

Submission from the Trusted Labels Group

ACCC Environmental and Sustainability Claims - Draft Guidance for Businesses

September 15, 2023

The following submission is a joint submission from the members of the [Trusted Labels Group](#) (TLG) which comprises the Aquaculture Stewardship Council ASC, Australian Organic Ltd AOL, Marine Stewardship Council MSC, Forest Stewardship Council FSC and Good Environmental Choice Australia GECA.

Organisations within the Trusted Labels Group (TLG) comprise of independently audited third-party certification schemes in Australia & New Zealand. Together the TLG share common values and synergies. All organisations attest to the highest levels of integrity and quality assurance.

The Trusted Labels Group have responded to the questions outlined by ACCC in their draft guidance document.

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Which Types of Environmental or Sustainability Claims Do You Think Are the Most Confusing For Consumers?

As industry organisations representing aquaculture, wild-caught, forestry, environmental sustainability and organic agriculture, the TLG comprises independently audited third party certification organisations. Across these organisations, the purchase of uncertified products is a common concern as significant confusion is caused by products falsely claiming to belong to a certification scheme or claiming the existence of an unverifiable certification scheme and this undermines each member of the TLG.

Each TLG member is continually faced with the issue of unsubstantiated claims within their respective industries. These claims confuse consumers due to undefined terminologies and jargon which is designed to make the consumer believe the product is adhering to set industry standards. This is damaging to the overall trust in our industries as each TLG member has set certifications and standards. Without this trust, each industry is faced with having to use valuable resources to try and educate consumers and reduce confusion, instead of being able to grow the industries under the TLG banner.

The problem with unsubstantiated claims is that without a defined certification process to one of the members of the TLG, there is no opportunity to determine whether the claim is legitimate. This means that the product being advertised as environmental or sustainable lacks:

- Transparency
- Accountability
- Supply chain assurance
- Independence
- Rigour

In 2022 IPSOS, a globally renowned research agency, undertook one of the world's largest consumer surveys about forestry on behalf of FSC. 26,800 consumers were engaged across 33 countries. Key findings of relevance are:

- 64% of those surveyed expected information about sustainability to be certified by an independent organisation
- 62% believe that they can help protect forests by purchasing products that have been certified by an independent organisation

The Australian Competition and Consumer Commission (ACCC) as part of its business paper on environmental and sustainability claims has outlined a series of principles businesses must adhere to when making environmental and sustainability claims. In order to succeed in adhering to these principles the ACCC must look at improving its definitions to incorporate stricter interpretations between certified and non-certified products.

This would help any investigative action taken by the ACCC when claims are made by reducing the broad nature of the current structure. If the industry has systems in place for certification this should act as a baseline for the ACCC to conduct investigations of products within those industries. As previously highlighted, adding broader interpretations

of these products, certification services and how they are investigated only leads to consumer confusion.

Australian Organic ‘Certified Organic v Organic’ Example

Australian Organic Limited (AOL) has previously raised concerns about environmental and sustainability claims being made concerning products within the Australian organic sector. In particular there has been a major issue for the industry with products claiming to be ‘organic’ when they are not ‘certified organic’. The problem is so pervasive that the Australian Competition and Consumer Commission has been forced to maintain different definitions for organic to differentiate between the claims.

This problem has also been highlighted by research from AOL conducted as part of its market reports that also highlights that over 30 percent of consumers are consistently misled by products falsely claiming to be organic. The 2023 market report showed this figure was 33 percent, while 31 percent of surveyed consumers considered trust in organic status a barrier to purchase. In 2021, 31 percent had been consistently misled by products falsely claiming to be organic.

The inclusion of multiple definitions for organic products makes the organic industry in Australia susceptible to greenwashing as it appears to be accepted that the voluntary nature of certification for organic products in Australia only accounts for one portion of the industry. Leaving another portion unregulated and able to make claims of being organic without serious risk of punishment if those claims can not be proven to be accurate.

