

Views on the Commission proposal for a Directive on Green Claims

Position

The European Commission put forward a legislative proposal that sets requirements on the substantiation and communication of explicit environmental claims and environmental labels in B2C commercial practices. The proposal fits within the framework of the Circular Economy Package and is intended to be a *lex specialis* to the Empowering Consumers for the Green Transition (ECGT) proposal, and has further linkages with other policies as part of the Green Deal. As such, we stress **the importance of coherence, clarity, and legal certainty** among linked policies and legislative files, including the ECGT, the Corporate Sustainability Reporting Directive, Sustainability Reporting Standards and the pending proposal for a Framework for Sustainable Food Systems (FSFS).

In addition to harmonized requirements for substantiation and communication, this proposal imposes a mandatory *ex-ante* verification procedure for any explicit environmental claim and environmental label that a trader might make on a product, service, or the trader itself. While **EuroCommerce supports the objective of eradicating greenwashing** by making sure only trustworthy claims and labels remain on the market; we **believe an *ex-ante* verification for explicit environmental claims is not the solution**. Our sector is consumer-facing and maintaining consumer trust is paramount in our day-to-day business. There is an expectation on our sector to guide consumers towards more sustainable consumption by providing them with the appropriate information and tools to make environmentally conscious choices. Burdensome verification procedures in relation to our communication to consumers would hamper delivering on this important commitment. To correctly engage with the consumer, we need green claims to be transparent, reliable, and accurate. We are, therefore, suggesting certain changes to the proposal to address our concerns regarding the verification process. Most importantly, we suggest that **explicit environmental claims are excluded from the pre-approval process**. This will avoid administrative bottlenecks and delays in their approval and will allow businesses to communicate to their consumers in a timely manner, in line with societal expectations. Instead, we consider that such environmental claims can be applied through **self-regulation** relying on international standards, where applicable, reasonable, and practical. Such claims are still subject to controls as part of the Unfair Commercial Practices Directive where those businesses can be held accountable. On the other hand, we **do support the principle of pre-approving environmental labels (schemes)** which are widely used by our sector in our relation with our consumers.

Furthermore, the proposal should clarify that **the owner of the claim should be fully liable for the accuracy of such information** (excluding microenterprises) and **penalties provided for shall be effective, proportionate, and dissuasive**, in line with the wording of the Market Surveillance Regulation, instead of purely punitive (4% of trader' annual turnover). Lastly, in light of **future delegated acts, there is a strong need to involve business stakeholders**, both for defining priorities and timelines and during the actual discussions on specific standards and methodologies. We suggest a setup similar to the eco-design forum.

Recommendations

- **Coherence, clarity, and legal certainty** among linked policy and legislative files needs to be ensured; especially referring to the Empowering Consumers for the Green Transition proposal, the Corporate Sustainability Reporting Directive (CSRD), and Sustainability Reporting Standards. On reporting, the directive needs to specify that corporate claims based on mandatory reporting requirements under the CSRD and ESG Reporting Standards are excluded.
- **For environmental claims to be excluded from the pre-approval process.** Instead, we suggest their application is based on through self-regulation relying on international standards e.g., ISO Standards and ICC Framework for Responsible Environmental Marketing Communications, where applicable, reasonable, and practical.
- We believe that the **verification (pre-approval) process should be effective and efficient:** setting a **time limit** for verifiers, **simplifying, and standardizing procedures**, and strengthening **harmonization of the requirements**.
- **Mutual recognition of the certificate of conformity** should be strengthened in the legal text. Member States' authorities should not challenge the certificate unless on clearly pre-defined and serious grounds.
- We ask the Commission to include a **grace period** and a **simplified verification process for SMEs traders** (including trainings, templates, guidelines, etc...).
- We support the flexibility in the methodology to substantiate explicit environmental claims. However, we ask for further clarification **of requirements, reference to internationally recognized standards**, where applicable, reasonable, and practical, and the creation of a **presumption of conformity for the PEF methodology for textiles** and future methodologies established at the EU level via delegated acts.
- The proposal should provide for at **least 24 months transition period** following the 18 months transposition deadline for the Member States.
- Transitional measures that allow the **sell-through of products until the exhaustion of the stocks**, whereby they were placed before the entry into force of the Directive, needs to be included.
- **On traders' responsibility**, the provisions should be clarified and improved to reflect the role and responsibilities of different actors in the supply chain. Distributors can be responsible for verifying the presence of the required justification/certificate of conformity but not its veracity. Division of responsibilities between traders and verifiers should be defined.
- **Fines should be effective, proportionate, and dissuasive.** The **proposed** maximum amount of fines being at least at 4 % of the trader's annual turnover in the Member State or Member States concerned is disproportionate and possibly deterring the use of environmental claims and labels.
- The proposal should envisage at least **6 months-time** for the correction of non-compliance.
- We ask the Commission to establish a **consultation forum**, or **expert group** composed of the relevant stakeholders in the private sector (**including retailers and wholesalers**) and civil society partners to contribute to the further development of the delegated acts as foreseen in the proposal.

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Transparency

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