

The Consumer Voice in Europe

PUTTING ORDER IN THE WILD WEST OF MISLEADING GREEN CLAIMS

BEUC's position on the Proposal for a directive on green claims



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Why it matters to consumers?

Europe's consumers increasingly want to contribute to fighting the climate crisis, by adapting their purchase behaviours and switching to products and services that are less harmful to the environment and the climate. However, the proliferation of unreliable claims makes it difficult for consumers to navigate the market and evidence shows that consumers have been increasingly misled by fake green claims. The EU should set the way in which companies substantiate and advertise green claims to consumers.

Summary

BEUC welcomes the Green Claims Directive (GCD) as a powerful tool to protect consumers from unsubstantiated claims that inflate the market and make it difficult for consumers to participate in the green transition and identify the real green choice. However, the proposal requires significant improvements and clarifications to effectively fulfil its main objectives.

BEUCs recommendations:

- 1) Clarifying the scope of the Directive to ensure that it applies to all environmental claims not addressed by equivalent or stricter provisions in sectorial legislation.
- 2) BEUC welcomes that the Directive sets minimum criteria for the assessment methods to substantiate claims. However, the provisions are very generic and open to interpretation. We strongly recommend supplementing the Directive with a work plan for the development of minimum requirements for substantiation and communication of frequently used claims and priority sectors.
- 3) The rules for substantiating and communicating green claims should be developed in a transparent process through a Consultation Forum on Green Claims gathering relevant stakeholders, including consumer organisations.
- 4) The requirements for the substantiation and communication of environmental claims should be reinforced. Notably:
 - The Directive should prohibit claiming that products have a neutral, reduced or positive impact on the environment based on offsetting of greenhouse gas emissions. Beyond climate, all types of claims should reflect the real environmental impacts of products, without hiding or minimising them based on offsetting.
 - The conditions about claims on future performance should be stricter.
 - Products displaying a green claim should not contain hazardous substances.
- 5) The evidence used by companies to substantiate their environmental claims should be public without exemptions.

- 6) The ex-ante verification of environmental claims and labelling schemes should ensure that they are based on robust assessment methods and governance principles. However, the process needs to be swift, easy to manage and affordable to strengthen trustworthy environmental labelling schemes, support companies' efforts to reduce their environmental impacts and make sustainable products and services more widely available for consumers.
- 7) The Directive should ensure the trustworthiness and reliability of environmental labels, while not restricting the development of those which bring added value. Notably, environmental labels based on aggregated indicators of environmental impacts or new labels developed by Member States should not be prohibited if they are based on robust assessment methods and independent governance, as required by Articles 3 to 8.
- 8) The GCD and the Unfair Commercial Practice Directive (UCPD) should complement each other, without allowing for derogations which can severely weaken their enforcement.

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1. Introduction

In March 2023, the European Commission published the long-awaited legislative proposal on the substantiation and communication of explicit environmental claims (Green Claims Directive, hereafter 'GCD'), which tackles voluntary explicit environmental business to consumers claims. BEUC welcomes this proposal as an important step in fighting greenwashing and ending misleading unsubstantiated claims from being displayed on products and services.

With over half of EU consumers shopping while having sustainability in mind¹, companies are increasingly communicating on their green credentials across the EU. However, there is growing evidence that many of these claims are vague, misleading, or even unfounded, thus confusing consumers and making it difficult for them to differentiate the most sustainable products from those which are not.

This profusion of misleading environmental claims was the clear conclusion from a study conducted by the European Commission in 2020 that found that more than half of green claims on the market provide vague, misleading, or unfounded information.²

Enforcement activities across Europe also show that false and unsubstantiated green claims are an obstacle for consumers that want to engage in a more sustainable consumption. A growing number of court judgments and decisions by advertising authorities shine light on the misleading character and unfair commercial practice of some sustainability-related claims.³ For instance, BEUC recently launched a coordinated enforcement action against 17 European airlines for misleading consumers in thinking emissions from flying could be partially or entirely compensated.⁴

There is therefore accumulating evidence that greenwashing is a systemic problem for consumers. Evidence shows that certain types of claims are particularly problematic and widely used. This is the case for carbon neutral claims: a survey by BEUC's German member vzbv showed that while a strong majority of consumers (69%) personally felt that they understood the "climate neutral" claim, only 8% of consumers objectively understood that the claim did not mean "no greenhouse gas emissions" were created. Vzbv's survey showed that using green claims on carbon-intensive food products can even obscure consumers previously held correct judgements on products' climate impact.⁵

