



**TANGAROA BLUE
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02 February 2024

Committee Secretary
Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
Correspondence via email: ec.sen@aph.gov.au

Re: Inquiry into Greenwashing.

Dear Committee Secretariat

Thank you for the opportunity to make a supplementary submission to the Australian Government's Inquiry into greenwashing. We commend the government on its ambitions to address greenwashing in Australia and for allowing Australians to comment on this topic. We also support the current work by the Australian Competition and Consumer Commission (ACCC) to tackle this issue which found that 57% of businesses surveyed made concerning environmental claims (ACCC, 2023). Research in 2022 found that 45% of Australians always or often consider sustainability as part of their decision making but at least 50% of people worry about the truthfulness of these green claims (Consumer Policy Research Centre, 2022). This Inquiry is an opportunity to take concrete action to mitigate greenwashing moving forward.

There are existing laws in Australia against misleading and deceptive conduct and clear guidance that businesses must be truthful, specific, and clear and only use claims that can be scientifically substantiated and verified (AANA, 2022; Consumer Policy Research Centre, 2022). However, this has not stopped greenwashing and the increasing amount of vague environmental claims (Consumer Policy Research Centre, 2022). Prior to our last submission, Tangaroa Blue Foundation along with the Environmental Defenders Office submitted a complaint and reported examples of greenwashing to the ACCC in December 2022 (see previous submission).

Following our submission to the ACCC and the senate inquiry, progress has been made. In November 2023, the ACCC accepted a court-enforceable undertaking from MOO Premium Foods Pty Ltd (MOO) following an investigation into MOO's '100% ocean plastic' representations on its packaging, website and social media pages¹. This was a company that Tangaroa Blue Foundation and the Environmental Defenders Office reported to the ACCC. It is particularly relevant to our work at Tangaroa Blue Foundation because it is greenwashing that focuses on our oceans, sometimes called 'blue washing' or 'blue claims'. Tangaroa Blue Foundation is an organisation dedicated to the removal and prevention of litter at the source and is the founder of the Australian Marine Debris Initiative (AMDII), an on-ground

¹ <https://www.accc.gov.au/media-release/moo-premium-foods-gives-undertaking-after-accc-investigates-ocean-plastic-claims>



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network of volunteers, communities, organisations, and agencies around the country removing, documenting and preventing marine debris and plastic pollution. The AMDI Database is the largest database of marine debris in the southern hemisphere with more than 24 million litter items recorded at more than 4,700 clean-up sites since 2004.

We commend the ACCC for its proactive approach in addressing greenwashing concerns. However, we strongly believe that the term “ocean-bound plastic” still presents confusion for the consumers and should not be used at all as the material it is referring to would be better referred to as “post-consumer waste” or presented as recycled content or material. This is an important distinction because there is no evidence or guarantee that this material would ever have ended up in the ocean, instead this is an assumption that is being used to sell products to the consumer at a premium. It continues to disadvantage companies that are correctly marketing their products as just using recycled content which refers to that same type of material.

The release of draft guidance on 14 July 2023 signifies a step towards enhancing the credibility of environmental claims made by businesses. However, we believe that these guidelines should not remain voluntary; they must be made mandatory and enforceable. By implementing mandatory regulations, businesses would be required to adhere to the guidance, thus reducing the prevalence of greenwashing practices. We strongly urge the ACCC and the Senate inquiry to maintain vigilant oversight of this issue and ensure rigorous enforcement of regulations. Continuous monitoring and enforcement are essential in safeguarding consumers from misleading environmental claims and fostering a marketplace built on transparency and integrity.

Since reporting these examples to the ACCC, we have found more examples including Good Sheet's Toilet Cleaning Sheets which state that they are zero plastics but in the ingredient list it has polyvinyl alcohol which is a water-soluble plastic (Figure 1).

Similarly, we found Nomad Eyewear which claims it is made from 100% recycled ocean plastic. As we pointed out in our previous submission, it is not possible for a product to be made entirely out of ocean plastic due to the degradation of the polymers. After further investigation on their website, they claim that they are using 100% ocean-bound plastic. Consumers often do not know the definition of ocean-bound. Ocean-bound plastics are defined by the industry as plastic that has the potential to eventually end up discharged into the ocean by the effect of winds, rainfall, river flow or tides, i.e., **bound**, for the ocean. It is generally used to refer to plastic collected within 50 km of the coast. This would be like collecting plastic in Penrith, NSW for a product and calling it ocean-bound because it is ~50 km from Bondi Beach. The consumer may think this plastic was collected directly from the ocean, or at least a shoreline, but that is not the case. There is an urgent need for clear definitions of each term used in environmental claims such as these. In many cases here in Australia, this material isn't even collected domestically. Instead, ocean-bound plastics collected in developing countries are imported as stock



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material (Hughson, 2022). MOO yoghurt was investigated for this claim and Nomad Eyewear should be as well.



Figure 1. Good Sheet toilet cleaning sheet packaging which claims zero plastic but lists polyvinyl alcohol in the ingredient list.

