

Identical letters in accordance with address list

Your ref.:

Our ref.:

Case No.: 06/2449-6

Executive officer Ole Andre Tveit

Dir. tel. 45 23 00 06

Date:

03.09.2007

Use of environmental claims in the marketing of vehicles - in relation to the Marketing Control Act

The office of the Consumer Ombudsman intends to monitor whether companies' marketing and contract terms are in accordance with the Marketing Control Act and associated regulations. A printout of the Act is
./. attached. More information about the Consumer Ombudsman may be found on our website: <http://www.forbrukerombudet.no>

The Consumer Ombudsman has noticed that for some time now the vehicle industry has increasingly been using environmental claims in its marketing. In this context, environmental claims in marketing means:

Use of statements, information, symbols and/or labelling schemes in marketing which give the impression that the company takes particular regard to the environment or that the product has such particular properties.

Increasing numbers of consumers wish to accept a responsibility for the environment and reduce their own pressure on the environment. For many of today's vehicle buyers, the vehicle's environmental qualities are at least as important as safety, comfort, user friendliness, design, manufacturer etc.

Basically we are of course positive to the fact that businesses wish to offer goods and services with environmental advantages to the consumer and that this is communicated to the consumer by means of marketing. At the same time we are concerned that businesses should not use environmental arguments in an incorrect or misleading way, for example by exaggerating environmental qualities.

Consumers should be given the correct information so that they can choose a vehicle based on the right premises. The marketing must not give the impression that the vehicle has qualities other than is actually the case and neither must it give the impression that the vehicle being marketed is better than other, comparable vehicles if this is not correct.

In our assessment, several of the environmental claims being made in the marketing of vehicles at present are in contravention of the requirements of the Marketing Control Act. We have therefore found it appropriate to send out this information letter to the vehicle trade as a whole. In it we shall go through the requirements of the Marketing Control Act with regard to environmental claims in marketing. We have not initiated any action in respect of the individual claims which we have seen in marketing and which we refer to in this letter.

Before sending out this information letter, the Consumer Ombudsman had a meeting with representatives of the vehicle trade, the Norwegian Directorate of Public Roads and environmental organisations to discuss the use of environmental claims in the marketing of vehicles. All the representatives were unanimous in wishing to avoid the use of expressions such as environmentally friendly and green and focus instead on neutral product information. This unanimity and further input have helped to create the basis for the standpoints in this letter.

The Consumer Ombudsman asks those involved in the industry to examine their current and future marketing and to make any necessary changes in line with our requirements.

Environmental labelling of vehicles

A system for the environmental labelling of vehicles is under development at the Norwegian Directorate of Public Roads and the Institute of Transport Economics, commissioned by the Ministry of Transport and Communications. Environmental labelling of vehicles will make it easier to choose an environmentally correct vehicle, based on neutral product information.

We believe environmental labelling will be an important supplement in the marketing of vehicles and will hopefully make it easier for the industry to market the vehicle's environmental properties. We will return to the question of how the vehicle trade can utilise environmental labelling in its marketing once the labelling system is in place.

Requirements regarding the use of environmental claims in marketing

The use of environmental claims in marketing raises questions relating to sections 2 and 3 of the Marketing Control Act, which prohibit the use of misleading or insufficiently informative marketing which is designed to increase demand for goods and services. The generally accepted basis in Norwegian marketing is that claims which are made in marketing must be able to be documented. It would be unreasonable towards the consumer and in contravention of section 1 of the Marketing Control Act to use undocumented claims in the marketing of a product.

In this context, environmental claims in marketing means:

Use of statements, information, symbols and/or labelling schemes in marketing which give the impression that the company takes particular regard to the environment or that the product has such particular properties.

A closer definition of what constitutes an environmental claim depends on a complete assessment of the marketing itself, in which not only the words themselves but also the layout of the statements and the use of images may be significant. The use of general expressions such as "environmentally friendly", "green" and "clean" will in our opinion always trigger demands for what constitutes an environmental claim.

During 2007 the Consumer Ombudsman has recorded a number of instances of marketing in which the environmental profile is exaggerated. This has for example been expressed in advertisements with the following environmental claims:

- Toyota Prius: "The world's most environmentally friendly car"
- Opel: "Environmentally friendly engines"
- Peugeot: "...the powerful and environmentally friendly Hdi turbodiesel engine..."
- Suzuki: "The sales and environmental winner"
- Smart: "Try out the world's most environmentally friendly and fun city car..."
- Toyota: "The world's cleanest diesel engines"
- Saab: "...environmentally friendly turbodiesel..."

