

**COMPLAINT AGAINST BRITISH AIRWAYS PLC
IN RESPECT OF VIOLATIONS OF THE OECD GUIDELINES**

Complainant:	POSSIBLE: THE 10:10 FOUNDATION 8 Delancey Passage, London NW1 7NN
Company:	BRITISH AIRWAYS Plc Waterside PO Box 365 Harmondsworth, UB7 0GB
NCP:	UK NATIONAL CONTACT POINT FOR THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES Department for International Trade 3 Whitehall Place London SW1A 2AW
Complainant Contact:	ALETHEA WARRINGTON alethea.warrington@wearepossible.org
Complainant's Representative Contact:	TOM SHORT, LEIGH DAY tshort@leighday.co.uk

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1. INTRODUCTION AND SUMMARY

1.1. Parties and the Complaint

1.1.1. This complaint (the "**Complaint**") is brought to the UK OECD National Contact Point (the "**NCP**") by Possible – the 10:10 Foundation ("**Possible**"; the "**Complainant**").

1.1.2. The Complaint is brought against British Airways plc (the "**Company**", "**BA**") in relation to certain public statements, advertising and communications regarding BA's efforts to reduce and/or offset its impact on climate change, which the Complainant contends are misleading consumers and the general public and are in breach of the recently-updated OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the "**OECD Guidelines**" or the "**Guidelines**")¹.

1.2. The Climate Crisis and its relevance to this Complaint

1.2.1. This Complaint must be considered in the wider context of the climate crisis the world is facing. The Complainant refers in particular to the reports of the Intergovernmental Panel on Climate Change (the "**IPCC**") including "AR6 Climate Change 2021: The Physical Science Basis"², which warns that global warming must be limited to 1.5 degrees Celsius to prevent catastrophic climate change. The IPCC's Special Report on Global Warming of 1.5°C (the "**Special Report**")³ spelled out the additional impacts arising from warming of 2°C compared to warming of 1.5°C. These are, among others:

- (a) Increased risks from droughts and conversely from floods⁴;
- (b) An additional 10cm of sea-level rise by 2100⁵;
- (c) Greater impacts on biodiversity and ecosystems, both on land and in the oceans⁶;
- (d) Greater risk for people of heat-related morbidity and mortality, and of vector-borne diseases such as malaria and dengue fever⁷;

¹ OECD (2023)

² IPCC Sixth Assessment Report: AR6 Climate Change 2021: The Physical Science Basis: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf
³ https://www.ipcc.ch/site/assets/uploads/sites/2/2022/06/SPM_version_report_LR.pdf

⁴ Ibid, para. B.1.3

⁵ Ibid, para. B.2

⁶ Ibid, para. B.5.2

⁷ Ibid, para. B.5.2

- (e) Greater net reductions in yields of maize, rice, wheat, and potentially other cereal crops, particularly in developing regions of the world⁸;
- (f) Adaptation to climate change is more challenging, and in some vulnerable regions the capacity to adapt to climate impacts may not exist for warming above 1.5°C⁹.

1.2.2. The Special Report states that to achieve this, global greenhouse gas (“GHG”) emissions will need to decline by around 45% from 2010 levels by 2030, and reach net zero around 2050¹⁰. The most recent IPCC report, “AR6 Climate Change 2022: Mitigation of Climate Change”¹¹ states that global emissions pathways that have a greater than even chance of limiting warming to 1.5°C with no or limited overshoot require GHG reductions of 43% by 2030 and 84% by 2050, relative to 2019 levels.¹²

1.2.3. On a global basis, nation states (including the UK) have set out a framework for tackling these issues in the 2015 Paris Agreement, with national governments setting increasingly ambitious climate targets to try to reach their obligations under that Agreement. In the UK, this has manifested itself in the 2019 amendments to the Climate Change Act 2008, which commit the UK to "net zero" GHG emissions by 2050, and a commitment under the Paris Agreement framework to reduce emissions by 68% compared to 1990 levels by 2030. Governments re-affirmed their commitment to reducing emissions in the 2022 Glasgow Climate Pact, which, *inter alia*:

- a) Recognised ‘the interlinked global crises of climate change and biodiversity loss’ (Recital);
- b) Expressed ‘alarm and utmost concern that human activities have caused around 1.1 °C of global warming to date and that impacts are already being felt in every region’ (Art. 3);
- c) Stressed ‘the urgency of enhancing ambition and action in relation to mitigation [...] in this critical decade’ (Art. 4);
- d) Re-affirmed their commitment to the 1.5°C temperature limit, recognising that an increase of 2°C would bring much greater climate impacts (Art. 16);

⁸ Ibid, para B.5.3

⁹ Ibid, para. B.6.2 – 6.3

¹⁰ Ibid, para. C.1

¹¹ https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf

¹² https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_SummaryForPolicymakers.pdf, para C.1.1

- e) Noted that achieving the 1.5°C temperature limit would require carbon dioxide emissions to fall by 45 per cent by 2030 relative to the 2010 level (Art. 17); and
- f) Recognised that ‘this requires accelerated action in this critical decade’ (Art. 18).

1.3. Aviation and climate change

1.3.1. GHG emissions from UK aviation rose by 88% between 1990 and 2018.¹³ The Climate Change Committee, established under the Climate Change Act 2008, has warned that aviation is likely to be the largest source of emissions in the UK by 2050, even with technological progress and limiting demand, which the government is currently refusing to do.¹⁴ Aviation is a sector which is exceptionally difficult to decarbonise, with no pathway available to achieve emissions-free flights, and very high cost, resource, and technological barriers to doing so.

1.3.2. There are very limited options to reduce CO2 emissions using technology that is commercially available, or likely to become available in the next few decades. The approaches to doing so can broadly be categorised as: (a) improvements to efficiency or operations; (b) use of alternative fuels; (c) development of alternative methods of propulsion and (d) addressing of emissions outside the sector. As to these:

- a) Jet engines are already highly developed and optimised for efficiency. Further improvements are only expected to be incremental and there are now real trade-offs between fuel efficiency and (i) noise and (ii) emissions of local air pollutants in the design of new engines and aircraft.¹⁵ Operational measures to improve efficiency, such as the airspace modernisation, have been explicitly described as aiming to increase the number of planes in the sky.¹⁶
- b) Historically, improvement in efficiency has been outstripped by growth in passenger numbers and in distances travelled, with the result that emissions from UK aviation have grown steadily even as efficiency has improved (a well-recognised impact known as the Jevons paradox).

¹³ Climate Change Committee, The Sixth Carbon Budget: Aviation. 2020. Available here: <https://www.theccc.org.uk/wp-content/uploads/2020/12/Sector-summary-Aviation.pdf>

¹⁴ <https://www.theccc.org.uk/publication/letter-international-aviation-and-shipping/>

¹⁵ Inter-dependencies between emissions of CO2, NOX & noise from aviation, Sustainable Aviation, Policy Discussion Paper, 2017 update. Available at <https://tinyurl.com/2vh7kaew>. Sustainable Aviation is an aviation industry body.

¹⁶ <https://www.gov.uk/guidance/airspace-modernisation>

- c) Alternative fuels, often misleadingly described as “sustainable aviation fuels” or SAF, are a currently nascent pathway about which serious concerns have been raised by experts. Simply put, there is no alternative source of fuel available on the scale of the industry’s demand for kerosene that could be obtained without causing huge environmental, economic and/or resource problems, such as deforestation. This would displace emissions of fossil carbon elsewhere, not remove the need for them. Concerns about SAF are discussed in greater depth in Section 4.5 below.
- d) Powering planes by electricity or hydrogen will be extremely difficult. Batteries are many times heavier than kerosene per unit of energy stored, and hydrogen is much bulkier. To be able to cover more than very short distances with small numbers of passengers, aircraft running on electricity or hydrogen will require a complete redesign, which engineers have not currently been able to do because of the high technological difficulty involved. The expectation is that these methods of propulsion will be able to cover no more than a few percent of current air miles flown by 2050: The UK’s Government’s ‘High Ambition’ scenario assumes ‘Zero Emission Flights’ will reduce UK aviation emissions by just 4% in 2050.¹⁷
- e) Carbon removals via bioenergy with carbon capture and storage or direct air capture are also both at an early stage of development. They are both highly controversial, due to the high cost and resource implications, and concerns about the lifecycle emissions of bioenergy (discussed further at Section 4.5 below). There is doubt that this will be viable, workable or affordable at scale, and concerns about the uncertainty of long-term storage and the moral hazard involved (whereby the promise of a future alternative to cutting emissions reduces the present incentive to do so). Offsets have already been discredited as largely offering “junk credits” which, if anything, increase overall emissions.¹⁸

1.3.3. In addition to the carbon dioxide produced by flights, aircraft also have non-CO₂ impacts on the climate, through persistent contrails, effects on the properties of cirrus clouds, and impacts of other exhaust gases such as NO_x at altitude.¹⁹ Although there is continued scientific debate about the precise extent of the non-CO₂ climate impacts of aviation, and the most appropriate metric by which to compare them to the CO₂ warming impacts, the overall scale of the problem has been clear for over two decades. As early as 1999, the IPCC report, *Aviation and the Global Atmosphere* calculated the ‘Radiative Forcing Index’ (the

¹⁷ *Jet Zero illustrative scenarios and sensitivities*, DfT July 2022, p.11.

¹⁸ www.bloomberg.com/news/articles/2023-08-24/junk-offsets-are-feeding-mass-wave-of-greenwashing-study-shows?leadSource=uverify%20wall

¹⁹ https://ec.europa.eu/clima/news-your-voice/news/updated-analysis-non-co2-effects-aviation-2020-11-24_en

ratio of total warming to CO₂-only warming) for aircraft as being 2.7.²⁰ More recent scholarly articles have confirmed that, on the basis of the latest scientific evidence, “*Non-CO₂ impacts comprise about 2/3 of the net radiative forcing.*”²¹ Put another way, the non-CO₂ warming impacts on their own are twice as large as the CO₂ impacts on their own. This means that methods to reduce aviation emissions must tackle the full spectrum of emissions produced by planes, not only their carbon emissions – but there are virtually no policies or technologies in place to do so.