Without consistent recognition of certified organic products and deterrents for operators who claim to be organic but fail to become certified will continue to be a problem for the organic industry. This will be an ongoing problem for the organic industry and a burden to the organic industry and its legitimacy.

Another example from the Marine Stewardship Council

On World Tuna Day this year (2023), the Marine Stewardship Council released a new report, revealing that most Aussies are trying to seek out sustainably sourced tuna (57%). However, many found it too difficult due to the limited options sold in Australia and found it confusing to make the right choice which is likely due to numerous claims on packaging. The research conducted by YouGov found that canned tuna consumers are very eco-conscious, with the majority (64%) stating they wish to reduce their environmental footprint, but they face several challenges that prevent them from turning those words into action. The findings revealed that the product label is the first point of reference for most shoppers (52%) when looking to find out whether a brand is sustainable. However, almost half (45%) are confused about what they should be looking for. An independent third-party assurance had a bigger influence than brand claims, with about three in ten (28%) saying it is one of the top deciding factors, while less than two in ten (18%) say so about a brand environmental message or claim on the packaging.

Nearly two in five (37%) claim they can't easily find sustainable tuna in the places they shop, and over two in five (43%) can't see many canned tuna brands on the shelf that have an ecolabel from a trusted independent organisation. More than half (55%) admit they simply forget. The impact of this household staple on global tuna stocks is significant. Consumers want to know their tuna is sustainable, and they are asking retailers and brands to be more transparent about the sustainability of their products. They need assurance that their purchase rewards sustainable fishing practices that protect tuna supplies well into the future. Tuna is the most popular canned fish eaten in Australia. Unfortunately, Aussies are confused with the numerous claims as the vast majority of tuna sold in Australia is not independently verified as sustainably caught, which is a major concern when our ocean is facing extreme pressures from climate change, pollution and overfishing.

What Type of Environmental or Sustainability Information Do You Think Needs To Be Provided To Consumers To Allow Them To Make Informed Purchasing Decisions?

In a 2022 consumer research carried out by Globescan, an international research company, which was commissioned by the MSC, 78% of Australian consumers believe we should switch to only sustainable sources of seafood. On World Tuna Day in May 2023, a new report launched by the MSC revealed that most Aussies want to do the right thing but find it too difficult to make the right choice due to lack of knowledge and confusion as a result of too many sustainability claims. This underpins the importance of the kind of information offered and available to consumers.

The type of information accessible to consumers should be layered based on various situations. For example, on product packaging consumers should be able to clearly and easily see a trusted eco label to aid their purchasing decisions. It is important to note here that having a trusted eco label or symbol on any product is only the starting point of consumer communications and commitment. It is imperative that organisations, brands and retailers have the responsibility to commit further to educating consumers on what these labels mean, the challenges they are created to address and the positive impacts they bring to the environment. Any additional information to explain more about the eco label and what it is that the certification represents in a short and easy to understand format. Graphics should be considered to cater for consumers who want to know more at point of purchase such as shelf talkers, wobblers, decals, digital displays, etc.

Whether it is prior to or when making a purchase decision, consumers are keen to know more about the part they are playing upon making a discerning choice. Independent third party labels offer them a level of reliable assurance. And beyond choosing a label they can trust, communications to consumers should include the benefits they contribute towards when making these purchase decisions. Allowing more meaningful and authentic engagement. Some examples of the type of information may include when consumers choose a John West canned tuna with the MSC eco label, they are helping the oceans

stay vibrant and alive with abundant fish; they are also helping to ensure there is more fish into the future to feed the growing population; they are supporting the income and livelihoods of the fishing community that are dependent on tuna, etc. These stories can be told and communicated in various ways through photography, infographics, videos, shorts on the various conventional media and digital media platforms, websites, catalogues, etc.

The advent of online shopping is a great opportunity for retailers and brands to substantiate their environmental and sustainability claims on their products by creating an interesting and reliable narrative that consumers may have more time to read through compared to when they are walking along a supermarket aisle. Websites are great places to publish more information such as impact reports, the importance of continual improvement, advancements, etc.