¹ [Consumers Conditions Scoreboard, European Commission \(2023\)](#)

² European Commission, Environmental claims in the EU: Inventory and reliability assessment Final report, 2020. Available at https://ec.europa.eu/environment/eussd/smcp/pdf/2020_Greenclaims_inventory.zip

³ In the case of the Düsseldorf court district against "[CO2 compensated heating oil](#)" by TotalEnergies, the case of the Stockholm district court against [Arla dairy products](#) with a "net zero carbon footprint", or the case of the Dutch advertising authority against Shell's "[Drive CO2 neutral](#)".

⁴ BEUC, Consumer groups launch EU-wide complaint against 17 airlines for greenwashing, June 2023. Available at: <https://www.beuc.eu/press-releases/consumer-groups-launch-eu-wide-complaint-against-17-airlines-greenwashing>

⁵ Anke Zühlsdorf, Sarah Kühl, Denise Radda, Achim Spille, Grüne Marketingclaims auf Lebensmitteln, February 2023. Available at: https://www.vzbv.de/sites/default/files/2023-02/23-02_24_Gruene-Marketingclaims-auf-Lebensmitteln.pdf (last accessed 13/06/23).

Faced with this systemic problem, public authorities are also increasingly aware that regulatory action is needed. Several EU Member States were already active in regulating carbon neutral claims. France for instance regulated in a decree that carbon neutral claims should be substantiated, and companies should make information substantiating the claim accessible to consumers via a weblink or QR code.⁶

Under the UCPD, greenwashing is already forbidden. But the wide-scale diffusion and increase of greenwashing clearly shows that our legal framework cannot be considered as up-to-speed to tackle the systemic nature of the problem. While the UCPD establishes which claims are considered misleading and prohibited, the Green Claims Directive provides the framework for developing requirements for the substantiation of green claims, as well as the conditions for their communication and verification.

BEUC has high expectations on the key role that both legislations in combination can play in regulating the “Wild West” of green claims to help consumers make informed purchasing decisions based on reliable environmental claims and labels.

However, the GCD proposal made by the Commission should be further improved on crucial provisions for the substantiation, communication and ex-ante verification of claims and labels to effectively fulfil the objective that environmental claims in the EU market are trustworthy. In this paper BEUC provides recommendations from the perspective of consumer organisations to strengthen the proposal.

2. Clarifying the scope to ensure all environmental claims are reliable

The Commission proposal applies to voluntary explicit environmental claims and environmental labelling schemes that are not regulated by any other EU rules. Creating synergies with sectorial legislations is coherent, whenever they provide more detailed definitions and requirements for substantiating and communicating green claims. However, such rules should offer an equivalent level of protection to the GCD with respect to public disclosure of evidence substantiating the claim, independent ex-ante verification, market checks and enforcement.

Consumers should have equal protection against greenwashing regardless of the sector. However, there is no guarantee that all the sectorial legislation excluded from the scope of the GCD through Article 1(2) include equivalent safeguards against misleading claims. For instance, while claims on recycled content of packaging will be covered by the Packaging and Packaging Waste Regulation (PPWR), the process for substantiating and verifying these claims is not included in the Commission proposal.

Moreover, ensuring legal certainty with respect to which claims are or are not in the scope of the GCD is necessary. Without clear provisions, companies making claims on products or services addressed by sectorial legislation listed in Article 1(2) will have difficulties in understanding whether they should comply with the GCD. For instance, the PPWR could be the reference for claims on recycled content of a plastic bottle, but will the GCD apply to claims such as “clean packaging” or “100% plastic neutral bottle”?

⁶ Décret no 2022-539 du 13 avril 2022 relatif à la compensation carbone et aux allégations de neutralité carbone dans la publicité. Available at: https://www.legifrance.gouv.fr/download/pdf?id=DMrmi813zgYIh9WMJy1_uTTOvZ5Ek71A8bGZcLXcvgM=

- **BEUC therefore strongly recommends that the legislators ensure that all environmental claims on the market are subject to robust substantiation, disclosure of evidence, ex-ante verification, market checks and enforcement.** The Commission should clarify in a Delegated Act within a reasonable time after adoption of the Directive the list of specific environmental claims which are fully excluded from the scope or only from certain Articles of the GCD. This will provide clarity and legal certainty for companies with respect to how environmental claims are regulated.