1.3.4. Options to make deep reductions in aviation emissions remain technologically and/or commercially immature. This means, therefore, that there is no way for customers to fly in the near to medium term without producing emissions. **Given the technological complexity of aviation decarbonisation, it is unreasonable to expect that customers will have a grasp of the difficulties in doing so, or of the serious problems or limitations to existing methods such as offsets. It is therefore essential for bodies such as airlines, which communicate directly with customers and prospective customers about these issues, to be honest and accurate about what they can actually achieve to reduce emissions while continuing to fly (and to market flights to customers).**

1.3.5. Since the pandemic, the aviation industry in the UK, along with the UK government, has expressed intention to expand passenger numbers in the decades to 2050, with the government’s most recent update to the Jet Zero Strategy suggesting an increase in passenger numbers of more than 50% from pre-pandemic levels to 2050.

1.3.6. Serious concerns have been raised by experts that the UK government’s strategy of encouraging demand for aviation to increase hugely to 2050, while relying on technological solutions to remove the resulting increase in greenhouse gas emissions, will not work. Research commissioned by Possible and published by Chatham House²² re-runs the analysis underpinning the government’s Jet Zero Strategy, using realistic assumptions about the possible development and deployment rates of technological solutions to aviation emissions, to assess what levels of demand will be possible within the sector’s remaining carbon budgets. The study finds that technologies including efficiency, negative emissions and alternative aviation fuels will not be sufficient to manage aviation emissions if the industry keeps on growing. Even if these technologies do develop, to keep within emissions limits UK demand in terms of passenger-kilometres flown in 2030 would need to be 36 per cent lower than in 2019. This level of demand

²⁰ <https://archive.ipcc.ch/ipccreports/sres/aviation/index.php?idp=64>

²¹ Lee et al 2021, The contribution of global aviation to anthropogenic climate forcing for 2000 to 2018. <https://www.sciencedirect.com/science/article/pii/S1352231020305689>

²² <https://www.chathamhouse.org/2023/11/net-zero-and-role-aviation-industry/summary>

reduction could be achieved by behaviour change by just the small group of people who fly most often, needing no change to travel habits for 77% of people, who already fly rarely.

1.3.7. In terms of the choices available to individual consumers: reducing the number and distance of the flights they take is often the most significant step an individual can take to reduce their carbon footprint. For example, the average GHG footprint in the UK is 11.7 tonnes of CO₂-equivalent emissions (CO₂e).²³ A typical short-haul flight (say, London-Zurich in business class) emits 200 kg CO₂e. A typical long-haul flight (say, London-Singapore in business class) emits more than 5 tonnes of CO₂e.²⁴

1.4. Consumer attitudes to climate change

1.4.1. Research has shown that a significant number of UK consumers are environmentally conscious in their purchasing decisions and take into account factors such as the GHG footprint of products and services they purchase.²⁵ More generally, individuals are now more likely actively to consider how they can reduce their own carbon footprint, thereby contributing to the country's net-zero target – a trend recognised in paragraph 94 of the Guidelines. Such consumers are likely to be influenced by airlines' sustainability messaging when choosing: (i) whether to fly (as opposed to travelling by an alternative mode of transport, or not travelling); (ii) how far to fly, and (iii) which airline to fly with.

1.4.2. As the Chapter VI, Paragraph 1(d) of the Guidelines recognises, companies must provide "*adequate, measurable and verifiable ... information on environmental impacts associated with their operations*" and more generally, under Chapter VIII, Paragraph 4, companies must "*not make representations or omissions, nor engage in any other practices that are deceptive, misleading, fraudulent or unfair*".

1.4.3. These requirements are very important in the current context in which consumers and policy makers are increasingly alive to the environmental impact of their decisions and consumption habits. They are especially important in relation to an activity such as flying, which is mostly a discretionary choice for consumers, but which has a uniquely large impact on the annual GHG footprint of most individuals.

²³ <https://www.openaccessgovernment.org/the-average-british-carbon-footprint-is-five-times-over-paris-agreement-recommendations/152669/>

²⁴ Possible report, *Jetting Away with It*, https://docs.google.com/document/d/1WdGEPGb7W5QvomzJCmtSDwG_NdvtcU3zxpQNIZ-mHo/edit

²⁵ <https://www.energylivenews.com/2020/02/23/almost-half-of-uk-consumers-look-for-more-eco-friendly-products/>;
<https://www.ibm.com/downloads/cas/EXK4XKX8>;
<https://www2.deloitte.com/uk/en/pages/consumer-business/articles/sustainable-consumer.html>

1.5. Summary of complaints

1.5.1. The Complainant has identified a number of misleading statements by BA in its promotional materials (the “**Relevant Statements**”). BA continues to rely on the Relevant Statements, which are available on its website as current statements about its environmental performance. The Relevant Statements may be grouped into a number of themes:

- a) Misleading claims about reducing emissions;
- b) Misleading claims about efficiency;
- c) Misleading claims about offsets; and
- d) Misleading claims about alternative fuels.

1.5.2. As explained further in section 4 below, the Relevant Statements are inaccurate, misleading and therefore breach the OECD Guidelines.

1.5.3. In particular, the Complainant contends that the Relevant Statements breach some or all of the following requirements of the OECD Guidelines:

- a) Chapter VI, Paragraph 1(d) which requires that enterprises “*provide the public ... with adequate, measurable and verifiable (where applicable) and timely information on environmental associated with their operations, products and services*”;
- b) Chapter VI, Paragraph 3 which requires that “*Consistent with the scientific and technical understanding of the risks, where there are threats of serious or irreversible damage to the environment, taking also into account human health and safety, [enterprises should] not use the lack of full scientific certainty or pathways as a reason for postponing cost-effective measures to prevent or minimise such damage.*”
- c) Chapter VI, Paragraph 5(c) which requires companies to “*Continually seek to improve environmental performance*” including by “*promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including, by providing accurate information on their products (for example, on greenhouse gas emissions...*”;
- d) Chapter VIII, Paragraph 2 which requires that enterprises should “*provide accurate, verifiable and clear information that is sufficient to enable*

consumers to make informed decisions, including information on ... environmental attributes ... of goods and services. Where feasible this information should be provided in a manner than facilitates consumers' ability to compare products";

- e) Chapter VIII, Paragraph 4 which requires enterprises "*not [to] make representations or omissions, nor engage in any other practices that are deceptive, misleading, fraudulent or unfair*"; and
- f) Chapter VIII, Paragraph 5 which requires enterprises to "*Support efforts to promote consumer education in areas that relate to their business activities, with the aim of, inter alia, improving the ability of consumers to ... (ii) better understand the ... environmental ... impact of their decisions*".

together, the "**Relevant OECD Guidelines**".

1.5.4. Full extracts of these parts of the OECD Guidelines are provided at Appendix B.

1.5.5. The Complainants invite the NCP to refer to the following international and national marketing code of conduct in their interpretation and application of the OECD Guidelines: the ICC Marketing Code, ISO 4021:2016(E), the UK Code of Non-Broadcasting Activity and the CMA Guidance on environmental claims on goods and services (as further detailed and defined in section 3.2 below).

1.5.6. The Relevant Statements are analysed in detail against the relevant OECD Guidelines and marketing codes in section 4 of this Complaint. A table summarising this information is at Appendix A of this Complaint.

2. PARTIES TO THE COMPLAINT

2.1. Introduction and summary

2.1.1. This section of the Complaint provides details about (i) the Complainant and its interests in bringing this Complaint; (ii) British Airways plc and its status as a "multinational enterprise" to which the OECD Guidelines apply; and (iii) why the UK NCP is the relevant NCP to address this Complaint.

2.2. The Complainant

2.2.1. Possible is a climate campaigning organisation, whose mission is to inspire people in the UK to take the action the climate crisis demands, and campaign for positive climate solutions to decarbonise areas of consumption emissions including heat, energy, and ground and surface travel. The organisation was started in 2009 (under the name "10:10 Climate Action") with a founding challenge of cutting carbon in the UK by 10% by 2010. Possible is a Charitable Incorporated Organisation registered in England and Wales with the Charity Commission under registration number 1157363.

2.2.2. Today, Possible's objectives are: (i) to promote sustainable development for the benefit of the public by the preservation, conservation and protection of the environment and the prudent use of resources; and (ii) to advance the education of the public in subjects relating to sustainable development and the protection, enhancement and rehabilitation of the environment. These objectives are also set out as the organisation's charitable objectives in its governing document.²⁶

2.2.3. In particular, Possible has run a number of campaigns aimed at reducing the environmental impact of aviation, including calling for an equitable Frequent Flyer Levy to replace Air Passenger Duty²⁷, campaigning to ensure any Covid-19 bailout funds to the aviation industry were granted in return for meaningful sustainability commitments²⁸, and promoting a 'Climate Perks' initiative under which employers grant paid travel days to employees who travel by low-carbon (but slower) modes of transport.²⁹

2.2.4. Possible has a legitimate interest in bringing the Complaint given the close connection of its contents to its charitable objectives and campaign activities.

²⁶ <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/5043626/governing-document>

²⁷ <https://www.wearepossible.org/actions-blog/the-frequent-flight-levy-the-way-to-make-fewer-flights-fair-for-everyone>

²⁸ <https://www.wearepossible.org/actions-blog/dont-give-airlines-a-free-ride>

²⁹ <https://www.climateperks.com/>

2.2.5. The Complainant confirms that it is aware that all the information it provides will be shared with BA and it understands that the NCP's approach to resolving complaints will in the first instance be to facilitate conciliation or mediation between the Complainant and BA.

2.3. The Company – British Airways plc

The Company as a multinational enterprise

2.3.1. BA plc is a company registered in the UK and headquartered near Heathrow, London. However, it may be considered a multinational enterprise for the purpose of the Guidelines, which are intentionally broad in their application, because (i) the very nature of its business means that it operates in many countries around the world and (ii) it is owned by International Consolidated Airlines Group, SA (“IAG”), a Spanish-registered company that owns five airlines based in three countries.