It is also important to communicate to consumers in a tone and language that appeal to them. Environmental and sustainability information should be multi-dimensional and carved to suit the interest and discernment of various groups of consumers. These are just some suggestions of content to bring to life an organisation's environmental and sustainability claims to consumers across the scientific aspects, community development, climate change, using insights from research/surveys, etc.

Third party certification schemes, while independent, credible and robust, don't necessarily have the affinity with consumers in the same way as household brand names and retailers. Hence, it should be encouraged that brands and retailers who leverage third party schemes work with them for content that is compelling, interesting and meaningful.

What Do You Think Is the Most Useful Way For Businesses To Provide Information About Their Environmental Or Sustainability Credentials To Consumers?

Businesses need a layered approach such that consumers can satisfy their curiosity about the product, supplier or scheme by accessing ever detailed information should they so desire. Although businesses will be keen to communicate their brand values, it remains important for them to ensure that customers trust the messaging and this is a role of third party certification scheme owners such as the TLG members. Customers need to be assured that the business claims are backed up by both credible standards and easy and transparent access to information about the product and the basis for its sustainability claim. In this regard businesses and scheme owners can work in a symbiotic way as customer demand can help ecolabels to grow and pursue their sustainability missions.

(a) For example, do you think information should be provided on product labels, websites, or through QR Codes?

Where possible, an on-product claim should be provided as this clearly associates the product being sold with the claim being made. This helps reduce the potential for confusion or deliberate deception by selling similar products of which some may be

certified and others not. This claim may be associated with a label belonging to the certification scheme that has provided assurance that the product meets a credible standard for sustainable/responsible production.

On-product labels are one mechanism for engaging customers, noting that some products may not be sold in a form that are suited to on-product labels, especially in an era where excess packaging is a growing consumer issue and selling products without packaging is growing. Whether or not an on-product label is used, businesses should provide consumer access to information about any sustainability claims.

TLG member groups make use of several different tools to enable customers to find out more about their programs, the engaged businesses and the types of products that are available. These include:

1. Listing the certification body on the product logo – this enables customers to go to the website and explore how the schemes work, their aims and objectives, the sources of certified raw materials (where relevant), and the businesses authorised to sell certified products.
2. There may also be product code or certification number listed that can be used by the consumer to find out more about the granting authority or the business involved (and thus a shortcut to the relevant area of the scheme owner's website).

In addition the product owner will also have a website listed which enables customers to explore the claims made by the business itself as these may go beyond the scope of the certification scheme. For example, a company may commit to ensuring Greenhouse Gas Reduction targets even though these are beyond the scope of a certification program.

The use of QR codes has grown enormously since the onset of the COVID pandemic and now most Australians are *au fait* with their role. They have the potential to provide a 'window' into whatever web site is associated with the link embedded in the code. It remains unclear what advantage they may confer over a logo and associated website/product code. Feedback received from retailers suggests that customers spend very little time selecting a product and would very rarely (if at all) spend time clicking on a QR code whilst shopping. QR codes have value when the customer has time to click and explore. In the retail environment they are more likely to respond to seeing a known logo. Thus QR codes may have merit in providing a supplementary source of information but are unlikely to be influential in the purchase decision.

(b) Do you think certified trademarks and other certification schemes help consumers better understand a business' environmental and sustainability credentials?

First and foremost a logo is a communications tool. If the owner of a logo has invested resources in developing customer awareness about its meaning then the logo can transmit knowledge about the sustainability characteristics of a product based on prior knowledge. Like any business that takes its marketing and reputation seriously, TLG members invest heavily in ensuring that the messages their logos stand for are clear and have a solid basis in the brand attributes they represent. As mentioned above, TLG members work to ascribe to the principles espoused by ISEAL as these have been

developed based on the long experience of members organisations and like-minded groups, as well as their mission driven *raison d'être*.