In addition, the definition of environmental labels should be improved to ensure that the GCD applies consistently to all labels covering one or more environmental aspects, regardless of whether they integrate as well other dimensions, such as social or quality aspects. A very narrow definition of environmental labels raises the risk that labelling schemes might add parameters beyond environmental aspects to qualify as sustainability labels and claim to be outside of the scope of the GCD.

3. Reinforcing requirements for the substantiation and communication of green claims

- **Work plan for the development of requirements for the substantiation and communication of environmental claims**

We welcome that the proposal sets minimum requirements on how companies should substantiate environmental claims, for instance by ensuring that the assessment methods they use are science based, consider all significant impacts through the life cycle of a product, and avoid trade-offs between different environmental aspects. However, the proposed requirements are very general and might be open to interpretation.

Which rules should companies apply when making claims about the use of recycled fibres in clothes or biodegradable bags, or when calculating the overall environmental performance of clothes or cosmetics? How to ensure that companies consider all significant environmental aspects when making claims? How to make sure that claims reflect the real impacts of products based on product specific data instead of relying on average data?

In the absence of detailed requirements for specific claims and sectors, companies will continue to lack specific guidance for selecting reliable methodologies. They will be confronted to choosing between divergent approaches and could tend to opt for the least ambitious one, which could be very misleading for consumers and put at risk the goal of the proposal to fight greenwashing.

At the same time, the proposal foresees monitoring the claims present in the EU market with support by the European Environmental Agency. This will enable an oversight by the EU of claims and methodologies used for their substantiation, contributing to identify any shortcomings and gaps that the Commission should address by developing or revising minimum requirements for claims. However, this will take time while evidence shows that misleading claims are largely present on the market today.

- **BEUC calls on the Parliament and the EU Council of Ministers to ensure that the GCD includes a working plan with binding timelines for establishing minimum requirements for specific claims frequently used by traders** (e.g., recyclability, recycled content, biodegradability, use of natural content...) and for priority sectors.

- Green Claims Consultation Forum involving relevant stakeholders

The GCD gives a mandate to the Commission to further specify the requirements for substantiation and communication of environmental claims for different product groups and sectors through delegated acts. Future technical legislation might set up specific life-cycle-based rules to calculate environmental impacts, determine which activities, processes or materials lead to significant environmental impacts or when primary data should be used. To support such legislation, the Commission might rely on the use of the Product Environmental Footprint (PEF) Category Rules.

While the PEF method brings advantages with regards to the harmonisation of life cycle assessments (LCA), the proposal also acknowledges its limitations to address environmental aspects such as biodiversity and nature protection or release of microplastics, which are of relevance for sectors like food and textiles. BEUC welcomes that Article 3 requires that the Commission takes account of the specificities of the sectors and products that need a specific methodological approach when developing further requirements.

However, it is crucial ensuring that the decision-making process is transparent and builds on the expertise of relevant stakeholders on aspects that should be addressed through minimum requirements for substantiation and communication. This cannot be achieved through the current governance bodies developing the PEF Category Rules, as they are overrepresented with industry stakeholders and do not sufficiently involve civil society.

Article 18 only obliges the Commission to consult a committee of national experts, something that limits the possibilities of gathering knowledge and building consensus among stakeholders on relevant aspects that should be considered for the substantiation and communication of claims.

- **BEUC advocates for the creation of a dedicated consultation forum where different parties, including consumer organisations, are consulted and contribute to the development of requirements.**

The Green Claims Consultation Forum can build on the positive experience and learnings from the Ecodesign Consultation Forum and the EU Ecolabelling Board, where civil society, industry and national experts inform the establishment of product-specific requirements.

- Preventing advertisement of carbon-neutrality

The GCD proposal rightly highlights that environmental claims should reflect as accurately as possible the environmental performance of the product or trader to be considered robust (Recital 20). Moreover, it acknowledges the problematic and confusing nature of carbon neutral claims and offsetting (Recital 21). However, it falls short of adequately addressing the misleading effect of carbon neutral claims and other type of claims based on offsetting, without introducing an outright prohibition of such claims.

