

Better Cotton
*Advice for BCI
Members on
ACM legislation
(Netherlands)*

To be used in conjunction with the
Better Cotton Claims Framework V2.0

July 2021

Important

The advice in this document is based on BCI's interpretation of The Netherlands Authority for Consumers and Markets (the ACM) guidance and does not constitute formal legal advice.

EU regulation defines misleading claims as 'claims that deceive or are likely to deceive the average consumer, even if the information contained therein is factually correct.' While we are striving to ensure the claims allowed in the Better Cotton Claims Framework are only ever transparent and never misleading (including legal review of guidance by BCI), the choice to make claims, and the responsibility to ensure that claims comply with relevant laws and legislation, lies with the BCI Member. We always recommend that a member's approach to sustainability claims is reviewed by their own legal team.

Overview

In May 2021, new guidance was released on sustainability claims by the The Netherlands Authority for Consumers and Markets ACM, which can be found [here](#). This guidance is particularly relevant to BCI members using the BCI on-product mark (OPM) or making any other form of product-level sustainability claims. Note that the guidance applies not only to Dutch brands, but to all brands selling products in the Dutch market.

In May/June 2021, 170 brands received a letter from the ACM advising that their claims should be amended in order to adhere to new guidance for sustainability claims. Brands not adhering to the ACM's guidance are at risk of being fined.

BCI has reviewed the guidance and is making recommendations as to what changes should be made to members' claims. As the legislative environment continues to develop, BCI may make further changes to the Claims Framework. To form these recommendations, work has included:

- An internal review of the ACM guidance
- A review of letters sent to BCI members by the ACM
- Consulting legal experts to ensure understanding of the ACM guidance and gain recommendations to ensure members' compliance
- Consulting peer standards across a range of sustainable commodities standards also using a mass balance chain of custody model
- Consulting with ISEAL (the global membership organisation for sustainability standard systems)
- Consulting with the ACM.

We aim to ensure that members continue to be able to promote their sustainability efforts and that any changes to the Better Cotton Claims Framework are minimal, while in line with industry best practice and legislative requirements (both in relation to the ACM guidance, and legislation for other markets as rules evolve, i.e. in the EU and US). In addition, BCI is working to ensure that changes to the Better Cotton Claims Framework support industry progress and align across sustainable commodities.

ACM Rules of thumb

The ACM states that;

'Claims about sustainability are often seen as unreliable by consumers. Companies must be honest about sustainability, and may only use clear, correct and relevant sustainability claims. The ACM has drawn up 5 rules of thumb that help companies to work with fair sustainability claims;

1. Clarify the sustainability benefit of the product
2. Support sustainability claims with facts and keep them up to date
3. Comparisons with other products, services or companies must be fair
4. Be honest and specific about your company's sustainability efforts
5. Make sure visual claims and labels are helpful to consumers and not confusing

Following consultation, BCI interprets the ACM guidance to include the below key elements that may affect members' claims:

1. A need to be transparent (particularly regarding brand support vs product content)
2. A requirement to describe the actual sustainability benefit of a product in specific terms
3. Avoiding absolute claims (claims that imply a product is 'concretely sustainable')

Recommendations for changes: New BCI rules

Based on BCI's findings and interpretation of the ACM guidance, if a member is using the BCI On-Product Mark (OPM), we recommend that the following changes are made to adhere to ACM guidance. Note that these claims are mandatory for use alongside the BCI on-product logo.

Recommendation 1: Add a mass balance explanation at product level:

Why?

The mass balance URL alongside the BCI logo (bettercotton.org/massbalance) is seen as helpful, but not entirely sufficient. Although factually correct, the words 'mass balance' are technical and may not be understood by consumers. Very few shoppers are likely to follow the link to learn more, particularly when used on packaging. To counter this potential criticism, we are recommending the use of a mass balance explanation that supports the BCI logo.

Mass balance explanation:

This product is sourced via a system of mass balance and therefore this product may not contain Better Cotton.

Recommendation 2: Amend supporting OPM claim:

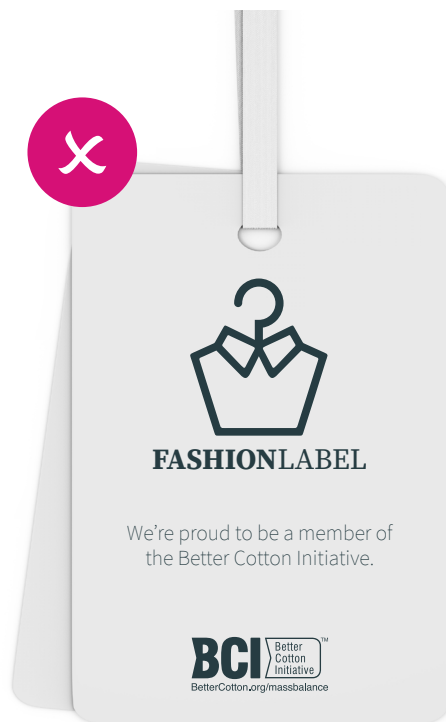
Why?