2.3.2. There is no definition of "multinational enterprise" in the Guidelines. Chapter I, paragraph 4, states:

"A precise definition of multinational enterprises is not required for the purposes of the Guidelines. These enterprises operate in all sectors of the economy. They usually comprise companies or other entities established in more than one country and so linked that they may coordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, State or mixed. The Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities)."

2.3.3. The Guidelines make it clear that they are intended to apply broadly: Chapter I paragraph 6 notes that governments "wish to encourage the widest possible observance of the Guidelines".

2.3.4. Although BA plc is a single company incorporated in England and Wales, the nature of its business requires it to have an operational presence in most if not all of the countries to which it flies. Its website can be customised by changing the 'home country' so that the user sees 'see special offers and other local information appropriate to the country/region that you select as your home country/region' – indicating that the nature of its customer offer changes according to the customer's location. As of January 2023, BA served 190 international destinations in 74 countries.³⁰

³⁰ <https://www.flightconnections.com/route-map-british-airways-ba>

2.3.5. Moreover, BA is wholly owned by parent company IAG, a Spanish registered company that operates airlines registered in three different countries, as well as a number of group-wide brands providing services either to or via its airlines (IAGLoyalty, IAGCargo, IAGTech and IAG Global Business Services). IAG also provides 'intra-group co-ordination' to its member airlines in areas such as 'fuel' or 'maintenance, repair and overhaul' and 'central functions; such as 'investor relations', 'people', 'finance', 'sustainability' and 'communications'.

2.3.6. Given BA's worldwide presence, and its ownership by a multinational enterprise which provides centralised functions covering sustainability and communications, it is obvious that BA itself should be considered a multinational enterprise that is subject to the OECD guidelines – in particular insofar as they relate to its sustainability communications.

2.4. The UK NCP

2.4.1. The Procedural Guidance to the OECD Guidelines states that "Generally, issues will be dealt with by the NCP of the country in which the issues have arisen".³¹

2.4.2. As stated above, BA Plc is incorporated in England and Wales. It is headquartered in London. As its name and livery show, BA emphasises its Britishness as part of its corporate identity. Although the relevant communications are hosted on its website (ba.com) and are therefore accessible to a global audience, they are in English and directed primarily, the Complainant suggests, to UK consumers.

2.4.3. The UK NCP is therefore the correct national contact point for this Complaint.

³¹ Procedural Guidance of the Guidelines, Commentary, para.23

3. APPLICABLE EXTERNAL CODES TO ASSIST IN INTERPRETATION OF THE GUIDELINES

3.1. Introduction and summary

3.1.1. In this section, the Complainant identifies legislation, industry standards and codes of practice applicable in the UK and which the Complainants contend should inform the NCP's interpretation and application of the OECD Guidelines (together, the "**Applicable External Codes**").

3.2. Overview of the Applicable External Codes

3.2.1. The important role of wider legislation, industry standards and codes of practice in interpreting the OECD Guidelines is acknowledged explicitly in the chapeaux of both Chapters VI and VIII of the Guidelines.³² The Guidelines therefore bring within their scope relevant marketing and advertising practices and standards, including the Applicable External Codes.

3.2.2. The Complainant submits that the following are Applicable External Codes and should be referenced as interpretive aids during the NCP's assessment of this complaint:

- a) The UK Consumer Protection from Unfair Trading Regulations 2008³³ and the UK Code of Non-Broadcast Advertising³⁴ ("CAP Code"): In the UK, the Consumer Protection from Unfair Trading Regulations 2008 provide a framework for consumer protection and prohibit commercial practices that are deemed to be misleading, either on their face or by omission. Marketing and advertising is largely self-regulated in the UK with oversight and any enforcement required being carried out by the Advertising Standards Agency (the "ASA"), under a framework that includes the CAP Code.

The CAP Code generally applies to any non-broadcast advertisements and other marketing communications by UK-registered companies, including in newspapers, magazines, on their own websites or online space under their

³² The chapeau of Chapter VI requires that "enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles and objectives and standards, take due account of the need to protect the environment ...". The chapeau of Chapter VIII requires enterprises to act in accordance with "fair business, marketing and advertising practices".

³³ The UK Consumer Protection from Unfair Trading Regulations 2008:
<https://www.legislation.gov.uk/uksi/2008/1277/contents/made>

³⁴ The CAP Code, Edition 12: <https://www.asa.org.uk/uploads/assets/47eb51e7-028d-4509-ab3c0f4822c9a3c4/adf7ccc3-7f09-4fcd-9502a60ffbf4a786/The-Cap-code.pdf>

control and "other electronic or printed material".³⁵ Its objective is to "protect consumers from misleading marketing communications".³⁶

- b) The UK Competition and Markets Authority's ("CMA") "Guidance: making environmental claims on goods and services" (the "**Green Claims Code**")³⁷: The purpose of the CMA Guidance is "to help businesses understand and comply with their existing obligations under consumer protection law when making environmental claims".³⁸

The CMA Guidance sets out the expected standards to be adhered to by companies making "eco-friendly" claims in the UK that are "ultimately aimed at consumers". It sets out six principles that firms in scope must adhere to: (i) claims must be truthful and accurate; (ii) claims must be clear and unambiguous; (iii) claims must not omit or hide important information; (iv) comparisons must be fair and meaningful; (v) claims must consider the full lifecycle of the product or service; and (vi) claims must be substantiated.

- c) The International Chamber of Commerce's Advertising and Marketing Communications Code ("ICC Marketing Code"): Chapter VIII of the Guidelines makes direct reference to the ICC Marketing Code and the Guidelines 2012 "Reference Instruments" explicitly confirms that the ICC Marketing Code³⁹ is "*relevant to aspects of the OECD Guidelines...and their implementation.*"⁴⁰ The ICC Marketing Code itself contains extensive guidance on environmental claims in marketing communications (Chapter D), and also refers to additional guidance in the ICC Framework for Responsible Environmental Marketing Communications (the "**ICC Environmental Communications Framework**").⁴¹
- d) The International Standards Organisation's standard on green marketing claims, "ISO 14021:2016(E): Environmental labels and declarations – Self-declared environmental claims (Type II environmental labelling)" ("ISO 14021:2016(E)")⁴² The objectives of ISO 14021:2016(E) are to harmonise

³⁵ Introduction, The Cap Code, p. 5

³⁶ Background, Chapter 2, The Cap Code, p. 15

³⁷ Competition and Markets Authority, Guidance: Making on Environmental Claims on goods and services', published 20 September 2021. Link: <https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims/environmental-claims-on-goods-and-services>

³⁸ CMA Guidance, para.1.5

³⁹ ICC Marketing Code. Link: <https://iccwbo.org/content/uploads/sites/3/2018/09/icc-advertising-and-marketing-communications-code-int.pdf>

⁴⁰ Guidelines make reference to the ICC's standards in general at para 81. More specific reference to the ICC Marketing Code is made in *OECD Guidelines for Multinational Enterprises: Reference instruments and initiatives relevant to the update Guidelines*, March 2012, pg.19.

⁴¹ ICC Marketing Code p.39.

⁴² <https://www.iso.org/standard/66652.html>

the use of self-declared environmental claims, to promote accurate and verifiable environmental claims that are not misleading; to increase the potential for market forces to stimulate environmental improvements in production, processes and products; to prevent or minimise unwarranted claims; to reduce marketplace confusion; to facilitate international trade; and to increase opportunities for purchasers, potential purchasers and users of the product to make more informed choices.

3.3. Analysis of relevant requirements of the Applicable External Codes

3.3.1. Each of the Applicable External Codes provides guidance on the manner in which a company's advertising or marketing may be deceptive or misleading to consumers, and therefore in breach of the Guidelines. A summary of key themes / requirements of the Applicable External Codes is set out below and the Complainants submit that these should inform the NCP's consideration of whether the Relevant Statements are in breach of the Guidelines.

Impression rather than intention

3.3.2. The impression created by marketing communications as well as the specific claims made are relevant to whether a marketing communication is misleading. For example, the ASA's approach is to assess the likely effect on consumers, not the marketer's intentions.⁴³

3.3.3. "Green" or "sustainable" claims must be evaluated in their entirety to assess how the reasonable consumer will interpret the advertising message.⁴⁴ Such claims, especially if used without explanation, are likely to be seen as suggesting that a product, service, process, brand or business as a whole has a positive environmental impact, or at least no adverse impact.⁴⁵ An evaluation of the "net impression" of the advertising on its intended target audience should ensure that it is not deceptive or misleading.⁴⁶

3.3.4. All marketing communications should be judged by their likely impact on the reasonable consumer, having regard to the characteristics of the targeted group and the medium used.⁴⁷ Claims can also be misleading if what they say is factually correct or true, but the impression they give consumers about the environmental impact, cost or benefit of a product, service, process, brand or business is deceptive.⁴⁸

⁴³ CAP Code, Background, p.16

⁴⁴ ICC Environmental Communications Framework, p.3.

⁴⁵ CMA Guidance, para. 3.9

⁴⁶ ICC Environmental Communications Framework, p.6.

⁴⁷ ICC Environmental Communications Framework, p.5.

⁴⁸ CMA Guidance, para.3.11

Clarity, data, evidence

- 3.3.5. The basis of environmental claims must be clear and unambiguous, and the meaning of all terms used in marketing communications must be clear to consumers.⁴⁹
- 3.3.6. Environmental claims must have a sound scientific basis. They should be conveyed consistently with the nature and scope of the evidence that supports both the express and implied messages that the reasonable consumer is likely to take away from the statement.⁵⁰
- 3.3.7. Marketing communications must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists.⁵¹
- 3.3.8. A company's action may not be honest and truthful if it is framed in such a manner that it abuses consumers' concern for the environment or exploits their possible lack of environmental knowledge.⁵²

Misleading omissions

- 3.3.9. Marketing communications must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.⁵³ The CMA Guidance suggests that businesses could think about whether consumers would be surprised or disappointed to hear the omitted information after they had decided to buy a product.⁵⁴
- 3.3.10. Marketing communications may mislead the consumer by omitting material information, by hiding material information or by presenting it in an unclear, unintelligible, ambiguous or untimely manner.⁵⁵
- 3.3.11. Where businesses make claims regarding their carbon neutrality, such as in respect of emissions, they must make it clear if this is the case due to carbon offsetting, such as via CO2 compensation schemes, and provide information about such schemes.⁵⁶

⁴⁹ CAP Code, rules 11.1, 11.2; CMA Guidance para.3.51.