Instead, the GCD unfortunately allows climate neutral claims if traders separate direct greenhouse gas emissions reductions performed by the company from offsetting mechanisms, specify whether offsets relate to emission reductions or removals, describe the “high integrity” of their offsets and publish the accounting method behind the claim. The proposal also foresees the possibility to regulate carbon neutral claims in a delegated act.

Allowing companies to use carbon neutral claims at product and service level should not be possible, as carbon neutrality can only be achieved on a global level and not at the level of products and companies. An expert opinion by the French environmental agency shows that it cannot be scientifically proven that one carbon credit can reliably neutralise, or counterbalance one tonne of CO₂ emitted.⁷

Carbon neutrality claims are also highly misleading for consumers. Evidence shows that consumers do not understand the basis of these claims and the scientific flaws behind them (offsetting) but are misled into believing that consumption habits do not need to be changed.⁸ As it is often cheaper to purchase carbon credits than to rely on deep emission reductions across the value chain, carbon neutral claims can also discourage companies from continuing to invest in their decarbonisation efforts.

We therefore very much welcome the deal of the Council and the Parliament to prohibit claiming that products have neutral, reduced or positive impact on the environment in terms of greenhouse gas emissions, based on offsetting within the Directive on Empowering the consumers for the green transition. The GCD proposal needs to be adapted to align with this new legal provision.

Ultimately, the GCD should ensure that all claims reflect the real environmental impacts of products, services and companies, without hiding them or giving the impression that they are minimised and compensated through offsetting schemes or financial contributions to external projects.

- **Strict conditions for claims related to future environmental performance**

Displaying claims on products about its future performance is misleading for consumers. Since the advertised future environmental impact, aspect or performance has not yet been achieved, it is impossible to substantiate the claim when it is made on the product. Claims about future environmental impacts, aspects or performances whose achievement cannot be verified at the time of advertising should be prohibited.

BEUC welcomes the fact that the proposal proposes to back claims about future environmental performance with time-bound commitments. However, the requirements should be further strengthened and aligned, at the very least, with the new obligations under the Directive on empowering the consumers for the green transition.

- **Considering environmental aspects or impacts not addressed by life-cycle-assessment methods**

The proposal requires that the assessment methods used to substantiate environmental claims demonstrate that the environmental impacts, aspects or performance subject to the claim are significant from a life-cycle perspective. We welcome this provision and strongly recommend considering in addition relevant environmental aspects which are not addressed or only partially addressed by life cycle assessment (LCA) methods.

⁷ French Environment Agency (ADEME), Avis d'expert "[Utilisation de l'argument de « neutralité carbone » dans les communications](#)", 2022.

⁸ Authority for Consumers & Markets, ACM consumers find claims regarding carbon offset unclear, October 2022. Available at: <https://www.acm.nl/en/publications/acm-consumers-find-claims-regarding-carbon-offset-unclear>. Verbraucherzentrale Nordrhein-Westfalen, Klimaneutrale Produkte: 89 Prozent für klare Regeln und geprüftes Siegel, September 2022. Available at: <https://www.verbraucherzentrale.nrw/pressemeldungen/presse-nrw/klimaneutrale-produkte-89-prozent-fuer-klare-regeln-und-geprueftes-siegel-77472>.

As highlighted by the Commission Recommendation (EU) 2021/2279⁹ on how to measure the life cycle environmental performance of products or organisations, there are relevant environmental impacts products which go beyond the environmental footprint categories of the PEF method. According to this guidance, it is important to report them, whenever feasible, as additional environmental information.

The fact that these environmental aspects or impacts are overlooked by environmental footprint categories should not downplay their significance. The EU Ecolabel and other equivalent ISO type I ecolabels establish requirements on relevant qualitative environmental aspects which are not measured by the PEF method or other LCA assessment methods, such as on the exclusion of hazardous substances in products, sustainable sourcing of raw materials or reparability.

Beyond the limits previously mentioned of the PEF methodology, it is a challenge to find complete and reliable generic and specific data on the entire life cycle of a product. Data is not always available and robust enough to measure the environmental impacts, aspects, and performance of a product over its whole life cycle. However, based on the data available, it can be relevant to make a claim to empower consumers in the green transition. For this reason, it must be allowed to make an environmental claim on relevant aspects related to a part of the life cycle of a product, provided that it is specifically mentioned.

- **Products containing hazardous substances should not display a green claim**

An earlier draft of the GCD required that products containing hazardous substances would not be marketed as green, unless the use of such chemicals was proven as essential for the society. Unfortunately, the final proposal of the GCD no longer contains this provision and only proposes to consider this possibility during the future revision of the Directive.

