested additional example: two offset examples side by side – one based on durable carbon removal and one based on avoided emissions – showing what each can and cannot support in a consumer claim.
- Suggested revised prompt wording: “Does the claim rely on direct reductions, removals, or purchased credits, and is that distinction made explicit to consumers?”
- Prompt 5:** The prompt is useful on double counting and renewable electricity certificates. It should more clearly address sold versus retired certificates.
- Suggested clarification: include an explicit rule illustration: if certificates are sold, the originating user should not claim the underlying attribute as its own renewable electricity use unless the claim is appropriately qualified and substantiated.
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Suggested additional example: an on-site solar manufacturer that sells all certificates and therefore cannot market the consumed electricity as renewable without clear qualification.

Suggested revised prompt wording: “Could the same emissions attribute, certificate, or reduction be counted by more than one party or claimed in more than one place?”

Prompt 6: The prompt is an important safeguard against overstating voluntary action. It would be more useful if it included examples beyond grid decarbonisation.

Suggested clarification: add examples involving mandatory fuel standards, building standards, regulated industrial baselines or other legal requirements that may reduce emissions independently of voluntary business action.

Suggested additional example: a business whose emissions intensity improves because regulation changed, with compliant wording that says the improvement occurred “in line with new legal requirements” rather than presenting it as standalone business leadership.

Suggested revised prompt wording: “Does the claim overstate voluntary action by describing system-wide change or legal compliance as if it were unique business leadership?”

Prompt 7: The focus on reasonable grounds for future claims is appropriate. The final guide should provide more practical evidence indicators so businesses understand what substantiation looks like before making future-oriented claims.

Suggested clarification: add a checklist covering interim targets, capital allocation, governance, dependencies, scenario assumptions, implementation plans, and review frequency.

Suggested additional example: a “net zero by 2040” claim with and without a board-approved transition plan, interim milestones, identified dependencies and committed investment.

Suggested revised prompt wording: “What specific evidence gives reasonable grounds for any future emissions claim, and what assumptions or dependencies must be disclosed for consumers to understand it correctly?”

Any other comments:

BCSDA recommends that the ACCC append a one-page decision tree and substantiation checklist to the final guide. This would preserve the current enforcement logic while making the document materially more usable for business, especially for communications, marketing, legal and sustainability teams that need to turn legal principles into claim approvals under deadline pressure.

The checklist could cover: the intended audience; the dominant message; claim boundary; baseline; accounting method; treatment of Scope 1, 2 and 3 emissions; treatment of exclusions; use of credits or certificates; double-counting checks; legal obligation or system-change checks; future-claim evidence; and where the supporting substantiation will be made available to consumers.

This would help businesses communicate genuine emissions progress clearly and responsibly, while supporting the ACCC’s objective of reducing misleading or deceptive emissions claims in the market.

