

2nd of May 2023

## BioPak Pty Ltd's submission to the Parliament of Australia's Inquiry into Greenwashing

### Company Profile

BioPak produces sustainable alternatives to conventional single-use packaging for the food service industry, offering certified compostable packaging solutions made from rapidly renewable, plant-based raw materials.

**BioPak** designs products for a circular economy – where there is no waste. As a B Corp, you can trust we give back 5% of profits to positive change and work with conservation organisations to protect rainforests. In 2018, BioPak launched its own compost service in Australia and New Zealand – an organics recycling collection service designed to divert more food and packaging waste from landfill and combat climate change. It has since evolved into a not-for-profit Product Stewardship scheme – [Compost Connect](#).

### Terms of reference

- (a) the environmental and sustainability claims made by companies in industries including energy, vehicles, household products and appliances, food and drink packaging, cosmetics, clothing and footwear;
- (b) the impact of misleading environmental and sustainability claims on consumers;
- (c) domestic and international examples of regulating companies' environmental and sustainability claims;
- (d) advertising standards in relation to environmental and sustainability claims;
- (e) legislative options to protect consumers from greenwashing in Australia; and
- (f) any other related matters

### Term (a): greenwashing in the food service packaging industry

In the past few years, we have seen a sharp increase in greenwashing in our industry. This seems to have accelerated with the introduction of Single Use Plastic bans in most states. Suppliers of plastic products are quickly switching to fibre-based or compostable bioplastics without conducting the right due diligence on their materials and end-of-life options.

The main recurring claims we have observed in our industry are:

- vague, unsubstantiated claims about being “eco-friendly”, “green” or “sustainable”;
- vague claims about product biodegradability;
- unspecified claims about product compostability (is it home compostable or industrial compostable);
- compostability claims without a valid certificate (to Australian AS4736 industrial composting or AS5810 home composting standards) to the company's name, for the specific product;

- compostability claims (substantiated or unsubstantiated) when the products contain PFAS (Per- and polyfluoroalkyl substances). Products that contain PFAS should, in theory, not meet the testing requirements of AS 4736 and AS 5810;
- claims that products are recyclable when the [Australian Packaging Covenant](#)'s guidelines – see [Packaging Recyclability Evaluation Portal \(PREP\)](#) – clearly show they are not. This is most common for paper cups and lined paper products;
- plastic-free claims for coatings that are known to contain polymers (so-called “aqueous coatings” or “water-based” coating), with no transparency on the materials used;
- FSC™ (Forest Stewardship Council) certified products without proper Chain-of-Custody certification

### Term (b): impact on consumers

The unsubstantiated claims and vague statements mentioned above mislead direct customers (food service businesses) and their own customers (end users). They are tricked into thinking that:

- they use a product that has a smaller environmental impact than alternative products;
- their product can be reprocessed into a new resource at the end of its useful life instead of being sent to a landfill;
- their product doesn't contain plastic at all;
- their product is sourced sustainably;
- the price premium they pay is justified by the above claims.

This misinformation and lack of transparency don't provide consumers with the right elements to make an informed decision. If they knew that these claims weren't actually true, they might choose not to use the product, find ways of using reusable products or look for alternative brands that make substantiated claims.

### Term (c): examples of regulations in the packaging industry

Domestically and Internationally – Single Use Plastic (SUP) bans

Single-use plastic bans help combat greenwashing by banning products that have a proven negative impact on the environment and promoting products that have a lesser impact.

Some SUP bans in Australia, like the one in Western Australia for instance, prescribe the use of certified compostable packaging as acceptable alternatives to some banned products. Acceptable certifications are Australian Industrial Composting (AS 4736:2006) or Australian Home Composting (AS 5810:2010).

#### Internationally – The European Union's Green Claim Directive

On 22nd of March 2023, the [European Commission](#) adopted a proposal for a directive on substantiation and communication of explicit environmental claims, to improve product labelling and durability and to put a stop to misleading claims. This affects the packaging industry, amongst others.

The proposed directive will provide:

- clear criteria on how companies should prove their environmental claims and labels;
- requirements for these claims and labels to be checked by an independent and accredited verifier; and
- new rules on governance of environmental labelling schemes to ensure they are solid, transparent and reliable.

([Link](#) to the directive)

## Term (d): advertising standards

Currently, Ad Standards administers a national system of advertising self-regulation. The self-regulation system recognises that advertisers share a common interest in promoting consumer confidence in and respect for general standards of advertising.

Ad Standards has designed several [Advertising Codes](#), including an Environmental Claims Code ([AANA Environmental Claims Code](#)) that condemns the greenwashing practices mentioned above.

However, given its self-regulatory nature and the cost of the claiming process, it is not always easy to get these codes implemented.

In 2021, the Ad Standards Industry Jury has found the following a complaint from BioPak against Pinnacle International Wholesalers' claims that its disposable coffee cups were plastic-free, fully recyclable and compostable were in breach of the Australian Association of National Advertisers (AANA) Code of Ethics (case report [link](#)). While this served as a reminder documentary evidence to support claims is required, we haven't seen the expected impact and won't be able to submit claims for each instance of greenwashing we find in our industry.

Fortunately, the [Australian Competition and Consumer Commission \(ACCC\)](#), an independent Commonwealth statutory authority, performed an internet sweep in October and November 2022, to identify misleading environmental and sustainability marketing claims.

The sweep indicates a significant proportion of businesses are making vague or unclear environmental claims. Of the 247 businesses reviewed during the sweep, 57 per cent were identified as having made concerning claims about their environmental credentials. The cosmetic, clothing and footwear, and food and drink sectors were found to have the highest proportion of concerning claims among the industries targeted in the operation ([link](#) to findings)

## Term (e): legislative options - BioPak's recommendations

BioPak believes that new legislation must be designed to:

- implement the existing advertisement standards to incentivise packaging suppliers to substantiate their claims and make the documentary evidence available publicly;
- provide prescriptive guidance on how packaging companies should prove their environmental claims and labels;
- require these claims and labels to be checked by approved independent third parties;
- regulate labelling and certification schemes to ensure they are transparent, reliable and accessible;
- incentivise packaging suppliers to clearly label their products to help consumers identify the best end-of-life option(s), using either the Australasian Recycling Label (ARL) or acceptable compostability certification marks and product certification codes;
- end-of-life labelling should refer to the whole finished packaging product and not to single constituents/ingredients;
- Ban or regulate the use of vague words such as "green", "biodegradable" or "eco".

The above measures, while prescriptive and potentially disruptive for part of the industry, will help achieve significant progress in the fight against greenwashing. Voluntary measures are unfortunately not enough and we believe that a regulatory framework will level the playing field and provide a degree of certainty required to foster both innovation and accreditation investments in our industry.