



Keeping green clean
Selling sustainability
the right way

Businesses are increasingly embracing sustainability and ethical ways of providing their goods and services. In Deloitte's 2021 'Rethink. Reshape. Rewire' study, 50% of respondents¹ considered climate change to be the key risk to business growth over the next 10 years. And while focusing on sustainability is widely considered the "right thing to do", it can also translate into increased consumer loyalty and brand value, new profit opportunities and longevity for businesses. The Competition and Markets Authority (CMA) estimates that in 2019 UK consumers spent £41 billion a year on ethical goods and services—almost four times more than consumer spend two decades ago. However, in a survey from March 2021², Deloitte found that 31% of consumers perceived switching to renewable products and buying more locally produced goods as too expensive. Conversely, the same study³ found that 1 in 3 consumers claimed to have stopped purchasing certain brands or products because they had ethical or sustainability-related concerns about them.

While there may be little that can be done to reduce the cost of sustainable products in comparison with their non-sustainable counterparts, branding and marketing can be used to message the social value for consumers. Therefore, organisations are understandably scrutinising their business models and supply chains to ensure they are, authentically, putting sustainability front and centre in their strategies; differentiating themselves from their competitors, and delivering, as well as capitalising on, a real impact.

In this article we consider two aspects of selling sustainability: (i) how to lawfully advertise and market eco-progress; and (ii) how to use branding to signpost sustainability accomplishments and augment perceived value.

Greenwashing: a grey area

As selling sustainability becomes more impactful, retailers are trying to capitalise on their green credentials in their advertising. Indeed, there has been a significant increase in green claims, and the

Advertising Standards Authority (ASA) is not turning a blind eye. This year it has already upheld complaints about environmental claims in advertisements which continues a recent trend. The consequences of these complaints are serious: not only can reputations be damaged and customer loyalty be broken, but advertisers also face fines or bans. And as sustainability becomes more important to consumers and investors, the regulators' interest—and involvement—is only growing. Just last year the CMA announced that it was investigating the impact of green marketing on consumers: it found that 40% of green

claims made online could be misleading. Consumer products companies can and should maximise the opportunity to champion and capitalise on their sustainability efforts. The key is not to commit 'greenwashing'. There is a fine line between legitimately achieving and then promoting sustainability and ethical achievements, and overexaggerating, or even misleading consumers. But how can consumer products businesses ensure they stay on the right side of the line where what 'sustainable' and 'eco' means to consumers is not clear? The answer: make simple, clear and evidence-supported statements.

Simplicity. An advertising claim needs to be true, accurate and capable of verification. While there is currently no 'rule' as to what language can and cannot be used and many consumers are becoming increasingly green literate, businesses should not overestimate the ability of the average consumer to understand green terminology such as 'carbon neutral' and 'carbon offsetting'. Phrasing of claims should be kept simple and easy to understand.

Clarity. Ambiguity in claims is likely to confuse consumers. For example, brands should consider whether their claims apply to the entire lifecycle of the relevant product, or just a part of it. Is the manufacturing process 'more sustainable', or is it just that the sourced materials are recycled? Keeping claims focused and narrow will help to avoid unwanted scrutiny and falling foul of the advertising rules. If you are making a comparison, it should be 'fair and meaningful'. For example, if comparing CO2 emissions of two products, the measurement of emissions for each product should be calculated in the same way. Adverts should not omit or hide important information. Any qualifications to a claim must be presented clearly but should not contradict or undermine the very claim or statement they qualify.

Avoid overstatements. Brands should not overstate their sustainability impacts or improvements. This ranges from taking credit for something being 'green' when it never had a demonstrably bad impact on the environment in the first place, or unsubstantiated claims that shout loud but say very little.