This is inconsistent with the Chemicals Strategy for Sustainability¹⁰ which commits the EU to phase out the most harmful chemicals from consumer products. Over time, legislation such as Ecodesign and REACH will together ensure that substances of concern are phased out, when posing health or environmental risks or hampering the development towards a more circular economy. The EU Ecolabel and equivalent official ISO Type I Ecolabels in Member States rewarding products of environmental excellence already set strict requirements to reduce hazardous chemicals in ecolabelled products.¹¹

The Green Claims Directive should be consistent with the efforts of EU legislations and ensure that hazardous substances are restricted in products displaying voluntary green claims.

- **Making sustainability information substantiating a claim public**

Currently through the UCPD, traders have an obligation to provide evidence substantiating their claims only if challenged by a public authority. This ex-post approach is inappropriate to address the widespread problem of greenwashing and only intervenes downstream once the harm is done and consumers have already been misled by unsubstantiated green claims. It takes a long time and resources for authorities or consumer rights groups to undertake investigations. Misleading green claims can therefore be on the market for many years and mislead consumers before being challenged.

⁹ [Commission Recommendation \(EU\) 2021/2279 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations](#)

¹⁰ [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Chemicals Strategy for Sustainability Towards a Toxic-Free Environment, COM/2020/667 final](#)

¹¹ As required in article 6(6) and 6(7) of the EU Ecolabel Regulation.

We very much welcome that the proposal introduces an obligation for companies to make information substantiating their claim publicly accessible through Article 5(6). Key information for consumers should be always available in physical form (e.g., reference to the relevant labelling scheme substantiating the claim), while more detailed information should always be accessible digitally.

The main goal of Article 5(6) is not increasing consumers' understanding of the claim, but notably facilitating legal enforcement by authorities, consumer right groups and civil society organisations. To enable effective law enforcement, traders should make all studies and calculations that are necessary to support a claim publicly available without any exemptions for the reasons of confidentiality.

BEUC recommendations

- Exemptions from the scope of the Green Claims Directive should only apply to environmental claims addressed by equivalent or stricter rules in sectorial legislation with respect to their substantiation, communication, disclosure of supporting evidence, verification and enforcement.
- The Directive must apply consistently to all sustainability labels covering one or more environmental aspects.
- A work plan should accompany the Directive and set binding timelines for the development of minimum requirements for frequently used claims (e.g., recyclability, recycled content, durability, biodegradability...) and for priority sectors (e.g. textiles, electronics...)
- Building on the learnings of the Ecodesign Forum and the EU Ecolabelling Board, a dedicated consultation forum for green claims should be set up. It should ensure a transparent and robust decision-making process, gather knowledge and build consensus among stakeholders - including consumer organisations - on relevant aspects that should be considered when developing requirements for the substantiation and communication of environmental claims.
- The requirements for the substantiation and communication of environmental claims should reflect the real impacts and environmental performance of products, without hiding or minimising them through offsetting, such as often done with greenhouse gas emissions.
- Displaying claims on products about future performance should not be allowed, as this is misleading for consumers. The requirements for these types of claims should be strengthened in line with the Directive on Empowering the Consumers for the Green Transition.
- When assessing the significance of environmental aspects or impacts from a life-cycle perspective, aspects or impacts which are not sufficiently addressed by life cycle assessment methods should be considered as well.
- Products containing hazardous substances should not display a green claim, unless their use is proved as essential for society.
- Evidence substantiating the environmental claim should be publicly accessible without exemptions.

4. Making the ex-ante verification of claims and labels efficient and swift

BEUC welcomes regulatory measures to ensure that environmental claims and labels are robustly substantiated and protect consumers from greenwashing. Studies have shown that third-party verification is generally linked to a higher accuracy of assessments.¹²

However, BEUC strongly recommends improving the proposal to ensure that claims and environmental labelling schemes are assessed through an ex-ante verification process that will be swift, easy to manage and affordable. The regulation should support companies making efforts to reduce the environmental impacts of their activities or products, thereby making sustainable consumption options more widely available. In short, the final text should strengthen the use of ambitious environmental labels.

- Building on reliable assessment methods and environmental labelling schemes

The GCD should ensure that companies can rely on environmental labelling schemes to substantiate their claims. Environmental labelling schemes based on solid assessment methods and independent and robust governance can play a key role in simplifying the verification process of environmental claims.