./. Copies of these examples of marketing are attached.

If environmental claims like "environmentally friendly" or "green" are used in marketing without any further explanation of the expressions, the Marketing Council has determined in case No. 20/93 that the company must be able to document that the product, during the whole of its life cycle "from cradle to grave" causes substantially less pressure on the environment than all other products in the same product category.

This means that the company must be able to substantiate that all aspects of the vehicle cause substantially less pressure on the environment than other vehicles in respect of: production, choice of materials, energy consumption, emission of locally, regionally and globally polluting substances, noise, recycling and the like.

In practice this comprehensive requirement for documentation means that it is almost impossible to show that a vehicle causes substantially less pressure on the environment than all other vehicles. On the basis of this we ask that expressions like "environmentally friendly", "green", "clean", "environment car", "natural" or similar are not used in the marketing of vehicles.

This applies regardless of whether the environmental claims are used separately or with more detailed explanations in the marketing. In our assessment marketing of the "environmentally friendly because..." or "green because..." type would also give a misleading and incorrect picture of the vehicle's environmental properties and its effect on the environment. This has for example been expressed in the following advertisements:

- Mitsubishi: "...environmentally friendly turbodiesel with particle filter."
- Citroën: "Environmentally friendly diesel engine with particle filter"
- Fiat: "Environmentally friendly technology"

./. Copies of these examples of marketing are attached.

Thus, it is the opinion of the Consumer Ombudsman that it would be misleading, insufficiently informative and in contravention of sections 2 and 3 of the Marketing Control Act to employ environmental claims, with or without explanation, in the marketing of vehicles.

Marketing of good environmental properties

The Consumer Ombudsman believes it would serve a useful purpose if the vehicle trade had the opportunity to promote good environmental properties in the marketing of vehicles. This is important information which stimulates the market into making an environmentally informed choice.

For companies which wish to communicate something about effects on the environment in their marketing, the Consumer Ombudsman recommends the use of objective claims about a vehicle's environmental properties, like emissions, noise, engine type and so on. As mentioned in the previous section, general expressions such as "environmentally friendly", "green" and the like should not be linked with the vehicle's environmental properties.

In our view marketing of the "low emissions of..." or "less noise" type gives the consumer fuller and more precise information about the type of qualities the vehicle might have and enables the consumer to make a safe choice depending on wishes and needs.

The environmental properties being promoted must be seen in relation to comparable products being offered on the market. If a not insignificant proportion of these products have a similar or better environmental standard, it must be seen under any circumstances to be misleading to promote these environmental properties in the marketing.

In accordance with the Marketing Council's and Consumer Ombudsman's practice the product must therefore be in the top third compared with other vehicles on the market in respect of the properties being promoted.

The Consumer Ombudsman can see that in some cases it may be difficult to define the top third, or to furnish documentation as to whether the properties being promoted belong to this portion. On the other hand, the environmental properties in question will in our opinion primarily concern emissions, including CO₂, NO_x and particle emissions. According to the Norwegian Public Roads Administration, all the figures regarding emissions are available through the type approval of new vehicles. It should therefore be possible to document whether the vehicle model in question is within the top third for all emission components or not.

There have been a number of comments in the daily press, following the revision of the tax system from 1st January 2007, which show that certain issues relating to the environmental properties of vehicles are controversial. In this context we have been in contact with organisations which have confirmed this, including Bellona and Friends of the Earth Norway. One of the problems is that vehicles with low CO₂ emissions may have higher emissions of NO_x and particles and vice versa and opinions may differ

about how the various kinds of emission may be assessed against each other when assessing the environmental properties of vehicles.

If environmental properties are being linked to emissions, we believe that it must be possible to document that the model in question is in the top third for all emission components. Thus, marketing of the “Car X has low CO₂ emissions” type would in our view give a misleading impression of the vehicle’s environmental properties, since the vehicle may have high emissions of local sources of pollution.