⁵⁰ ICC Environmental Communications Framework, p.10.

⁵¹ CAP Code, rule 11.5.

⁵² ICC Marketing Code, Article D1

⁵³ CAP Code, Rule 3.9

⁵⁴ CMA Guidance, para.3.94

⁵⁵ CAP Code, Rule 3.3; Regulation 6(1) of the Consumer Protection from Unfair Trading Regulations 2008; Article 7(2) Unfair Commercial Practices Directive (2005/29/EC)

⁵⁶ CMA Guidance, para.3.72-73

Exaggeration

3.3.12. It is misleading to overstate environmental attributes.⁵⁷ A claim that is literally true may nonetheless be misleading if, for example, it could be misinterpreted to convey a broader benefit or if it exaggerates the environmental benefit or features.⁵⁸

3.3.13. It is misleading for marketing communications that refer to specific products or activities to imply, without appropriate substantiation, that they extend to the whole performance of the company, group or industry.⁵⁹

⁵⁷ ICC Marketing Code, Article D1

⁵⁸ ICC Environmental Communications Framework , pg. 8

⁵⁹ ICC Marketing Code, Article D1.

4. THE RELEVANT STATEMENTS AND WHY THEY ARE MISLEADING

4.1. Introduction and summary

4.1.1. This section of the Complaint identifies specific instances where BA has made the Relevant Statements and sets out the Complainant's position as to why such statements are in breach of the Relevant OECD Guidelines.

4.1.2. As set out in paragraph 1.5.1 above, the Relevant Statements fall into the following five categories:

- a) Misleading claims about reducing emissions;
- b) Misleading claims about efficiency;
- c) Misleading claims about offsets; and
- d) Misleading claims about alternative fuels.

4.1.3. As foreshadowed above, the Complainant invites the NCP to have regard to the Applicable External Codes when considering whether or not each of the Relevant Statements breach the OECD Guidelines. The Complainant draw the NCP's attention to specific rules etc as relevant to each claim complained of. There are, however, a number of overarching rules which the Claimants invite the NCP to consider as applicable to every claim complained of:

- a) CAP Code Rule 11.7: *"Marketing communications must not mislead consumers about the environmental benefit that a product offers"*;
- b) CMA Guidance paragraph 3.41: *"The overall impression created by a claim must match the environmental impact of what is being marketed. Businesses should consider how a consumer is likely to interpret what they are told and what they are shown"*; and
- c) ICC Framework for Responsible Environmental Marketing Communications 2019 p. 11: *"Information and claims about a product's environmental attributes should be judged by the likely perception of the reasonable consumer"*.

4.1.4. The statements on which the Complainant relies, and the specific provisions of the Guidelines and External Codes which they breach, are set out in tabular form in Appendix A.

4.2. Misleading claims about reducing emissions

4.2.1. The 'Planet' page of BA's website claims that *"we care about the impact of every flight"*, and that: *"we're driving urgent action towards net zero emissions. We **have a long history of managing and reducing our carbon emissions** and a clear roadmap to achieving net zero carbon emissions by 2050"*.⁶⁰ The 'Sustainability at British Airways 2023' page ("**the Sustainability 2023 page**") within the 'mediacentre' section of BA's website also claims that the airline is *"**reducing our emissions**"*.⁶¹ These headline claims are not supported by data on the pages where they appear: on neither page is there any data about the historical trajectory of BA's emissions— even though the Sustainability 2023 page in particular contains a significant amount of text.⁶²

Claims factually incorrect

4.2.2. As can be seen from the words in bold above, BA advances claims that it has in the past, and is currently, reducing its emissions. The reasonable consumer would understand these statements to mean that the airline's overall gross CO2 emissions have declined over time and are continuing to do so, particularly as no contrary data are presented on the website pages where the claims are made. However, that is not the case, and so these statements are factually incorrect and/or misleading.

4.2.3. Prior to the Covid-19 pandemic of 2020, which drastically reduced flights and associated emissions, BA's use of jet fuel (the Company's main source of emissions) and its Scope 1 emissions (both absolute and net of offsets) and Scope 3 emissions increased every year from 2016 to 2019. This information is only available in BA's Sustainability Performance Report⁶³ (to which there is no obvious link from the BA webpages where the emissions reduction claims are made). While emissions per passenger kilometre flown decreased very slightly over this period, the airline's total emissions continued an upward trajectory until the Covid crisis hit. Thus, the claim that the airline has a *"long history"* of reducing carbon emissions, and is currently doing so, is inaccurate and/or misleading.

4.2.4. BA does, however, have a long history of making this same misleading claim. Its 'Environmental Overview' for 2006-2007 stated that *"British Airways has been committed to lowering harmful emissions for many years"*⁶⁴. The claim was

⁶⁰ www.britishairways.com/en-ba/information/about-ba/ba-better-world/planet

⁶¹ <https://mediacentre.britishairways.com/factsheets/details/86/Factsheets-3/217?category=1>

⁶² When downloaded as a pdf factsheet, it runs to 21 pages.

⁶³ www.britishairways.com/cms/global/pdfs/information/ba-sustainability-performance-report.pdf page 3

⁶⁴ https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiZqL62u_T8AhUTZsAKHaQwBaAQFnoECA8QAQ&url=https%3A%2F%2Fwww.britishairways.com%2Fcms%2Fglobal%2Fpdfs%2Fenvironment%2Fenvironmental_overview_report.pdf&usg=AOvVaw0JnH6eQdDQPiv6h3vJ6dBq page 4

untrue even then: its CO2 emissions were higher for each successive year from 2002-2 (15.1m MtCO2) to 2006 (16.6m MtCO2). These figures also demonstrate that BA has not reduced its emissions over the past two decades: the figures for the early 2000's are lower than absolute scope 1 figures for 2017 (18.7m MtCO2), 2018 (18.9m MtCO2) and 2019 (19.0m MtCO2). Rather, the picture is of a steady rise in emissions, punctuated only by drops resulting from external shocks such as the financial crisis of 2008⁶⁵, and the Covid-19 pandemic.

4.2.5. BA's claim that it has in the past, and is now, "reducing its emissions" is a misleading representation, contrary to Chapter VIII, Paragraph 4 of the Guidelines. By failing to support the claims with information on the trajectory of its emissions over time, BA has failed to provide the public with verifiable information on the environmental impact of its activities, contrary to Chapter VI, Paragraph 1(d) of the Guidelines. The overall impression is misleading (contrary to the principles articulated in the 'Impression rather than intention' section at 3.3.2 above), lack the data or evidence to support them (contrary to the principles articulated in the 'clarity, data and evidence' section at 3.3.5 above) and mislead by the omission of the crucial fact that BA's total emissions have been steadily increasing (contrary to the principles articulated in 'misleading omissions' section at 3.3.9 above).

Claims omit important contextual information

4.2.6. BA promotes a number of "fuel saving initiatives" on its Sustainability 2023 page as part of its "short term initiatives" to get its emissions into alignment with net-zero. These initiatives are presented without the essential context of a comparison with the airline's total emissions and their overall increase. For example, the airline's purchase of "new lighter trollies" is said to saves 5,000 tonnes of CO2, and its replacement of flight manuals with tablets cuts 2,300 tonnes of CO2. The communications around these small reductions do not mention that in 2020, even with the impacts of Covid, the airline emitted more than nine million tonnes of CO2, and in 2019 under its normal operations it produced more than 23 million tonnes. These savings are therefore in the region of just one or two hundredths of one percent of emissions and are insufficient to lead to reductions in total emissions.

4.2.7. More generally, BA's environmental performance against its competitor airlines is poor. Prior to the pandemic, BA was the second most polluting airline in all of Europe.⁶⁶ Its flights also produce relatively high emissions per route, compared to other airlines; an investigation by Which in 2020 found that British

⁶⁵ Emissions dipped from 17.7Mt CO2 in 2007 to 17.6 MtCO2 in 2008, 16.7 MtCO2 in 2009 and 15.9 MtCO2 in 2010: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjW6OPFwfT8AhWYQUEAHVKVCBOQFnoECA8QAQ&url=https%3A%2F%2Fwww.britishairways.com%2Fcms%2Fglobal%2Fpdfs%2Fenvironment%2Fba_corporate_responsibility_report_2010-2011.pdf&usg=AOvVaw04ll4CIRG4ruYthdU7NaO6

⁶⁶ www.transportenvironment.org/discover/british-airways-emitted-much-co2-all-vans-uks-roads-new-data-shows/

Airways emits “more carbon than rival airlines”, and had the “largest carbon footprint per passenger for four of six routes” by up to 45%.⁶⁷ BA is also the worst-performing (i.e. most polluting per flight) airline on transatlantic flights, falling 22% below the industry average.⁶⁸

4.2.8. The omission of this important contextual information is a failure to provide the public with verifiable information on the environmental impact of its activities, contrary to Chapter VI, Paragraph 2(a) of the Guidelines. The overall impression given about the airline’s emissions performance is misleading (contrary to the principles articulated in the ‘Impression rather than intention’ section at 3.3.2 above and the ‘misleading omissions’ section at 3.3.9).

4.2.9. BA’s poor emissions performance relative to competitors may be the reason it lobbied against a UK government proposal that would require airlines to inform passengers about their flight’s carbon emissions when booking.⁶⁹ This action is contrary to Chapter VI, Paragraph 5(c) (promoting awareness of the environmental impact of goods and services); Chapter VIII, Paragraph 2 (providing environmental information to enable consumers to make informed comparisons and choices); and Chapter VIII, Paragraph 5 (support efforts to promote consumer education) of the Guidelines.