In the absence of prior knowledge a logo needs to inspire curiosity in a customer and then provide a mechanism for further exploration (as described above). Scheme owners have a key role to play in assisting consumers to better understand sustainable use and how businesses can play a role in the drive towards more sustainable use of resources. Credible third party schemes generally operate outside of the role of government and need to engage businesses and customers in supporting their programs. Credibility is the key to ensuring that certification schemes are financially viable, are persistent over time and achieve their objectives. Scheme owners have a vested interest in ensuring the customers are fully informed about the issues, the solution made available by their scheme and how customer purchasing power can contribute to better sustainability outcomes.

Do You Think That the Principles In This Draft Guidance Will Assist Businesses In Making More Trustworthy Environmental And Sustainability Claims?

Yes, we believe that the 8 Principles outlined in this document are generally sound and useful for businesses.

However, there are a number of ways these could be strengthened:

1. The Principles do a good job of outlining many of the problems and pitfalls that can come when businesses make claims without adequate thought. However, with the exception of an example case study under principle 8, there is no clear path on what a business *should* do. We would encourage the guidance document to focus on what best practice looks like for businesses and then delve into the principles that highlight the ways businesses can get it wrong.
 - i. Businesses should also have greater understanding about what information needs to be contained in a claim associated with a product label versus what might be available on their website. It is important that businesses have clear pathways for *how* they can present all of the information contained in this document in a pragmatic way, otherwise they may avoid making claims at all because it seems too hard.
2. In Principle 2 (p 17), we encourage greater clarification about the use of a third-party certification. For example:
 - i. We suggest the document note the difference between having a whole product or service certified vs having a claim verified by a third party. Both are possible and valuable in their own way, but a certified product or service provides far better sustainability outcomes. A certified claim is valuable, but generally only tests the boundaries set out by the company and therefore can still result in accusations of greenwashing or burden-shifting if the business is not mindful of all of the elements contained in Principle 3.

3. It would be good to strengthen the text in Principle 3 (Consider the full lifecycle of your product or service) by doing the following:
 - i. Encourage businesses to look for traceability of supply chains. It is one thing to ask questions about raw materials and how they are sourced, but a different and far superior thing for a business to have evidence that those processes are managed responsibly. Strong certification schemes such as those associated with the TLG provide clear, robust and independent assurances about these processes that businesses can not develop on their own.
 - ii. In the list of aspects for businesses to consider (p 20), we encourage adding “workers involved throughout the supply chain” to that list.
 - iii. We discourage the use of the term “life cycle assessment” (p 20) in this context, because, within the sustainability space, that exact phrase has a very carbon-specific meaning and would inappropriately narrow the scope of the document’s contents.
4. Most importantly, we would suggest greater strengthening of the role of third-party accreditation throughout the document. In the same way that reputable financial auditors assure stakeholders of a businesses’ financial performance, reputable certification schemes assure stakeholders of a business’s sustainability performance. To that end, while we recognise that third-party certification is not appropriate or possible in all circumstances, it should be encouraged as best practice and the most desirable outcome throughout the document.

Is There Anything Missing from This Guidance That You Think Would Help Businesses When Making Environmental and Sustainability Claims or Consumers When Assessing Claims?

This document should remind businesses to ensure that any logos or certifications they use on their products, marketing materials or explanatory websites should be based on established licensing agreements—they can’t just cut and paste a logo from a search engine! They need to have their own relationship with the certifying body, not just base a logo’s use on the fact that a supplier has a relationship with that body. Where a logo is used without permission, that can not only be misleading but also potentially open them up to legal repercussions. Most certifying organisations are more than happy to engage with any business that wants to understand how to appropriately use a logo to ensure it is done in ways that enhance sustainability outcomes and are good for the business’ brand.

Another important area to consider is the **assurance of the supply chain**. Any label that does not include Chain of Custody assurance is in danger of greenwashing. If you cannot be sure where a product has come from and its supply chain, then you cannot be sure of any claim about its sustainable production. For example: The MSC and ASC carry out unannounced audits and have checks in place that ensure a fish or seafood product only carries the blue MSC ecolabel or the green ASC label when it has been sourced from a

supply chain that is certified to handle seafood from fisheries meeting the MSC's Fisheries Standard and ASC's Farm Standard.

