

19 January 2021

[REDACTED]

By email only: [REDACTED]

Dear [REDACTED]

#### **Official Information Act #20.101 - Greenwashing complaints**

1. We refer to your request received on 5 November 2020 for information about complaints received by the Commerce Commission (**Commission**) in relation to greenwashing, specifically:
  - 1.1 how many complaints has the Commission received since 2015;
  - 1.2 copies of the complaints; and
  - 1.3 action taken as a result of these complaints.
2. We have treated this as a request for information under the Official Information Act 1982 (**OIA**).
3. On 30 November 2020, in response to our emails of 13 and 19 November 2020, you advised that you are interested in claims which purport that products are more environmentally sound than they are, and we advised that we would clarify the scope of your request to the keywords and sections of the Fair Trading Act 1986 (FTA) outlined at paragraph [7] below.
4. On 1 December 2020, we advised that we would be treating your clarified request as a new request with a due date of 19 January 2021, under section 15(1AA) of the OIA.

#### **Our response**

5. We have decided to grant your request.
6. In response to paragraph [1.1] of your request, the Commission has received 234 complaints in relation to greenwashing during the period from 1 January 2015 to 10 November 2020.

7. We identified these complaints by searching our complaints database for complaints containing one or more of the following keywords,<sup>1</sup> with alleged breaches under sections 12A, 13(a), 13(b) or 13(e) of the FTA,<sup>2</sup> and manually reviewing the results:
  - 7.1 “environmental”; or
  - 7.2 “greenwashing” or “green washing” or “green”; or
  - 7.3 “compostable”; or
  - 7.4 “biodegradable” or “degradable”; or
  - 7.5 “recyclable” or “recycling”; or
  - 7.6 “disposable”; or
  - 7.7 “sustainable” or “sustainably”; or
  - 7.8 “renewable”; or
  - 7.9 “plastic”; or
  - 7.10 “organic”; or
  - 7.11 “eco-friendly” or “eco friendly”.
8. In response to paragraph [1.2] of your request, as discussed with you on 18 January 2021, in the interests of providing you with information as soon as possible we have provided the key issue from each complaint (in **Attachment A** to this letter), under section 16(e) of the OIA. We understand you will use this information to make a further request (or requests) for copies of specific complaints.
9. The complaints fall broadly into six categories: bio-degradability/degradability claims, certification claims, organic claims, composition claims, environmental impact claims, and recycling claims. However, we have kept the issues as specific as possible in Attachment A to ensure the information is as useful as possible.
10. In response to paragraph [1.3] of your request, we have also provided the action taken by the Commission in response to each of these complaints, below and in Attachment A. We have also included a glossary below which explains the outcomes. You can find further information about the Commission’s enforcement responses on our website.<sup>3</sup>

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<sup>1</sup> Please note this method relies on the terms used by complainants in making a complaint to the Commission.

<sup>2</sup> These sections relate to unsubstantiated representations (s 12A) and false or misleading representations (s 13). We consider that complaints relating to greenwashing would be categorised under these sections by Commission enquiries staff.

<sup>3</sup> Enforcement Response Guidelines: <https://comcom.govt.nz/about-us/our-policies-and-guidelines/investigations-and-enforcement/enforcement-response-guidelines>

Glossary of outcomes	
Outcome	Explanation
No Further Action (NFA) <sup>4</sup>	The Commission may decide not to take further action in relation to a complaint for a number of reasons. These reasons include, but are not limited to, circumstances where we consider the complaint is better suited to private action by the complainant, the complaint is subject to the jurisdiction of another agency, or where there is no clear breach of the law.
Information Passed To Trader (IPTT)	We may take the opportunity to contact a trader to assist them in better understanding and complying with the law. We refer to this as Information Passed to Trader (IPTT). We find that raising such issues directly with businesses can help them to understand and better comply with their legal obligations.
Added to demand	A demand is the name the Commission gives a matter where we intend to complete further work. We place demands on a list and prioritise them based on our Enforcement Criteria <sup>5</sup> and current strategic priorities. <sup>6</sup> We review our demand lists on a regular basis and sometimes demands are removed from the list, this is called a resource review. We may remove a demand from our list of pending work for several reasons (e.g. the trader has amended its conduct, the trader is no longer operating, and/or other matters have come to our attention that have de-prioritised previous demands).
Compliance Advice Letter (CAL) <sup>7</sup>	CALs are educative and are issued in response to problematic conduct that we have identified. Accordingly, what the letter advises of is the risk of conduct breaching the law, and how to avoid a potential breach in future. A CAL does not represent a finding that a trader has contravened the law. Only the Courts can decide if a breach of the law has occurred.
Warning Letter <sup>8</sup>	The purpose of a warning letter is to inform the trader of our view that there has been a likely breach of the law, to prompt a change in the trader's behaviours, and to encourage future compliance. A warning letter does not represent a finding that a trader has contravened the law. Only the Courts can decide if a breach of the law has occurred.
Litigation	Where we decide to issue court proceedings (either civil or criminal).
Ongoing	These are complaints which are still being assessed and/or investigated by the Commission and have not yet resulted in an outcome.

