



## CMA Submission to the ACCC Consultation on Environmental and Sustainability Guidance – 15 September 2023

To: [EnforcementCoordination@accc.gov.au](mailto:EnforcementCoordination@accc.gov.au)

I am writing on behalf of the Complementary Medicines Australia (CMA), the peak industry body for the value chain in Australia, to provide our input on the ACCC's draft principles-based guidance published July 2023 and aimed at assisting businesses in making accurate and transparent environmental claims. CMA commends the ACCC's efforts to establish guidelines that promote truthfulness, accuracy, and clarity in environmental claims, ultimately benefiting consumers and the broader marketplace. As participants of the ACCC consultation forms, we would like to express our overall support for the proposed guidance and offer some insights to enhance its effectiveness.

### **Complementary Medicines Australia**

CMA is the peak body representing the complementary medicines and health food products sector supporting Australian jobs, research, manufacturing and exports by meeting community demand for preventive and complementary healthcare. CMA represents a diverse and dynamic membership base that encompasses sponsors, manufacturers, suppliers and retailers of complementary medicines and nutritional food products.

CMA membership represents approximately 80% of the supply chain for complementary medicines. CMA supports safe, sustainable and responsible use of products, whilst retaining consumer access and choice, through regulation that is fair, balanced and risk-based.

### **Benefits of Plain English Guidelines for Environmental Claims**

We appreciate the ACCC's initiative to develop plain English guidelines, which will undoubtedly simplify the complex landscape of environmental claims for businesses and consumers alike. Clarity in such guidance is crucial given the risks and penalties associated with misleading claims. A clear and easy-to-understand framework will foster greater compliance, diminish confusion, and elevate consumer confidence. By ensuring that environmental claims are presented in a straightforward manner, consumers can make informed decisions and contribute to a more sustainable future.

### **Principle 1: Make accurate and truthful claims**

CMA has gained insight from the ACCC consultation forums, acknowledging the need for further development in the guidance, particularly concerning references related to offsets and emissions. This recognition includes the potential for tailored guidance, a stance that CMA endorses.

To bolster the guidance's effectiveness, establishing clear criteria for acceptable terminology regarding common practices like "net zero" and "carbon neutral" would be highly beneficial. This becomes even more crucial, considering that the ACCC is more likely to take enforcement action concerning representations about "future matters".

CMA recommends the inclusion of an alternative case study under 'claims that are likely to be false or misleading.' This example should present a different approach than the one currently provided for the claim "this product reduces harm to the environment," as the existing case study does not sufficiently illustrate best practices.

### **Principle 2 – Have evidence to back up your claims**

The CMA recognises that businesses in our sector are well-versed in evidence substantiation for therapeutic health claims and providing information to the Therapeutic Goods Administration (TGA), upon request. Striking a balance between sufficient evidence and not burdening business excessively is crucial.

However, additional detail and clarity regarding scientific evidence for sustainability claims would be beneficial in this guidance. For instance, it would be valuable to specify whether studies should be grounded in local data and to outline an expectation around the recommended frequency of reviews.

The CMA suggests that the information necessary to support a claim should be commensurate with its complexity, readily comprehensible, and pertinent. For commonly understood claims, an excessive amount of detail may be unnecessary, as it contributes minimally to consumer literacy. Further, enhanced clarity is needed to distinguish situations in which internal audits or measures are adequate from those requiring external or third-party substantiation.

Drawing parallels between these existing practices and environmental claims will facilitate a smoother transition to the new guidelines.

We recognise that some companies have invested in voluntary initiatives that either expand upon or supplement third-party certification programs, resulting in distinctive claims for these initiatives. We would not want the guidance unintentionally to discourage additional investments in these voluntary, company programs. To address this issue, it would be beneficial to provide supplementary guidance tailored to this area.

### **Making clear claims without disclosing sensitive information**

The case study on best practices for substantiating claims, as featured on page 17 of the guidance, involves the sharing of a substantial amount of commercially sensitive information. Given this concern, CMA recommends the inclusion of a different example in the final guidance. This alternative illustration should demonstrate how businesses can adeptly convey clear claims without revealing sensitive data that might jeopardise fair competition.

#### **Principle 4: Explain any conditions or qualifications on your claims**

#### **Principle 5: Avoid broad and unqualified claims**

Recyclability assertions ought to conform to commonly recognised definitions and endorse the principles of a circular economy. The guidance should make specific mention of established initiatives, such as the Australasian Recycling Label (ARL) program, which has been developed by APCO to enhance the guidance.

A review of this section in alignment with the Governments approach to supporting circular economies and voluntary product stewardship schemes would be advantageous.

### **Providing Sustainability and Environmental Evidence**

The guidance's emphasis on providing sustainability and environmental evidence directly where the claim is made, or through accessible click-through links for online sales, is of particularly relevance. As medicinal product packaging often lacks the physical space to accommodate comprehensive information, business should have the option to utilise dedicated websites or QR codes to provide detailed information to consumers. We encourage the ACCC to acknowledge these practical considerations when crafting the guidance.

#### **Principle 7: Visual elements should not give the wrong impression**

Principle 7 addresses the practical considerations associated with visual elements in product marketing and packaging, as well as the overarching message conveyed to consumers. These elements encompass the use of specific colors, such as green, images like dolphins and trees,



and symbols like the Mobius loop for recycling. However, the current guidance falls short in offering a comprehensive framework for working within this context. Additional details and a best-case scenario would be valuable to enhance the guidance's effectiveness in this area.

### **Incorporating Complementary Medicines Industry Case Studies**

CMA suggests including case studies that exemplify best practices within the complementary medicines sector to augment the guidance's applicability across various industries. CMA has also extended an offer, made during the consultation forums, to collaborate with the ACCC offline to provide further insights and contributions to the guidance.

### **Full Lifecycle Consideration**

Incorporating a consideration of the full lifecycle of products in the guidance is vital. This approach aligns with the comprehensive perspective necessary to evaluate environmental claims accurately. Considering the lifecycle will help businesses avoid inadvertently misrepresenting their products' environmental impact and contribute to overall sustainability efforts.

### **Transition Plan**

As the guidance is new, it is imperative to establish a suitable transition period for businesses to evaluate and align their claims with the new guidelines. These timeframes should be of adequate duration, particularly within the medicines sector, to minimise waste and costs associated with any necessary label or packaging modifications. CMA would be pleased to provide further examples of what has been deemed sufficient within the context of reforms to labels under the TGA's business-as-usual practice.

In conclusion, the Complementary Medicines Association supports the ACCC's draft principles-based guidance for environmental claims and commends the efforts to promote accurate, truthful, and transparent messaging in this domain. We believe that by incorporating specific clarifications, complementary medicines case examples, acknowledging packaging constraints, and considering the complete product lifecycle, the guidance will be more robust and applicable across industries. We welcome the opportunity to engage further on this matter and offer our expertise in ensuring the successful implementation of the guidelines.

Thank you for your consideration of our input. We look forward to contributing to the ongoing dialogue and the development of guidelines that benefit consumers, businesses, and the environment.