Under Principle 2 'Have evidence to back up your claims' of the draft guidance, '**using third party certifications as evidence**' is included, which we highly advocate and support. However, given the plethora of third party schemes, how do we identify the most credible ones? For this reason, we suggest this section refers to the international standard setting body, ISEAL's Credibility Principles that define the core values of credible and effective sustainability systems as they provide the foundations for systems to deliver greater impact. These principles help businesses, governments, and civil society to identify systems that can be effective partners in delivering against shared sustainability objectives. They include:

- **Sustainability impacts** - A credible sustainability system makes a difference where it matters.
- **Collaboration** - A credible sustainability system works with others to create change.
- **Value creation** - A credible sustainability system adds value
- **Measurable progress** - A credible sustainability system can demonstrate the difference it is making.
- **Stakeholder engagement** - A credible sustainability system listens and learns.
- **Transparency** - A credible sustainability system earns trust by being open and honest.
- **Impartiality** - A credible sustainability system is impartial.
- **Reliability** - A credible sustainability system provides trustworthy assessments of users' performance.
- **Truthfulness** - A credible sustainability system's claims and communications can be trusted.
- **Continual improvement** - A credible sustainability system keeps improving.

FOR FURTHER INFORMATION, PLEASE CONTACT:**Aquaculture Stewardship Council**

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Background To the Trusted Labels Group**Aquaculture Stewardship Council**

The ASC promotes industry best practice to minimise the environmental and social footprint of commercial aquaculture. Through its consumer label it promotes certified responsibly farmed products in the marketplace. It works in collaboration with scientists, industry and NGOs to help achieve its goal of transforming the global seafood marketplace for responsibly farmed products. The ASC Standards are developed in line with Food and Agriculture Organisation (FAO) of the United Nations Guidelines and is the only aquaculture certification scheme to be recognised as a full member of the ISEAL Alliance Code of Good Practice for Setting Social and Environmental Standards, which requires inclusive and transparent standard setting. The criteria for ASC certification are robust and require best practice performance including record keeping, monitoring and clear parameters for important indicators of environmental and social performance. The assessment procedures are independent and allow for a high level of stakeholder engagement. The use of the ASC logo is a key part of our effort to move the aquaculture industry toward sustainability. The logo provides companies with a competitive advantage and is proof of achievement in a market leading program for the production of responsibly farmed seafood. Visit asc-aqua.org

Marine Stewardship Council

The Marine Stewardship Council is an international non-profit on a mission to end overfishing and restore fish stocks for future generations. We want future generations to be able to enjoy seafood and oceans full of life, forever. Our vision is of the world's oceans teeming with life, and seafood supplies safeguarded for this and future generations. Our mission is to use our blue fish tick and fishery certification program to contribute to the health of the world's oceans by recognising and rewarding sustainable fishing practices, influencing the choices people make when buying seafood and working with our partners to transform the seafood market to a sustainable basis. When you buy a product with our blue fish label, you become part of a virtuous circle, helping to protect the productivity and health of our oceans. Today, the MSC is engaged with over 19% wild marine catch, across 628 over fisheries contributing more than 2,087 fisheries improvements on record with the MSC ecolabel on 20,447 products in 22 nations around the globe. For more information, visit www.msc.org

Australian Organic Ltd

Australian Organic Ltd (AOL) is the leading peak industry body engaging with Government and Industry to promote the commercial and social interests of those who are certified and protect the integrity of the certified industry against fraud and misleading organics. Established in 1987 as the Biological Farmers of Australia (BFA), AOL was initially formed to progress the interests of farmers and processors who wanted to promote and protect the message of organic. AOL established an organic certification scheme to independently verify that farmers and processors were producing in accord with those standards and introduced the leading organic certification 'Bud' logo. This symbol ensures the integrity of organic products in the marketplace for consumers and is recognised by more than 50% of Australian consumers. Australian Organic continues to work with Government and Industry to implement mandatory domestic regulation for the term 'organic' to bring Australia in line with global standards.