A rule of thumb is the more absolute the claim, the more evidence is needed. Claiming that a product or service is #environmentallyfriendly is a fairly absolute statement and should be used with caution as it will be very difficult to prove that no environmental damage is caused in the entire lifecycle of the product or service. Terms like 'friendlier', 'greener' and 'kinder' are more abstract but should still be used carefully. The ASA has suggested (in non-binding advice) that if claims are made in a way that would be understood as a mission statement or a corporate belief, (for example where marketers go no further

than saying they are trying to be or working towards being, a more sustainable business) then the risk of misleading the consumer base is reduced.

Green labelling

Another option is to use 'green labelling', which is the act of using specific trade marks or logos to identify products which conform to certain environmental standards, or which indicate an association with a particular environmental organisation. These include certification marks, collective marks, and in-house green sub-brands. However, each of these marks are not without their own legal considerations.

Certification marks are trade marks which indicate that the goods to which they are applied conform to certain standards; whether in respect of origin, material, mode of manufacture of goods or performance of services, quality or other characteristics. Examples of well-known certification marks include, the 'Red Tractor' logo owned by Assured Food Standards, which certifies that food bearing the logo is assured under the scheme. The 'Fairtrade' logo is another example, owned by the Fairtrade Foundation and an indication that certain standards are met in the production and supply of a product or ingredient. These trade marks are owned by third party organisations, but they are increasingly being used by consumer brands, with permission, in order to help consumers identify which goods they can trust when it comes to provenance and/or processes. However, bear in mind that mis-use of a certification mark will be unlawful and damaging, both in terms of misleading advertising, reputational issues and intellectual property infringement claims, it is important to ensure any use is pre-cleared.

Collective marks are trade marks which distinguish the goods of certain companies which have formed an alliance or allegiance, from those of other companies. They are essentially used as a sign of membership to an association. For example, the 'Made in Britain' mark is an association of British manufacturers and helps customers to identify products that are made in Britain. Use of collective marks are usually protected via registrations, which means

use requires specific permission, and use of a similar mark, without being part of the collective, is likely to be unlawful and stopped. This increases the cachet that can come with use of certain collective marks. While registering and policing the use of certification and collective marks can be relatively time-consuming, given increased consumer attention on sustainability and eco-friendly goods, there is likely to be significant value in achieving certified status for goods, or being a member of certain sustainable associations. These certifications and affiliations could be deciding factors when consumers make buying decisions between competitors, and may help customers to perceive value when purchasing more expensive sustainable products.

New house brands are another way to go. Businesses are, within legal limits, free to choose their own branding and to denote specific ranges or goods as being different or 'eco' or 'conscious', via the use of specific branding chosen by the business. While these sub-brands may also create perceived value for consumers, they may not have the same impact as use of neutral, independent certification or collective marks. Such sub-brands are lawful, providing that they do not mislead or infringe the rights of third parties who are using, or have protected, the same or similar mark(s) for the same or similar goods. As with the launch of any brand, it is important to clear the new brand via legal searches and protect it formally. In general, keeping a sub-brand as a secondary trade mark, which is always used with or alongside the main 'house' brand, is likely to reduce any risk of confusion between brands and potentially avoid a trade mark dispute.

Conclusion

As consumers become more eco-literate, sustainability efforts will naturally become more of a focus in a brand's messaging and marketing. Businesses have various tools at their disposal to make their social and environmental focusses a differentiator. Providing these strategies are carefully and conscientiously deployed, with one eye on the regulatory and legal aspects of 'going green', or claiming to, then sustainability advances are capable of quickly becoming a consumer products business' unique selling point.

Contact us

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Endnotes

- 1 Respondents consisted of 46 consumer businesses with a combined global revenue of over £200 billion
<https://www2.deloitte.com/uk/en/pages/consumer-business/articles/rethink-reshape-rewire.html>.
- 2 <https://www2.deloitte.com/uk/en/pages/consumer-business/articles/sustainable-consumer.html>
- 3 <https://www2.deloitte.com/uk/en/pages/consumer-business/articles/sustainable-consumer.html>



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