On-Product claims in the existing Better Cotton Claims Framework explain a member's participation in BCI (and do not relate to the product's fibre content), however, ACM guidance requires the sustainability benefit of a product to be clearly explained. When challenged on the existing claims, we were asked to provide a claim that clearly defines what it means to the consumer when choosing that product. We are therefore recommending a move away from more general claims about a brand's membership of BCI. Instead, we recommend specific claim highlighting that a brand's sourcing of Better Cotton, and therefore, a customer's choice of cotton products from that brand, supports BCI's mission through investment in the programme.

In addition, guidance also states that 'absolute claims' should not be allowed at a product level unless backed by scientific data. We are therefore moving away from the words 'more sustainable cotton' or even 'Better Cotton' in the supporting claims, as even when used in context, there is a possibility that this wording could be challenged as use of an absolute claim.

Supporting claim:

By choosing our cotton products, you're supporting our investment in the Better Cotton Initiative's mission



Reminders: Existing BCI Rules

In addition to recommendations for changes, BCI would also like to remind members to check that the following are in place and in line with the existing Better Cotton Claims Framework.

Reminder 1 - Links to learn more

Why?

A link, ideally a hyperlink in the context of online claims, should be present on all product-level claims. BCI aims to ensure members' claims allow consumers to learn more easily. To deliver full transparency, BCI firstly requires members to substantiate their product-level claims (these elements – recommendations 1&2 – must be in place next to the product featuring a BCI logo or on the product packaging). Secondly, members must provide links to further supporting claims, informing consumers of a brand's wider commitment to sustainability and giving context to their work with BCI.

The ACM notes that '...information must be provided in such a way that the consumer cannot miss it. A link in a footer to the substantiation is therefore insufficient, this link must be directly next to the claims.... substantiation must be available to the consumer within 1 mouse click.'

RULE

Members should provide a URL from the product claim to either the consumer-facing content on BCI's website (bettercotton.org/learnmore or bettercotton.org/massbalance), or to their own brand sustainability pages, where their goals and sustainability approach are outlined.

See page 16-21 of the Better Cotton Claims Framework V2.0.

Reminder 2 - Basic claims

Why?

BCI requires 'basic claims' to be in place on the sustainability pages of a member's brand-level website. Basic claims serve to offer transparency to consumers with regard to a member's approach to sourcing more sustainable cotton. In addition, they hold members accountable for reaching their sustainability goals by making their commitments public, and ultimately, driving sector change.

The following claims must feature on the website of both the BCI Member (group level) and the consumer-facing website of the brand using the OPM. Alternatively, a direct link to a member's corporate sustainability webpages from an e-commerce site is acceptable, providing this information is no more than one click away.

- Membership statement
- Time-bound target for 'more sustainable cotton sourcing' as a xx% of total cotton lint use
- Mass balance definition.

See page 8 & 11 of the Better Cotton Claims Framework V2.0.

General advice: Not Specific to BCI

Advice 1 – Online search filters and umbrella claims:

Why?

One of the key elements of the ACM guidance relates to overarching/general sustainability claims (as opposed to the use of a standard system's product mark). While BCI is unable to enforce appropriate use of claims where there is no mention of BCI or Better Cotton, we advise members to review any use of flags/filters/umbrella branding on products to ensure that these do not conflict with ACM guidance. Whether a claim implicitly or explicitly mentions BCI/Better Cotton, the Better Cotton Claims Framework and supporting guidance outlined in this document applies.

Claims should not:

- Suggest a product is concretely sustainable ('absolute claims') without scientific backing.
- Be too generic (i.e. the sustainability benefit of the specific product must be defined)
- Imply that Better Cotton is physically traceable to the product.

See page 11 & 12 of the ACM guidance for examples.

Examples of prohibited claims and rationale:

'Conscious' - The sustainability benefit should be defined.

'Eco logo or symbol' - Absolute claim. The sustainability benefit should be defined.

'Sustainable' - Absolute claim. The sustainability benefit should be defined. If used as a synonym for BCI, this claim also suggests physical traceability of Better Cotton.





For further information email
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