4.3. Misleading claims about efficiency

4.3.1. BA claims to be improving the fuel efficiency of its fleet by retiring older, less efficient aircraft and replacing them with newer, more efficient models. The airline has said that it has “invested in new aircraft which are up to 40% more fuel-efficient than those they replace”⁷⁰, and that,

“many of our older aircraft have been retired and we continue to take delivery of the most modern, fuel-efficient aircraft, such as the Airbus A350 that are up to 40% more fuel-efficient per seat than the aircraft they replace.”⁷¹

4.3.2. However, the implication that these efficiency increases will help to tackle the company’s emissions is misleading as the reality is that BA flights are high-carbon compared to other airlines,⁷² and that savings from efficiencies cannot come close to counter-balancing growth in flights. Historically, flying has become more efficient per kilometre while total aviation emissions have increased, as efficiency savings have been insufficient to counter an increase in the number of flights and passengers (and in fact are highly likely to have contributed to this, as

⁶⁷ www.which.co.uk/news/2020/01/british-airways-emitting-more-carbon-than-rival-airlines/

⁶⁸ https://theicct.org/sites/default/files/publications/Transatlantic_Fuel_Efficiency_Ranking_20180912_v2.pdf

⁶⁹ www.opendemocracy.net/en/british-airways-lobby-government-emissions-booking-data-jet-zero-climate-change/

⁷⁰ www.energylivenews.com/2021/03/30/is-british-airways-the-second-biggest-airline-polluter-in-europe/

⁷¹ www.britishairways.com/cms/global/pdfs/information/ba-sustainability-performance-report.pdf

⁷² www.which.co.uk/news/2020/01/british-airways-emitting-more-carbon-than-rival-airlines/

decreasing fuel costs increased passenger volumes).⁷³ In 2019, when the industry was operating under business as usual pre-Covid, demand for flights was increasing four times faster than efficiency savings, and there had been a 30% increase in emissions in the past six years.⁷⁴

4.3.3. In addition, fleet replacement is a natural process for airlines as a cost-saving measure, and given the unavailability of genuinely low-emissions aircraft this should not be described as a climate measure, particularly given BA's relatively high emissions per km flown compared to other airlines. The airline's Sustainability 2023 webpage claims that "*we have said goodbye to our entire fleet of Boeing 747s, years earlier than planned*". This is under a section headline "*Short-term initiatives*" and "*Changing how we fly*".⁷⁵ The clear implication for readers is that BA is retiring older, less efficient aircraft in order to cut emissions. However, this implication is misleading because BA retired these aircraft earlier than planned due the effects of Covid on the sector,⁷⁶ not out of care for the climate, and the airline's CEO was clear that it did so with reluctance, describing it as a "*heart-breaking decision*".⁷⁷ Retiring older and less efficient planes is a standard cost-cutting measure for airlines, and should not be described in a way that gives customers a misleading impression of the scale and urgency of emissions mitigation measures by a company with ongoing emissions increases.

4.3.4. BA has provided misleading and incomplete information about its ability to increase its efficiency to reduce its emissions. It is therefore in breach of Chapter VI, Paragraph 1(d) of the Guidelines which requires businesses to provide the public with adequate, measurable and verifiable information on the environmental impacts of the activities of the enterprise. Its claims also breach section Chapter VI, Paragraph 5(c) which requires companies to promote higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including by providing accurate information on their products on greenhouse gas emissions. They also contravene Chapter VIII, Paragraph 2, which requires enterprises to provide accurate, verifiable and clear information that is sufficient to enable consumers to make informed decisions, including information on the environmental attributes of goods and services; and to provide this information in a manner that facilitates consumers' ability to compare products, particularly in light of the commentary at Chapter VIII, Paragraph 97, which requires that any product and environmental claims that enterprises make should be based on adequate evidence. They also breach Chapter VIII, Paragraph 4, which requires companies

⁷³ https://stay-grounded.org/wp-content/uploads/2021/08/SG_factsheet_8-21_Efficiency_print_02.pdf

⁷⁴ <https://news.sky.com/story/we-do-have-solutions-ba-sets-out-key-planks-of-net-zero-strategy-12401489>

⁷⁵ <https://mediacentre.britishairways.com/factsheets/details/86/Factsheets-3/217?category=1>

⁷⁶ <https://www.manchestereveningnews.co.uk/news/uk-news/last-ever-british-airways-747-19442536>

⁷⁷ <https://edition.cnn.com/travel/article/boeing-747-british-airways-final-intl-scli-gbr/index.html>

to not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent or unfair.

4.4. Misleading claims about carbon credits

BA's overall messaging about carbon credits is misleading and confusing

- 4.4.1. BA's Sustainability 2023 page claims that its use of offsets allows customers to *"Fly carbon neutral"*. The use of the phrase "carbon neutral" is misleading, as it implies that the atmospheric concentration of CO₂ is not increased by the customer's flight, whereas this is not the case. There is a measurable, verifiable increase of atmospheric fossil CO₂ as a result of a flight, against which any additional carbon storage generated via an offset (or removal) is uncertain in scale and duration. Offsetting, which is conceptually based on cutting some emissions while others are permitted to continue or increase, can only ever reach a stasis point of business as usual, not net-zero, and most projects are very unlikely to actually provide additional emissions reductions. Climate scientists are clear that offsets cannot undo or counterbalance the harm caused to the climate by flying, saying *"Carbon offsets don't reduce the impact of flying... Once that carbon is burned and in the atmosphere it is burned and in the atmosphere, contributing to the global heating and resultant impacts we're all increasingly experiencing."*⁷⁸
- 4.4.2. BA's Sustainability 2023 webpage refers several times to customers being able to *"address their emissions"*, while the Planet page invites passengers to *"act on"* their carbon emissions.
- 4.4.3. Together, these statements give a clear impression that purchasing carbon credits via BA's online tool is an effective way to eradicate the environmental impact of flying. That impression is highly misleading, for the same reasons that BA's use of the phrase 'carbon neutral' is misleading.
- 4.4.4. On the 'CO2llaborate' page where the carbon credit product is offered⁷⁹, BA makes an even more misleading statement (underlining added):
- "Our carbon solutions are verified by comprehensive certification standards to ensure that your contribution creates a positive climate impact."*
- 4.4.5. The phrase *"a positive climate impact"* is highly misleading because it creates the impression that the overall effect of flying, and then purchasing credits via the 'Co2llaborate' tool, is not only neutral but actually a benefit to the climate. There is no basis for such a claim.

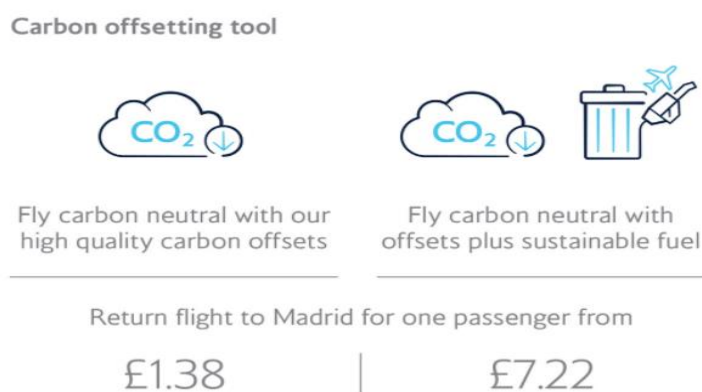
⁷⁸ <https://www.bbc.co.uk/news/business-60400458>

⁷⁹ <https://ba.chooosetoday>

4.4.6. Furthermore, the Sustainability 2023 webpage states that “we are empowering customers to make more sustainable travel choices by introducing the new, upgraded climate software solution, CO2llaborate”. This statement ignores the fact that there are far more sustainable travel choices available – namely, not travelling, travelling by less carbon-intensive methods of travel, or even simply flying shorter distances, all of which avoid or reduce emissions in the first place.

4.4.7. These claims do not follow existing best practice or guidance, and this type of claim when made by other companies has been ruled to be misleading to consumers. For example, in the Netherlands, the advertising regulator ruled that Shell’s claim that its customers could “drive carbon-neutral” by paying a small supplementary charge for tree-planting and forest management projects when buying fuel must be taken down, because Shell could not guarantee the removal of atmospheric CO₂ by this scheme.⁸⁰ The same argument applies to British Airways’ identical claim that its customers can “fly carbon neutral”. If anything, this claim is *more* misleading and egregious when made by an airline than by a seller of fuel for cars, because aviation produces more non-CO₂ warming impacts than driving and so the disparity between harm caused to the climate and the measures taken to address that harm is even greater.

4.4.8. There is also inconsistency and confusion within British Airways’ claims about what can be achieved by offsets, as illustrated by the following image⁸¹:



4.4.9. This implies both that carbon offsets alone are sufficient to allow a customer to “fly carbon neutral”, and that the additional use of “sustainable fuel” is also required to make a flight “carbon neutral”. Given the higher cost for additionally purchasing a small quantity of alternative fuel, it is clear that both options are not equivalent. The indiscriminate use of “carbon neutral” to describe different

⁸⁰ www.bbc.com/future/article/20220302-the-adverts-that-were-banned-for-misleading-climate-claims

⁸¹ <https://mediacentre.britishairways.com/factsheets/details/86/Factsheets-3/217?category=1>

pathways and outcomes, with no explanation for customers of their actual emissions impacts, is likely to be extremely confusing and misleading.

Misleading claims about carbon removals

4.4.10. BA's Sustainability 2023 page refers to customers now being able to purchase a mix (determined by the customer) of carbon offsets, carbon removals, and SAFs. However, from the 'CO2llaborate' page where the product is offered⁸², it appears that only credits from carbon 'removal' projects are available to purchase, not from carbon 'offsetting' projects as previously. The two carbon 'removal' projects currently supported are (i) the Delta Blue Carbon Mangrove Project in Sindh Province, Pakistan and (ii) the Freres Biochar project in Oregon, USA.

4.4.11. Serious uncertainties remain about the scale and permanence of the CO2 sequestration that is supposedly achieved by both types of project.