Concretely, it should be possible for traders to substantiate their environmental claims based on a valid license from environmental labelling schemes which have been assessed by an independent verifier and have obtained a certificate of conformity (in accordance with Article 10(2)) without further verification. As the claim is already subject to independent third-party control through the environmental labelling scheme, companies should not face additional burden and costs if their claims would need to undergo the ex-ante verification required by Article 10(1).

Beyond simplifying the verification process for companies, it is crucial to support reliable environmental labelling schemes and ensure that they remain relevant for the market. If they would not be considered as sufficient to substantiate environmental claims, there is a risk of undermining them as companies might lose interest in their use.

- Proportionate and meaningful ex-ante verification

The proposal should be further improved to ensure a proportionate and meaningful process for assessing environmental labelling schemes and their compliance with the provisions of the GCD.

If an environmental label demonstrates that its methodology is based on the use of scientific and reproducible assessment methods, a lifecycle approach and product-specific requirements, assessed by independent laboratories, only the general methodology of the label should be subject to verification according to Articles 8 and 10(2). The specific requirements and related testing programmes for each individual product category covered by the label should not be subject to verification.

Some environmental labelling schemes establish requirements for a wide range of product groups and services. For instance, the Nordic Swan and the Blue Angel set criteria respectively for 55 and over 100 product groups and services, and regularly revise them

¹² [Marx, A., 'Varieties of legitimacy: a configurational institutional design analysis of eco-labels', *Innovation: The European Journal of Social Science Research*, Vol. 26, No. 3, 2013, pp. 268-287.](#)

to adapt to market developments and scientific knowledge. While the criteria are product-specific, they are developed based on a common methodology, a life-cycle approach, independent and robust governance. Requiring ex-ante verification for each criteria set would be very costly and burdensome for the organisations responsible for managing the ecolabels without bringing any extra added value.

Similarly, consumer organisations are responsible for environmental labels which build on the results of product testing programmes. The labels reward those products which perform better from an environmental perspective, while reaching a good performance on other consumer-relevant aspects. In addition to presenting the results in consumer magazines, such labels are licensed to companies which can make use of them in commercial communication.

The overall methodology and governance of the labels run by consumer organisations should be subject to verification in accordance with Article 10(2), thereby proving compliance with the requirements for substantiation required by Article 3 and the requirements for transparency and independency from Article 8.

However, an ex-ante verification of every individual testing programme for the different product categories assessed by consumer organisations would not bring any additional benefits and would not be manageable. Besides potentially high costs, burdensome procedures requiring pre-approval of every product testing program would make it impossible to conduct tests in a timely manner to ensure market relevance.

The ex-ante verification procedures need to be carefully considered to avoid undermining and putting at risk trustworthy environmental labelling schemes, which can play a key role in substantiating the reliability and relevance of green claims.

Existing ISO Type I Ecolabels which are officially recognised by Member States should be pre-accepted as the EU Ecolabel in line with the Directive on empowering the consumers for the green transition.

- Ensuring efficient procedures for ex-ante verification of claims and labels

Implementing the previous improvement will lead to a more efficient and swift ex-ante verification process. Nonetheless, we strongly advice considering further measures to avoid lengthy procedures and guarantee that the ex-ante verification process can support an efficient oversight of claims, assessment methods and labels available in the EU. Notably, we strongly recommend integrating the following improvements:

- Member States should ensure that the procedures for ex-ante verification are swift and affordable, including through limited duration of verification processes and proportionate costs in relation to the size and turnover of companies.
- The Commission or the European Environmental Agency should keep up to date a public registry of environmental labelling schemes, assessment methods and claims compliant with the GCD. This registry can enable the oversight of environmental labels and claims available in the EU market, as well as their assessment methods, by the authorities, researchers and civil society. It can also benefit companies interested in making claims, as they can use the database as a reference to rely on environmental labelling schemes and assessment methods which have already obtained a certificate of conformity.
- An EU authority should be responsible for the ex-ante verification of labels developed by organisations from outside the EU.

Finally, the Directive should foresee a possibility to penalise verifiers if the compliance monitoring as foreseen by Article 15 detects that a claim used on the market was incorrectly verified.