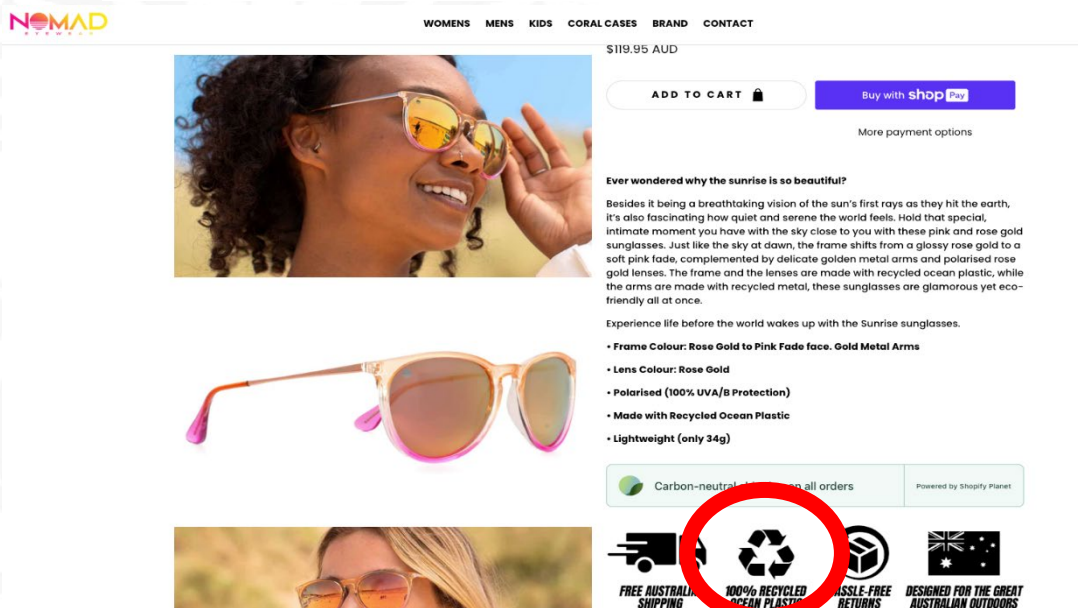


Figure 2. NOMAD Eyewear sunglasses claiming to be made from 100% recycled ocean plastic.



We are happy to see work being done to tackle greenwashing here in Australia, however there is still a lot of work to be done. To reiterate, in response to the inquiry:

- 1) Tangaroa Blue would like to see clear definitions and standards for all environmental claims, e.g., biodegradable, recyclable, recycled plastic, plastic free, reusable, and banning the use of terms that do not provide substantial information or may mislead the consumer such as ocean-bound plastic.
- 2) Strong and legally enforceable regulations on environmental and sustainability claims must be introduced. This must coincide with well-funded monitoring and enforcement authorities to prevent false and misleading claims. Businesses must be held to account by government agencies and not reliant on members of the public reporting greenwashing. The European Union's recent adoption of a Directive on green claims could be used to inform similar requirements in Australia to ensure international harmonisation of rules and regulations.
- 3) In particular, Tangaroa Blue would like for businesses to be required to substantiate the claims that they make using independent verification and proven with rigorous scientific evidence. They must also mandatorily disclose this evidence. This could occur through easily findable certificates of all substantiated claims on websites and marketing materials.
- 4) Tangaroa Blue is requesting that the Environmental Claims Code must be updated to incorporate a full life cycle analyses approach to assessing environmental claims to ensure that any harm to the environment or human health from the original item and what it becomes after being recycled is minimised or eliminated. This is in similar terms to rule 11.4 of the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing. Scientific and expert advice should also be used to assess claims.
- 5) The Environmental Claims Code Practice Notes need to be updated to:
 - a) align with the case law on what is misleading or deceptive under the Australian Consumer Law (ACL), particularly in relation to the use of headline statements and the overall impression of the advertisement.
 - b) align with the case law under the ACL in relation to use of disclaimers and fine print, which state that prominent claims can still mislead even if used with disclaimers.
- 6) The ACCC and ASIC be provided with further resources directed at the investigation of greenwashing and taking action to stop its proliferation including use of product warnings to products not meeting the standards. However, the ACCC and ASIC cannot investigate every claim, and taking action to stop these claims often requires court action. Thus, they should not be relied on to be the only measure to stop greenwashing. Instead, Ad Standards should be updated as these can ban particular advertisements within 30 days.
- 7) Tangaroa Blue would request that becoming a signatory of Operation Clean Sweep is a mandatory requirement for anyone in the plastics supply chain, suppliers, transporters, manufacturers and



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recyclers, to ensure that microplastic pollution doesn't increase with our increase in domestic recycling capacity. The need for this was highlighted in Port Phillip Bay, Victoria through the three-year litter study that found more than 2 billion microplastics flow into Port Phillip Bay annually. (Charko et al., 2020). This is only one body of water within Australia so we need to be stopping as much microplastic at the source as possible and Operation Clean Sweep can help achieve this reduction. This recommendation is also a target within Australia's National Plastics Plan to eliminate pre-production plastic loss and provides one of many best practice operational frameworks through which a business's sustainability can be assessed.

Tangaroa Blue Foundation encourages your strong support for tackling greenwashing in Australia. We know that sustainability and the environment are of importance to Australians and that we as consumers want to make sustainable choices. We encourage Australia to learn from and work with other countries to tackle the issue of greenwashing at an international level and to develop domestic regulations and enforcement of environmental claims to ensure that consumers are protected and environmental objectives are achieved.

Yours Sincerely,

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