4.4.12. As to (i): while it is certainly desirable to restore degraded mangrove ecosystems, which can have benefits for biodiversity, human development and climate resilience as well as climate change mitigation, there is a great deal of uncertainty about the extent of permanent CO2 sequestration that is achieved by any given project. This is reflected in the IPCC's assessment of the potential of coastal wetland restoration, which emphasises the time needed to achieve full restoration: *"30% of mangrove soil carbon stocks [...] are unlikely to recover within 30 years of restoration' as well as the uncertainties involved in how much carbon will be sequestered in the long term: 'There is high site-specific variation in carbon sequestration rates and uncertainties regarding the response to future climate change [...] Changes in distributions [...] methane release and ecosystem responses to interactive climate stressors are not well-understood."*⁸³

4.4.13. One more recent study examined *"Seven issues that affect the reliability of carbon accounting"* for so-called blue carbon projects: *"high variability in carbon burial rates; errors in determining carbon burial rates; lateral carbon transport; fluxes of methane and nitrous oxide; carbonate formation and dissolution; vulnerability to future climate change; and vulnerability to non-climatic factors"*. (Of these, all but carbonate formation affect mangrove restoration projects.) The authors concluded that *"many important issues relating to the measurement of carbon fluxes and storage have yet to be resolved, affecting certification and resulting in potential over-crediting."*⁸⁴

⁸² <https://ba.chooose.today>

⁸³ IPCC, Sixth Assessment Report, WG III Full Report, para 7.4.2.9
https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf

⁸⁴ *Carbon Removal Using Coastal Blue Carbon Ecosystems Is Uncertain and Unreliable, With Questionable Climatic Cost-Effectiveness*, Williamson and Gattuso (2022), <https://www.frontiersin.org/articles/10.3389/fclim.2022.853666/full>

4.4.14. Furthermore, the IPCC has noted that *“To date, many coastal wetland restoration efforts do not succeed due to failure to address the drivers of degradation”*. There is thus no guarantee that the projects supported by offset credits will continue, and a consequential risk that any benefits from them will be lost. Indeed, the body that certifies the carbon credits from BA’s mangrove project, Verra, has recently suspended credits from two other mangrove projects.⁸⁵ While the reasons for the suspension have not yet been made public, if, as has been suggested, Verra has belatedly come to realise that it has issued worthless credits for those projects, it is hard to have confidence in the credits it continues to issue for other mangrove projects.

4.4.15. As a result, it is false and misleading to claim that the impact of 1 tonne of CO₂ is ‘addressed’ or ‘neutralised’ by investing in such a project (and, even it were, the two-thirds of aviation warming which derives from non-CO₂ factors would not be addressed or mitigated)

4.4.16. As to (ii): the supported biochar project takes charcoal residues from the manufacturing of engineered wood products and buries them in the soil. There are obvious concerns about the additionality of such a project: the manufacturer states that it developed the process of producing biochar as a by-product of energy production as part of *“our continuous goal of minimizing the impact we have on the environment”*⁸⁶, and that the activity was already occurring anyway – the statement intended to address additionality demonstrates only that it has become more profitable as a result of generating carbon credits: *“Up until now, Biochar has been a secondary product for us, being the remains of our feedstock from our lumber production facility. Having this extra income will allow us to expand the outreach of our product and be able to offer it at a competitive price.”*⁸⁷

4.4.17. Moreover, as with blue carbon, there is significant uncertainty about the scale and permanence of GHG sequestration that can be achieved with biochar. Biochar breaks down over time, releasing the stored carbon, and the rate at which this process occurs varies hugely with the type of feedstock used to make the biochar, and the soil and climatic conditions in which it is applied, and ‘mitigation estimates are based pilot-scale facilities, leading to uncertainty.’⁸⁸ Moreover, because biochar is black, it reduces the albedo (reflectivity) of the soil to which it is applied and so increases its heat absorption; the same can occur downstream as biochar breaks down into soot.⁸⁹

⁸⁵ <https://carbon-pulse.com/202274/>

⁸⁶ <https://puro.earth/CORC-co2-removal-certificate/freres-biochar-100042>

⁸⁷ Ibid.

⁸⁸ IPCC, Sixth Assessment Report, WG III Full Report, para 7.4.3.2

⁸⁹ <https://www.biofuelwatch.org.uk/wp-content/uploads/biochar-briefing-2020.pdf>, pages 4-5.

4.4.18. It is therefore misleading to claim that purchasing one biochar ‘removal’ credit eliminates the impact of a plane emitting one tonne of CO₂. The carbon emission is certain, whereas the carbon sequestration is highly uncertain.

4.4.19. Not only does BA fail to present any of the contextual information or caveats when it offers consumers the chance to purchase carbon ‘removal’ credits, it actively promotes a narrative that the purchase allows consumers to fly ‘carbon-neutral’ and so to continue to fly guilt-free, in the belief that the environmental impact of their choices is zero. This narrative is highly misleading and damaging, because it discourages consumers from confronting the reality of their actions, and potentially from making much more sustainable choices, such as not flying at all.

Failure to address non-CO₂ impacts

4.4.20. In addition, customers are unlikely to be aware that the full warming impact (radiative forcing) of their flight is around three times that of the CO₂ emissions alone, as non-CO₂ greenhouse gases and other warming impacts produced by aircraft create twice as much warming as the CO₂ emissions.⁹⁰ Although there is continued scientific debate about the precise extent of the non-CO₂ climate impacts of aviation, and the most appropriate metric by which to compare them to the CO₂ warming impacts, the overall scale of the problem has been clear for over two decades. As early as 1999, the IPCC report, Aviation and the Global Atmosphere calculated the ‘Radiative Forcing Index’ (the ratio of total warming to CO₂-only warming) for aircraft as being 2.7.⁹¹ More recent scholarly articles have confirmed that, on the basis of the latest scientific evidence, “Non-CO₂ impacts comprise about 2/3 of the net radiative forcing.”⁹²

4.4.21. BA deliberately refuses to take into account two-thirds of the climate impacts of their operations, using the remaining scientific uncertainty as an excuse. Its previous carbon offsetting calculator stated:

“Given that the relative scale of impact is uncertain and subject to ongoing research, we are using a radiative forcing index of 1. This will be reviewed when further information becomes available.”⁹³

4.4.22. This is highly misleading and simply incorrect, as the science around the proportion of aviation’s warming (radiative forcing) which derives from non-CO₂ sources has, for some time, been sufficiently clear to apply a ‘best estimate’

⁹⁰ https://ec.europa.eu/clima/news-your-voice/news/updated-analysis-non-co2-effects-aviation-2020-11-24_en

⁹¹ <https://archive.ipcc.ch/ipccreports/sres/aviation/index.php?idp=64>

⁹² Lee et al 2021, The contribution of global aviation to anthropogenic climate forcing for 2000 to 2018.

<https://www.sciencedirect.com/science/article/pii/S1352231020305689>

⁹³ https://www.pureleapfrog.org/ba/carbon_neutral-faqs/

multiplier of three⁹⁴. What is abundantly clear is that the overall warming impact from flying is much greater than that from CO₂ alone, and applying no multiplier to CO₂ emissions is far more inaccurate and misleading than applying a multiplier of 3.

4.4.23. BA uses the same strategy – of using the remaining scientific uncertainty to justify ignoring non-CO₂ impacts – in its corporate communications to policy-makers.

4.4.24. Not only is BA failing to provide its customers and the general public with the most up to date and accurate information, it is also attempting to muddy the waters, create confusion where there is none, and provide misleading and incorrect information about the size of the harm produced by its products - a technique reminiscent of the playbook used by Big Tobacco.

4.4.25. On the current “Co2llaborate” page, BA invites customers to “*Act on your carbon footprint*”. The term ‘Carbon footprint’ is explained under the FAQs on the same page, which states (in its entirety):

“Your carbon footprint is a simple way of showing how your lifestyle leads to carbon emissions. It’s your impression on the planet.

By carbon emissions, we mean greenhouse gases – mostly carbon dioxide, methane and nitrous oxide. Humans produce these gases in vast quantities by doing things like burning coal, oil and gas for energy and cutting down forests and through agriculture. Your individual emissions are built up from your personal consumption of e.g. electricity and travel, as well as the energy that’s required to produce your food and all the other stuff you buy, whether it’s made in the UK or elsewhere in the world.

We convert all the different greenhouse gases into an equivalent impact from carbon dioxide, the most common human-caused greenhouse gas. Your footprint value is an annual figure in “tonnes of carbon dioxide equivalent – or tCO₂e.”

4.4.26. This statement is highly misleading, if (as Possible understands to be the case), the carbon calculator does not include any factor to allow for the non-CO₂ impacts of aviation. The statement that “*we convert all the different greenhouse gases into an equivalent impact from carbon dioxide*” clearly gives the impression that all sources of warming from aviation have been accounted for, which is not the case.

4.4.27. The claims made by BA that passengers can “*fly carbon neutral*” or “*address their emissions*” are therefore also misleading in this further way: they are likely

⁹⁴ https://ec.europa.eu/clima/news-your-voice/news/updated-analysis-non-co2-effects-aviation-2020-11-24_en

to give the customer the impression that the full climate impacts of their flight have been addressed, whereas in fact at least two-thirds of the warming potential remains unaddressed even in a best-case scenario.

Misleading claims about CORSIA

4.4.28. BA's public communications also give a misleading view of its participation in the mandatory offsetting scheme CORSIA to its customers and investors:

"IAG [BA's parent company, International Airlines Group] has announced a Climate Change strategy to meet target of net zero carbon emissions by 2050 and is implementing plans to meet this goal, including investment in sustainable fuels and participation in the Carbon Offsetting and Reduction Scheme for International Aviation."⁹⁵

4.4.29. This is misleading as it implies that participation in CORSIA is something which distinguishes IAG's climate strategy from those of its competitors', while it is in fact mandatory.⁹⁶ In addition, a study by the European Commission found that CORSIA is "unlikely to materially alter"⁹⁷ emissions and climate impacts from aviation. Concerns have been raised that CORSIA could even undermine emissions mitigation efforts, with problems including that none of the approved offsetting programmes meet all the required criteria; offsets are priced too cheaply to provide a deterrent, and credits are oversupplied; and there is no mechanism to address these serious and fundamental flaws.⁹⁸ The Climate Change Committee points out that CORSIA aims to incentivise offsets for emissions growth only above 2019 levels (the aviation industry's most polluting year), rather than all emissions.⁹⁹ This mechanism cannot possibly provide a pathway to net-zero.