<sup>4</sup> Page 7, Commission's Enforcement Response Guidelines.

<sup>5</sup> Enforcement criteria: <https://comcom.govt.nz/about-us/our-policies-and-guidelines/investigations-and-enforcement/enforcement-criteria>

<sup>6</sup> Our priorities: <https://comcom.govt.nz/about-us/our-priorities>

<sup>7</sup> Page 7, Commission's Enforcement Response Guidelines.

<sup>8</sup> Page 8, Commission's Enforcement Response Guidelines.

Summary of outcomes	
Action taken	Number of complaints
NFA	143
IPTT	41
Added to demand(s)	21
CAL	14
Ongoing	8
Litigation	3
Warning letter <sup>9</sup>	1
Added to Demand(s) and NFA	3

11. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.
12. Please note the Commission will be publishing this response to your request in the OIA register on our website.<sup>10</sup> Your personal details will be redacted from the published response.
13. Please do not hesitate to contact us at [uia@comcom.govt.nz](mailto:uia@comcom.govt.nz) if you have any questions about this request.

Yours sincerely

*Mary Sheppard*  
OIA Coordinator

<sup>9</sup> Page 8, Commission's Enforcement Response Guidelines.

<sup>10</sup> Official Information Act register: <https://comcom.govt.nz/about-us/requesting-official-information/oia-register>

<b>Key term</b>	<b>Action taken</b>
Biodegradable claims	IPTT
Biodegradable packaging	IPTT
Animal welfare claims	CAL
Animal welfare claims	CAL
Animal welfare claims	CAL
Organic claims	Litigation
Free-range claims	IPTT
Free-range claims	IPTT
Electricity greenwashing	IPTT
Organic and natural claims	CAL
Eco and degradable claims	Added to demand
Biodegradable claims	NFA
Recycling claims	IPTT
Biodegradable claims	IPTT
Recycling claims	Ongoing
Compostable claims	Ongoing
Composition claims	Ongoing
Saving plastic claims	Added to demand
Biodegradable claims	NFA
Compostable claims	Ongoing
Recyclable claims	NFA
Certification claims	Added to demand
Biodegradable claims	Added to demand
Biodegradable claims	NFA
Compostable claims	Added to demand
Recyclable claims	Ongoing
Energy efficiency	NFA
Environmental benefits and fuel efficiency	CAL
Natural claims	CAL
Eco-friendly claims	Added to demand
Organic claims	Added to demand
100% natural claims	Ongoing
Environmental claims	Added to demand
Biodegradable claims	Added to demand
Compostable and recyclable claims	Added to demand and NFA
Organic certification claims	Ongoing
Cage-free eggs	Added to demand
Compostable soft plastic	Added to demand
Biodegradable claims	IPTT
Environmentally-friendly claims	Added to demand
Green guides	Added to demands
Biodegradable claims	Added to demand
Biodegradable claims	NFA
Biodegradable claims	Added to demand and NFA
Organic and natural claims	NFA
Environmental impact claims	NFA

Environmental impact claims	NFA
Environmental impact claims	NFA
Free-range claims	NFA
Biodegradable claims	NFA
Organic claims	NFA
Organic claims	NFA
Organic claims	NFA
Degradable claims - packaging	NFA
Organic claims	NFA
100% natural claims	NFA
Environmental impact claims - Carbon reduction claims	Added to demand
Eco-friendly and biodegradable claims	Added to demand
Biodegradable claims	Added to demand
Compostability claims	Added to demand
Compostability claims	Added to demand
Plastic composition claims	Added to demand
Organic claims	Added to demand and NFA
Composition claims	IPTT
Electricity generation from renewable resources	IPTT
Electricity generation from renewable resources	IPTT
Carbon certification	NFA
Electricity generation from renewable resources	IPTT
Composition claims	IPTT
Organic claims	IPTT
Recyclable claims	IPTT
Electricity generation from renewable resources	IPTT
Recycling claims	IPTT
Composition claims	IPTT
Natural composition	IPTT
Environmental impact of production	IPTT
Biodegradable claims	IPTT
Environmentally-friendly claims	IPTT
Flushable claims	IPTT
Organic claims	IPTT
Organic claims	IPTT
Recyclable claims	IPTT
Compostable and eco-friendly claims	IPTT
Biodegradable packaging	IPTT
Commercially compostable	IPTT
Recyclable claims	IPTT
Environmentally-friendly claims	IPTT
Organic claims	IPTT
Organic claims	Ongoing

