

Guidance for manufacturers of EVs and HEVs in the UK: ASA's non-exhaustive electric vehicle advertising guidance

15 August 2024

In response to the increasing number of electric (EVs) and hybrid (HEVs) vehicles available in the UK market, alongside accelerating diversification of vehicle types, the Advertising Standards Authority ([ASA](#)) **issued non-exhaustive guidance on advertising electric vehicles** on 5 June 2024 (the Guidance).

The non-exhaustive list includes electric vehicles or battery electric vehicles (EVs or BEVs), hybrid electric vehicles (HEVs), mild hybrid electric vehicles (MHEVs) and plug-in hybrid vehicles (PHEVs).

What is the ASA's non-exhaustive guidance on advertising electric vehicles?

The aim of the Guidance is to help businesses avoid misleading consumers about the technical specifications and environmental credentials of EVs.

To achieve this, the Guidance specifically urges businesses to be entirely clear in the advertising of the given vehicle's source(s) of power, as well as outlining in what circumstances claims of zero emissions and environmental benefit can be made compliantly.

Why has the ASA issued non-exhaustive guidance on advertising electric vehicles?

The Guidance has been issued against a backdrop of rising numbers of greenwashing complaints in the UK and the subsequent tightening of the regulatory framework surrounding misleading advertising of this nature. Greenwashing involves companies issuing misleading or even false claims about the environmental credentials and benefits of a given product or practice for the wider intention of increasing sales or revenue.

For example, the Competition and Markets Authority's (CMA) issued a [Green Claims Code](#) in 2021 and has in 2024 required undertakings from a number of well-known businesses that were making environmental representations that they could not substantiate.

The ASA Guidance is linked to several of its rulings concerning greenwashing claims, which are certainly enlightening for automotive sector companies intending to advertise EVs.

Three key themes arise from the ASA Guidance and the ASA rulings over the last few years, which we set out and analyse in points 1 to 3 below:

1. Claims relating to the type of vehicle being advertised and the vehicle's source(s) of power

In the ASA ruling on [Nissan Motor \(GB\) Ltd t/a Nissan Motor \(GB\) Ltd](#) (2023), the ASA assessed that the role petrol had in powering the Nissan car in question was unclear from the advert. Also, as the advert focussed on electricity, consumers (who would not understand

how 'e-Power' differed to other forms of HEV technology), were likely to understand that the car was a better choice for the environment than traditional internal combustion engine vehicles. As the vehicle required petrol to power the electric motor, tailpipe emissions would be produced and so this implied advertising claim was also found to be misleading.

This ruling indicates that automotive sector companies looking to advertise HEVs must ensure that they are entirely clear about the type of vehicle being advertised and the vehicle's source(s) of power. Ultimately, they should be wary of leaving any room for ambiguity in the provenance and environmental credentials of the vehicle in question.

2. Claims relating to advertisements for models within a range which have different specifications

In the ASA ruling concerning [BMW \(UK\) Ltd \(2017\)](#), the ASA considered an advert used as part of a campaign that promoted a range of cars, including an EV model and a HEV model with a small internal combustion engine. The ASA ruled that there was enough ambiguity in the advert for it to be unclear whether the claims of zero emissions were in relation to the EV model only, or whether this included the HEV model also.

Ultimately, this ruling once again highlights how important it is for automotive companies that want their advertising to be compliant to be entirely clear in their advertising, and specifically, that caution must be taken to clearly illustrate the variations in the environmental credentials of EVs and HEVs that are advertised as a range, where such credentials and specifications vary across the models.

3. Claims relating to advertisements asserting broader environmental benefits than can be justified and emphasising 'zero/no emissions'

Also in BMW (UK) Ltd the ASA ruled that automotives advertising their vehicles need to make it clear that any claims of 'zero emissions' refer only to the 'driving' of the vehicles. The advert also needs to make clear to consumers that owning and driving the EV does not necessarily have a net benefit on the environment. If any such claim is made it will be considered misleading if the advertiser cannot provide evidence that it is true, taking into account the vehicle's full life cycle. Here BMW's messaging that owning the advertised vehicle "*helps to give back to the environment*" was found to be misleading.

Similarly, in another upheld complaint against [BMW in February 2024](#), the ASA concluded that, when automotives advertise that an EV is a 'zero emissions' vehicle, it must be made clear this only refers to when the vehicle is being driven and not also in respect of the manufacturing or charging of the vehicle. The ASA's ruling here seems to suggest that they are trying to prevent automotives from purportedly benefiting from not being clear in their advertising about the three forms of direct and indirect 'Scope' emissions.

This recent ASA decision highlights that automotives must ensure that any claims in their advertising around the environmental benefits of EVs, which are not restricted to the driving of the vehicle, reflect its entire life cycle and are justified by the evidence.

Key points for automotive brands

Despite recent ASA Guidance being considered as non-exhaustive, automotives need to be wary of the growing regulatory framework surrounding advertising both EVs and HEVs, such as the CMA's Green Claims Code, and also [Guidance from the Committee of Advertising Practice \(CAP\)](#) .

The timing of this Guidance from the ASA, should be given due consideration by automotives, with the UK Digital Markets, Competition and Consumers Act (DMCC), having received Royal Assent on 24 May 2024 with the expectation of coming fully into force later this year. Notably, the DMCC will grant the CMA stronger enforcement powers such as the ability to fine companies up to 10% of global turnover for consumer protection law breaches, as well as to award compensation to consumers. The ASA and the CMA work closely together in this area. The upshot of these developments is that automotives who mislead their consumers will shortly be risking financial penalties, which will not only be directly impactful on the companies' finances, but also their public image.

Overall, the ASA Guidance highlights a clear trend of cracking down on misleading environmental advertising, which all businesses, not just automotives, should be paying close attention to. But now more than ever with the stark rise in the popularity of EVs and HEVs in the UK and abroad, the [automotive sector](#) needs to ensure they are closely following the Guidance and regulation when [advertising](#) the environmental credentials of their range to consumers.

Contact



Conor Macaire Duncan

Associate

conor.macaireduncan@brownejacobson.com

+44 (0)330 0452254

Related expertise

Services

Advertising and marketing

Consumer and e-commerce

Intellectual property