Conclusion on claims about carbon credits

4.4.30. As detailed above, BA has provided misleading, incomplete and confusing information about customers' ability to offset their emissions using carbon credits. It is therefore in breach of Chapter VI, Paragraph 1(d) of the Guidelines, which requires businesses to provide the public with adequate, measurable and verifiable information on the environmental impacts of the activities of the enterprise. It is likewise in breach of Chapter VI, Paragraph 5(c), which requires companies to promote higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including by providing accurate information on their products on greenhouse gas emissions. They also contravene Chapter VIII, Paragraph 2, which requires

⁹⁵ www.iairgroup.com/~media/Files/I/IAG/annual-reports/ba/en/british-airways-plc-annual-report-and-accounts-2020.pdf

⁹⁶ <https://www.iata.org/en/iata-repository/pressroom/fact-sheets/fact-sheet---corsia/>

⁹⁷ www.transportenvironment.org/discover/british-airways-emitted-much-co2-all-vans-uks-roads-new-data-shows/

⁹⁸ www.transportenvironment.org/discover/revealed-unpublished-eu-analysis-scathing-airline-co2-deal/

⁹⁹ www.theccc.org.uk/publication/letter-international-aviation-and-shipping/

enterprises to provide accurate, verifiable and clear information that is sufficient to enable consumers to make informed decisions, including information on the environmental attributes of goods and services; and to provide this information in a manner that facilitates consumers' ability to compare products, particularly in light of the commentary at Chapter VIII, para. 97, which requires that any product and environmental claims that enterprises make should be based on adequate evidence. They also breach Chapter VIII, para.4, which requires companies to not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent or unfair.

4.4.31. BA's communications about the non-CO2 climate impacts of its activities also breach the paragraphs of the Guidelines identified above, because passengers are not told that the carbon calculator disregards two-thirds of the climate impact of their flights and gives the misleading impression that all impacts have been addressed. In addition, these communications are a clear breach of Chapter VI, Paragraph 3, because BA uses the lack of full scientific certainty about the scale of the impacts to justify taking no action in relation to them, when in fact there is an established scientific consensus that establishes that they are highly significant. Allowing them to go unchecked creates a threat of serious or irreversible damage to the environment, because BA wishes to grow the number of flights it sells while only addressing one third of its impact, at best.

4.5. Misleading claims about alternative fuels

4.5.1. Alternative fuels to conventional kerosene, described by the aviation industry as "sustainable aviation fuels" or SAFs, make up another key plank of the airline's attempts to portray itself as on a path to climate compatibility despite its high and rising emissions. BA's press releases about SAFs include the statement that:

*"Projects British Airways has invested in include turning household waste and wood waste into sustainable aviation fuel and capturing carbon from the atmosphere and form part of the airline's plans to achieve net zero carbon emissions by 2050."*¹⁰⁰

4.5.2. BA's owner IAG has said that *"it plans to purchase one million tonnes of sustainable jet fuel each year by 2030, which will be the equivalent of removing one million cars from Europe's roads each year."*¹⁰¹

4.5.3. Purchasing alternative fuels is also offered as an option to British Airways' customers:

¹⁰⁰ <https://mediacentre.britishairways.com/news/26072021/british-airways-and-partners-shortlisted-for-government-funding-for-four-ground-breaking-projects-to-decarbonise-aviation?ref=News>

¹⁰¹ www.reuters.com/business/sustainable-business/british-airways-owner-iag-makes-sustainable-fuel-commitment-2021-04-22/

*“SAF is also available as an option for fliers who wish to go that extra mile. Selecting this option will allow customers to part fuel their journey with fuel made from captured and recycled carbon such as food waste”.*¹⁰²

4.5.4. Use of the phrase “sustainable aviation fuels” or the acronym “SAF” is intrinsically misleading, and has not been clearly defined by BA. The term can be used to refer to alternative fuels derived from a wide range of feedstocks including biomass, bio waste, plastic waste, municipal solid waste, industrial gases (i.e. fossil carbon), and carbon captured from the air. The feedstock used hugely changes the emissions footprint of the fuel, from being as polluting as kerosene (fuels derived from crops) to potentially approaching carbon neutrality (direct air capture fuels, which are the most difficult and expensive to produce and currently barely at prototype stage), although no such fuels approach climate/warming neutrality, because they make little difference to aviation’s non-CO2 climate impacts. The use of the term “sustainable aviation fuels” therefore creates a misleading impression for the airline’s customers and potential customers that their flight’s environmental impact has been dealt with and is now “sustainable”, which is simply not the case.

4.5.5. None of these issues is explained or even acknowledged by BA, whose communications simply refer to “sustainable aviation fuel”.¹⁰³ This is extremely simplistic and likely to be misleading to customers, who will receive the incorrect impression that the environmental impacts of their journey have been removed.

4.5.6. BA makes very ambitious claims about the potential emissions reductions from its use of alternative fuels, claiming that *“converting household waste into jet fuel by 2025 [results in] avoiding landfill and reducing life cycle CO2 emissions by up to 100% compared to fossil-based jet fuel.”*¹⁰⁴

4.5.7. BA claims unrealistically high lifecycle emissions reductions from SAF: *“Whilst only available in small supply globally, the SAF we use can reduce lifecycle emissions by 80% or more compared to traditional jet fuel”.*¹⁰⁵

4.5.8. As with the airline’s narratives and offers to customers on offsets, there is a vast gap between the reality of what can be achieved using available and affordable alternative aviation fuels, and the “zero carbon” messaging from the airline which creates a misleading impression that the carbon dioxide produced by flying is being fully addressed or removed by the airline.

¹⁰² <https://www.pureleapfrog.org/ba/carbon-offset-projects//>

¹⁰³ https://twitter.com/British_Airways/status/1466698676496179201?s=20&t=5boX_Z6SwUqdCD837Zg38A

¹⁰⁴ <https://www.britishairways.com/en-ba/information/about-ba/ba-better-world/planet>

¹⁰⁵ <https://ba.chooose.today/#scrollTo=sk04zb7j4eerb9fh7xmrhy> We note here also that BA was previously (and may still be) partnered with ‘pureleapfrog’, on whose website it is stated: *“SAF has been shown to provide significant reductions in overall CO2 lifecycle emissions compared to fossil fuels, and for waste-derived fuels these can be more than 90%”* (https://www.pureleapfrog.org/ba/carbon_neutral-faqs/)

4.5.9. BA cites the company's investment in alternative aviation fuels on its Sustainability 2023 page, including its work with companies Velocys, Phillips 66 Limited LanzaJet. Velocys produces fuel synthesised from household waste and "forest residues",¹⁰⁶ and LanzaJet's input is waste from "municipal solid waste (MSW), agricultural residues, industrial off-gases, and biomass."¹⁰⁷ Phillips 66 is less forthcoming about its feedstocks, providing only the general statement that "SAF is a lower carbon-intensity fuel that can be produced from renewable feedstocks such as waste vegetable oils, fats and greases."¹⁰⁸

4.5.10. However, the scientific literature comparing the lifecycle emissions from fuel from waste or biofuels compared to conventional jet fuel is clear that it is incorrect to claim anything like this level of emissions reduction, and in fact these fuels may produce even more emissions and be worse for the climate than kerosene. Both feedstocks produce fuels with similar tailpipe emissions to kerosene, and the emissions reductions are claimed to be created at a systemic level. For fuels derived from biomass, land is not available to produce crops for biofuels in sufficient quantities to power aviation without causing hugely damaging deforestation, which increases emissions and makes biofuels just as bad for the climate as kerosene, if not worse.¹⁰⁹ This means that fuels derived from biomass have emissions several times that of kerosene when the impact of land use changes are taken into account.¹¹⁰

4.5.11. Fuels from waste produce more carbon emissions than conventional kerosene, and can only be made to look like a low-emissions option by creative accounting relying on avoided emissions from landfill.¹¹¹ The quantity of genuine waste or residue biomass available is also tiny in comparison to aviation's kerosene demand. Fuels from waste and from biomass therefore present serious problems when they are relied upon to decarbonise aviation, and neither can be relied upon to offer genuine, system-level carbon reductions compared to fossil fuel kerosene.

¹⁰⁶ www.velocys.com/technology/

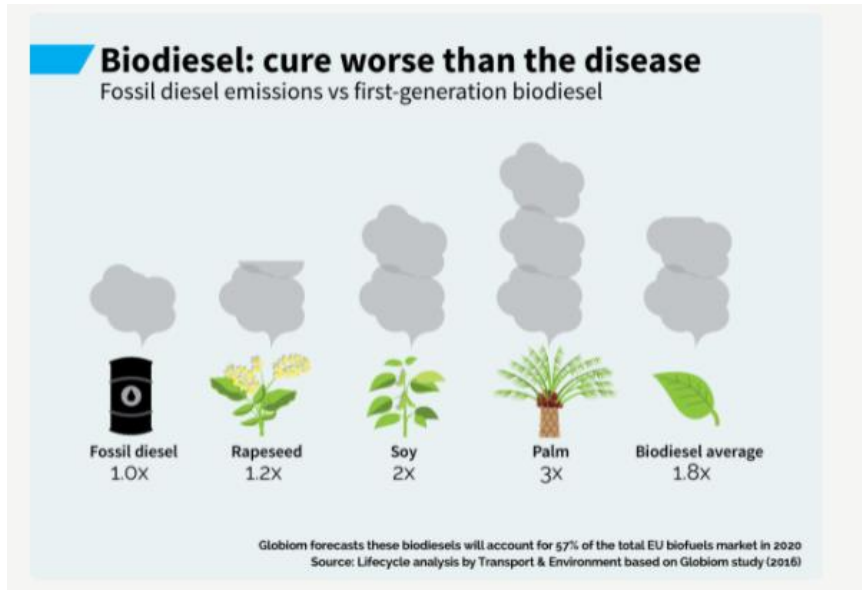
¹⁰⁷ <https://www.lanzajet.com/what-we-do/>