Organic claims	NFA
Organic claims	Litigation
Biodegradable claims	CAL
Biodegradable claims	CAL
Organic claims	CAL
Carbon neutral claims	IPTT
Organic claims	NFA
Organic claims	CAL
Organic claims	NFA
Certified organic claims	Litigation
Organic claims	CAL
Organic claims	NFA
Biodegradable claims	IPTT
Certified organic claims	CAL
Organic claims	Warning Letter
Biodegradable claims	IPTT
Organic claims	NFA
Organic claims	NFA
Organic claims	CAL
Organic claims	CAL
Energy efficiency	NFA
Health effect claims	IPTT
Environmental impact claims - Carbon neutral	IPTT
Greenwashing	IPTT
Environmental ratings	IPTT
Compostable claims	IPTT
Degradable certification claims	NFA
Recyclable claims	IPTT
Sustainability claims	NFA
Plastic composition	NFA
Organic claims	NFA
Organic claims	NFA
Biodegradable claims	NFA
Organic claims	NFA
Composition claims	NFA
Composition claims	NFA
Degradable claims	NFA
Biodegradable claims	NFA
Organic claims	NFA
Organic claims	NFA
Product made from renewable resources	NFA
Eco-friendly claims	NFA
Plastic bag use	NFA
Organic claims	NFA
Organic claims	NFA
Compostable claims	NFA
Recycling claims	NFA

Plastic bag free claims	NFA
Biodegradable claims	NFA
Plastic bag free claims	NFA
Environmental claims	NFA
Natural ingredients claims	NFA
Electric vehicles	NFA
Merino clothing - chemicals	NFA
Organic claims	NFA
Recycling claims	NFA
Organic claims and health benefits	NFA
Similar Business Names - implying organic association	NFA
Organic claims	NFA
Organic claims	NFA
Free-range claims	NFA
Environmental and carbon claims	NFA
Organic claims	NFA
Organic claims and health benefits	NFA
Free-range claims	NFA
Recyclable claims	NFA
Organic claims	NFA
Electricity greenwashing	NFA
Renewable resources / plastic lined packaging	NFA
Environmentally-friendly claims	NFA
Certified organic claims	NFA
Chemical free claims	NFA
Carbon off-sets	NFA
Eco-friendly claims	NFA
Soft plastic recycling	NFA
Ethical investment	NFA
Plastic	NFA
Palm oil free	NFA
Biodegradable claims	NFA
Cruelty-free shampoo	NFA
Environmental home certification	NFA
Environmental home certification	NFA
Ethical and sustainable clothing	NFA
Sustainable building product	NFA
Organic claims	NFA
Certified organic claims	NFA
Plastic - packaging	NFA
Organic claims	NFA
Electric vehicles	NFA
Certified organic claims	NFA
Misleading claims about the impact reusable bags have on the environment	NFA
Eco-friendly claims	NFA



Compostibility and biodegradability of products	NFA
Free-range claims	NFA
Processing of food products	NFA
Organic claims	NFA
Misleading symbols on packaging look like organic certification symbol	NFA
Organic claims	NFA
Cage-free eggs	NFA
Organic claims	NFA
Certified organic claims	NFA
Organic claims	NFA
Organic/NZ made claims	NFA
Organic/NZ made claims	NFA
Free-range claims	NFA
Pesticide-free claims	NFA
Organic claims	NFA
Environmental disposal fee	NFA
Organic claims	NFA
Sustainable practices claims	NFA
Organic claims	NFA
Organic claims	NFA
Environmentally-friendly claims	NFA
Organic claims	NFA
Biodegradable claims	NFA
Organic claims	NFA
Organic testing	NFA
Biodegradable claims	NFA
Organic claims	NFA
Organic claims	NFA
Vehicle emissions	NFA
Organic claims	NFA
Organic claims	NFA
Biodegradable claims	NFA
Environmentally-friendly claims	NFA
Organic claims	NFA
Organic claims	NFA
Greenwashing claims - chemicals	NFA
Eco claims	NFA
Organic claims	NFA
Organic claims	NFA
Compostable claims	NFA
Organic claims	NFA
Environmental impacts of plastic bags	NFA
Biodegradable claims	NFA
Compostable claims	NFA
Environmental benefit claims	NFA

Organic claims	NFA
Organic claims	NFA
Composting claims	NFA
Organic claims	NFA
Recycling claims	NFA
Organic claims	NFA
Sustainable cotton	Added to demand
Organic claims	NFA