Neutral product information

The Consumer Ombudsman can see that vehicle manufacturers and importers might have a justifiable interest in providing information about, for example, emissions, even though the model in question is not among the top third for both CO₂ emissions and local emissions. Naturally the industry should also be able to provide information about CO₂ emissions in its marketing in accordance with the regulations regarding energy labelling etc. of new vehicles without running into a difficult situation as regards the Marketing Control Act.

By product information we mean actual and neutral information about the vehicle’s qualities and properties. Product information would typically be factual information about engine type, safety, technical data, fuel type, particle filter, noise level and the like. It is especially important that this information should be given in a clear and objective manner, so that the consumer may easily compare various vehicle makes and models. To comply with the Marketing Control Act, it would be sufficient if the information in question can be documented to be correct.

It is difficult to set a general borderline between what should count as environmental information and what should be seen more as product information. We believe that this must be assessed specifically; the decisive point would be the immediate impression given by the marketing item and how pronounced the environmental aspect is in the actual marketing item.

Summary

The Marketing Control Act makes the following demands regarding the use of environmental claims in the marketing of vehicles:

- The use of environmental claims like “environmentally friendly” or “green” would be in contravention of sections 2 and 3 of the Marketing Control Act, which prohibit the use of misleading or insufficiently informative marketing. This applies regardless of whether the expressions are used separately or with more detailed explanations in the marketing.
- If good environmental properties are being promoted in the marketing, it must be possible to document that the vehicle is among the top third on the market in respect of the properties being promoted.

- If the claim is made as pure product information in the marketing of the product, in brochure material or similar, without environmental issues being promoted in the marketing in any way, it would not in the view of the Consumer Ombudsman be natural to apply the top third requirement, but on the other hand to see the claim as pure product information.

The Consumer Ombudsman asks those involved in the industry to examine their current and future marketing and to make any necessary changes in line with our requirements. It is our basic assumption that this will be done by **15th October 2007**.

After that date we will carry out checks to ensure that the industry's marketing is in line with our standpoint.

Any questions about or comments on this matter may be directed to Ole André Tveit by telephone +47 452 30 006 or e-mail: ogat@forbrukerombudet.no

Yours sincerely
For the Consumer Ombudsman

Bente Øverli
Section Manager

Attachments: Address list
 Examples of environmental claims

Address list:

IMPORTERS

Autozentrum Sport AS	Økernveien 99	0579	Oslo
Autoindustri AS	Boks 33	1483	Skytta
Bertel O. Steen AS	Boks 52	1471	Lørenskog
BMW Norge AS	Postboks 1	1330	Fornebu
Citroën Norge AS	Boks 23 Grefsen	0409	Oslo
Chrysler Norge AS	Boks 52	1471	Lørenskog
DAF Norge AS	Boks 74	1641	Råde
EiBil Norge AS	Spireaveien 6	0580	Oslo
Ford Motor Norge A/S	Boks 514	1411	Kolbotn
General Motors Norge AS	Boks 36	2027	Kjeller
Harald A. Møller AS	Boks 46 Kjelsås	0411	Oslo
Honda Motor Europe Ltd.	Boks 1534	3007	Drammen
Hyundai Motors Norway AS	Boks 6466 Etterstad	0605	Oslo
Iveco Norge A/S	Boks 43	1313	Vøyenenga
Kia Bil Norge AS	Boks 52	1471	Lørenskog
MAN Last og Buss AS	Boks 157	1471	Lørenskog
Motor Gruppen AS	Boks 6843 Rodeløkka	0504	Oslo
Mazda Motor Norge	Postboks 685	1411	Kolbotn
Nissan Nordic	Postboks 251	1372	Asker
Nordisk Bilimport A/S	Boks 52	1471	Lørenskog
Norsk Scania A/S	Boks 143 Skøyen	0212	Oslo
RSA/Rutebileiernes Standardiserings- aksjeselskap	Boks 4004 Gulskogen	3005	Drammen
Renault Trucks Norge AS	Boks 473 Økern	0512	Oslo
Subaru Norge AS	Boks 33	1483	Skytta
Toyota Norge AS	Boks 665 Strømsø	3003	Drammen
Volvo Norge AS	Boks 103 Alnabru	0614	Oslo
Volvo Personbiler Norge AS	Boks 601	1411	Kolbotn
Bilimportørenes Landsforening	Boks 71	0508	Oslo
Norges Bilbransjeforbund	Postboks 2804 Solli	0204	Oslo