¹⁰⁸ <https://investor.phillips66.com/financial-information/news-releases/news-release-details/2021/British-Airways-and-Phillips-66-Agree-First-Ever-UK-Produced-Sustainable-Aviation-Fuel-Supply/default.asp>

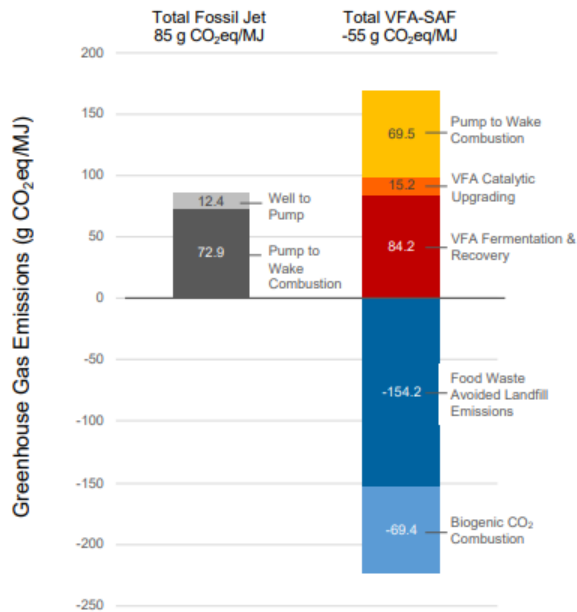
¹⁰⁹ <https://sdg.iisd.org/news/rainforest-norway-report-finds-aviation-emissions-reduction-targets-could-drive-deforestation/>; www.greenqueen.com.hk/airlines-shifting-to-biofuels-may-lead-to-7-million-hectares-deforestation/

¹¹⁰ www.transportenvironment.org/discover/palm-oil-and-soy-oil-biofuels-linked-high-rates-deforestation-new-study/

¹¹¹ www.pnas.org/content/pnas/suppl/2021/03/10/2023008118.DCSupplemental/pnas.2023008118.sapp.pdf#page=24



Source: Transport & Environment analysis.¹¹²



Source: PNAS paper¹¹³

¹¹² www.transportenvironment.org/discover/palm-oil-and-soy-oil-biofuels-linked-high-rates-deforestation-new-study/

¹¹³ <http://www.pnas.org/lookup/doi/10.1073/pnas.2023008118#supplementary-materials>

4.5.12. This diagram - with which purchasers of offsets or alternative fuel credits from British Airways can of course not be expected to be familiar - makes it clear that fuels from waste (on the right) have substantially higher production and tailpipe emissions than fossil derived jet fuel. The claim that it lowers total emissions derives from the “negative” emissions in blue, which are avoided emissions from reducing landfill. Again, rather than providing actual emissions reductions, this pathway claims reductions as credits against a hypothetical high emission scenario. This ignores the existing viable pathways to avoiding landfill emissions from food waste, such as wasting less food. These forms of creative accounting are not a pathway to a genuine low-emissions future, and in fact are likely to increase emissions, both by encouraging pathways which lead to higher systems-level emissions and by discouraging demand reduction under the mistaken impression that climate impacts have been dealt with and it is fine to continue high levels of aviation.

4.5.13. The numbers provided by BA on the emissions reductions obtainable from alternative fuels are also factually incorrect. The airline claims that these fuels “generally [produce] up to 70% less carbon than fossil fuels.”¹¹⁴ This is incorrect, both from the tailpipe perspective and from the systems-level carbon stocks perspective. In addition, these fuels still produce other warming impacts including oxides of nitrogen and water vapour, meaning that even if they could be made to be carbon neutral they would not be climate neutral. BA’s communications around alternative fuels therefore leave customers with a highly inaccurate and misleading impression of the extent to which they can mitigate the warming caused by their flight. This is likely to give customers a false sense of security about the climate impacts of their travel choices, which may have an adverse impact on the climate and increase emissions by encouraging them to take more flights under the inaccurate impression that they can fly without harming the climate.

4.5.14. Fuels made from carbon captured from the air and renewable hydrogen could reduce the warming impact of flying by between 30% and 60%,¹¹⁵ i.e. still leaving a very substantial proportion of emissions and consequent warming unaddressed. However, this technology is currently only at the proof-of-concept stage, and the industry does not expect it to enter the market until after 2035.¹¹⁶ Due to the intrinsically very high energy requirements of capturing carbon from the air, these fuels will be much more expensive than kerosene.

¹¹⁴ www.reuters.com/business/sustainable-business/british-airways-owner-iag-makes-sustainable-fuel-commitment-2021-04-22/

¹¹⁵ https://docs.google.com/document/d/1o6rWm_Q5HCHgeq7W-b0rb-r_herizf-l/edit

¹¹⁶ www.sustainableaviation.co.uk/wp-content/uploads/2020/02/SustainableAviation_CarbonReport_20200203.pdf

- 4.5.15. BA's offer to customers of being able to pay to offset their journey using fuels made from "*captured and recycled carbon such as food waste*"¹¹⁷ is misleading, due to the wide difference in climate impacts of fuels made from carbon captured from the air, which are not yet commercially available but do offer emissions reductions potential, and fuels made from "recycled" carbon such as municipal waste, which contain a high proportion of plastics which are derived from fossil fuels, and have been shown to actually be worse for the climate. Customers cannot be expected to be aware of the details of the emissions footprints of different types of feedstocks for alternative fuels, and are therefore highly likely to be misled by this claim. The customer is likely to infer that the use of an alternative fuel, particularly one wrongly described as "sustainable", allows their journey to take place without causing emissions, but this is just not the case.
- 4.5.16. The claim that BA has a net zero by 2050 strategy, i.e. that it is able to bring its business model into alignment with the world's vital climate target while continuing to operate very large (and growing) numbers of flights, is also inaccurate and is likely to give consumers a false sense of security about the environmental impacts of their flight.
- 4.5.17. BA also states that alternative fuel company Velocys's US project, from which it plans to buy fuels, will include technology to "capture CO₂ from the manufacturing process to permanently remove it from the atmosphere".¹¹⁸ This is potentially confusing and misleading to consumers, as it could create the incorrect impression that emissions from the usage of the fuel, i.e. when it is put into a jet engine and combusted, are being captured, which is of course not the case; it is just the relatively small proportion of emissions from the manufacturing process which can be captured and stored.
- 4.5.18. While the airline has been publicly supportive of alternative fuels and has used them to claim that it can bring its emissions into line with net zero, its private lobbying activities have been very different. BA is owned by IAG, which has been lobbying the EU to weaken its mandate on alternative fuels and weaken the timeline for its introduction.¹¹⁹ This suggests that BA's public communications around its support for and action to develop alternative fuels are misleading to consumers as they are an inaccurate picture of what the airline is really doing and lobbying for.
- 4.5.19. BA has provided misleading and incomplete information about its ability to reduce its emissions using alternative fuels. It is therefore in breach of Chapter VI, Paragraph 1(d) of the Guidelines, which requires businesses to provide the

¹¹⁷ <https://www.pureleapfrog.org/ba/carbon-offset-projects/>

¹¹⁸ <https://mediacentre.britishairways.com/factsheets/details/86/Factsheets-3/217?category=1>

¹¹⁹ <https://www.edie.net/airlines-accused-of-lobbying-against-sustainable-fuel-mandates-and-tighter-emissions-accounting/>

public with adequate, measurable and verifiable information on the environmental impacts of the activities of the enterprise. It is likewise in breach of Chapter VI, Paragraph 5(c), which requires companies to promote higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including by providing accurate information on their products on greenhouse gas emissions. They also contravene Chapter VIII, Paragraph 2, which requires enterprises to provide accurate, verifiable and clear information that is sufficient to enable consumers to make informed decisions, including information on the environmental attributes of goods and services; and to provide this information in a manner that facilitates consumers' ability to compare products, particularly in light of the commentary at Chapter VIII, Paragraph 97, which requires that any product and environmental claims that enterprises make should be based on adequate evidence. They also breach Chapter VIII, Paragraph 4, which requires companies to not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent or unfair.

5. CONCLUSION AND THE COMPLAINANT'S REQUESTS

5.1. Conclusion

5.1.1. As detailed above, BA has made a significant number of misleading statements that individually and collectively downplay the current and likely future impact of its operations on the climate. These statements convey the incorrect impression that the airline is in the process of eliminating the environmental impact of its flights. This tells consumers that they can continue to fly frequently without worrying unduly about their carbon footprint. It tells policy-makers that they do not need to take steps to moderate the growth in demand for flying. If the world hopes to achieve the goals of the Paris Agreement, and avoid the worst impacts of climate change, both of these messages are false.

5.2. The Complainant's request

5.2.1. The Complainant's central objective in making this complaint is for BA to stop misleading consumers, policymakers and the general public in its communications relating to the current and likely future impact of its operations on the climate.

5.2.2. The Complainant requests that BA take steps to correct the misleading claims contained in its public communications:

- (a) Withdraw the Relevant Statements;
- (b) Publish a corrective notice on its sustainability page and in its next Annual Report, and make a public statement confirming that the Relevant Statements have been withdrawn as a result of this complaint, with such announcements acknowledging that the current state of technological development of genuinely zero-emissions flight, and the potential future trajectory of this, mean that demand management will be an essential role in bringing aviation's emissions into line with the UK's climate commitments,¹²⁰
- (c) Ensure that future statements do not convey similar misleading messages about the climate impact of its operations.

5.2.3. The Complainant hopes that mediation of the issue with BA will prove productive. If it is not possible to resolve the dispute swiftly and effectively in this way, the Complainant invites the NCP to conclude in a final statement that BA's

¹²⁰ www.chathamhouse.org/2023/11/net-zero-and-role-aviation-industry

public statements are in breach of the OECD Guidelines in the ways set out in this complaint.