As consumers become more conscious of their environmental impact and seek out sustainable options, the need for reliable labelling and transparent standards becomes paramount. Organic certification serves as a beacon of trust, assuring consumers that the products they purchase have been grown or produced without synthetic pesticides, fertilisers, or genetically modified organisms. It encompasses rigorous criteria and stringent audits, ensuring that farmers and producers adhere to strict guidelines throughout the entire supply chain. By upholding the integrity of organic certification, we can empower consumers to make informed choices, support sustainable agriculture, and protect the health of both people and the planet.

Good Environmental Choice Australia - GECA

GECA (Good Environmental Choice Australia) is purpose driven, independent, not for profit. Providing solutions for sustainable consumption and production; helping people and organisations to make, buy and do better for people and the planet. Offering tangible solutions through certification, education, consultancy and advocacy. Since 2000, GECA has assisted to certify leading sustainable products and services through its environmental multi-sector certification ecolabelling scheme. Products and services that carry the GECA ecolabel have been independently assessed against its transparent program that follows ISO-14024 principles for global best practice. As a Type 1 ecolabel, its standards are multi-criteria, multi-sectoral, and demonstrate overall environmental preference based on life-cycle considerations. Standards are developed to ensure products have a lower impact on the environment, human health, and have been made in a socially and ethically responsible way across the entire life-cycle of a product or service. The GECA Type 1 ecolabel is widely recognised by government agencies and green building schemes such as Green Star, WELL, IS and NABERS. As the only Australian member of the Global Ecolabelling Network (GEN), GECA can assist manufacturers of products certified under other GEN labels to attain GECA and vice-versa, making it even easier for specifiers to use across global projects.

Forest Stewardship Council®

The Forest Stewardship Council (FSC®) – a nonprofit organisation that covers more than 150 million hectares of certified forests – provides the world’s most credible sustainable forestry solution, trusted by NGOs, consumers, and businesses to help promote healthy and resilient forests, for all, forever. Equally governed by environmental, social, and economic perspectives, FSC helps forest managers, smallholders, and governments ensure thriving forest ecosystems and safeguard the livelihoods of forest communities. FSC’s forestry standards, linked to a strict chain of custody certification, are a proven solution to fight the climate and biodiversity crises. The FSC logo – found on millions of products worldwide – is the most recognized mark for responsible forestry.

The FSC standards are among the most rigorous certification standards in the world. We are also the only forest certification system that is code-compliant with ISEAL, the global association for social and environmental standards.

Our standards are globally consistent and nationally adapted. Operating in over 80 countries, our forest stewardship standards are based on the same Principles and Criteria. These national forest standards are adapted to fit the environmental, social, and economic context in which they are applied while upholding our rigorous standards.

We’re governed by economic, social, and environmental perspectives equally. FSC balances the needs of all forest stakeholders – environmental, social, and economic – through an open, member-led democracy. Our policies are uniquely shaped, set, and guided by over 1,200 individuals and member organisations.

We’re backed by some of the largest NGOs. Our members include some of the world’s most reputable environmental NGOs, such as WWF and Rainforest Alliance, who highly regard our strict standards and participative governance approach.

Our business reach is the most extensive and brands trust us. FSC is the preferred certification system for many companies worldwide including IKEA, McDonald’s, Amazon,

and Tetra Pak, issuing more Chain of Custody certificates worldwide than any other forest certification system.

The FSC logo is the most recognized mark for responsible forestry. Almost half of global consumers recognize the FSC logo. When compared to other organisations, consumers have the highest confidence in FSC, which is significantly higher than their trust in businesses or governments. FSC claims meet strict criteria.

At FSC we ensure that sustainability claims companies make about FSC-certified products are truthful, relevant, and clear, guarding against greenwashing and upholding integrity. This is supported by independent audits performed throughout the supply chain and approval for each use of our trademarks.