BEUC recommendations

- The ex-ante verification of environmental claims and labelling schemes should ensure that they are based on robust assessment and governance principles. However, the process needs to be swift, easy to manage and affordable to strengthen trustworthy environmental labelling schemes, support companies' efforts to reduce their environmental impacts and make sustainable products and services more widely available for consumers.
- It should be possible for companies to communicate environmental claims which are based on a valid license from an environmental labelling scheme which have been verified and obtained a certificate of conformity, without need to undertake further verification procedures.
- Environmental labelling schemes should be subject to proportionate and meaningful ex-ante verification. If the scheme demonstrates that its methodology is based on the use of scientific and reproducible assessment methods, a lifecycle approach and product-specific requirements, only its general assessment methodology and governance should be subject to verification according to Article 8 and Article 10(2), but not every individual set of requirements and testing programs for each product category that it covers.
- Existing ISO Type I Ecolabels which are officially recognised by Member States should be pre-accepted as the EU Ecolabel in line with the Directive on empowering the consumers for the green transition.
- Member states should ensure that the verification procedures are swift and affordable, with time limitations and proportionate costs.
- The Commission should ensure a transparent oversight of environmental claims present in the EU market with a public register of the type of environmental claims, assessment methods and environmental labelling schemes which comply with the legislation.

5. Strengthening the requirements for environmental labels

BEUC considers that the aim of regulatory measures addressing environmental labels should be ensuring their reliability and trustworthiness, and not restricting the development of voluntary environmental labels which can bring benefit and added value to consumers. In this respect, BEUC is strongly concerned about the proposal prohibiting environmental labels based on aggregated scores of environmental impacts unless they are developed at EU level.

While BEUC supports EU regulatory measures with respect to relevant mandatory information on product sustainability, such as proposed under the Ecodesign for Sustainable Product Regulation, we question the provisions that would allow only environmental labels based on aggregated scores if developed under Union law (Article 5(4) and 7(2)) and the prohibition for Member States to develop new environmental labels (article 8(3)).

The experience with the development of environmental labelling schemes shows that good new labels might very well come first at national level and only afterwards be developed at European level. For example, the Blue Angel was born in 1972 and the Nordic Swan in 1989 while the EU Ecolabel was established in 1992. These two national labelling schemes cover currently a much wider range of product groups and services than the EU Ecolabel.

Another example of earlier development of labels at national level comes from France. The repair index was introduced in 2021 on five product categories of electrical and electronic devices, while the EU repair score will start appearing on the market as of 2025 for smartphones.

Currently there are environmental labels based on aggregated indicators of environmental impacts which are used by traders, or under development. Some of them are considered as reliable by industry, researchers, consumer organisations and environmental NGOs, as they enhance transparency about products sustainability (e.g., Planet Score, reparability scores...).

Consumer organisations are also responsible for environmental labels which build on the use of aggregated indicators and present a ranking to consumers based on the overall performance with respect to products' environmental impacts and other consumer relevant parameters, such as durability, reparability, quality or price. Consumer associations provide consumers with information showing the results of product testing through comparative tables in their magazines. They can also license the use of their labels to companies for their commercial communication activities.

We do not see a reason to prohibit such labels as long as they prove compliance with the provisions of the GCD with respect to the use of robust assessment methods, as well as on transparent and independent governance.

It should be possible for Member States to develop new environmental labels which bring added value to companies and consumers if they comply with the provisions of the GCD. This would ensure coherence with the Directive on empowering the consumer for the green transition which allows sustainability labels when they are based on certification schemes or set by public authorities.

Finally, not only the new environmental labelling schemes which will be developed after entry into force of the Directive should be subject to ex-ante verification. Also, the existing ones should be checked. However, it is necessary that Member States provide for appropriate transitional time allowing for their continuous functioning while the verification procedure is concluded.

BEUC recommendations

- Regulatory measures should ensure the trustworthiness and reliability of environmental labels available in the EU market, instead of restricting the development of voluntary labels which bring added value.
- It should be possible for environmental labelling schemes adopting a scientific and reproduceable method, performed by independent organisations, and complying with the requirements for robust substantiation, communication and governance to use ratings or scores based on aggregated environmental impacts.
- Aggregated scores which are not only or not predominantly addressing environmental aspects or impacts, but also include other dimensions in the weighing criteria, such as price, quality, or durability, should be allowed if they fulfil the requirements with regards to the environmental component of the label.
- It should be possible for Member States to develop new environmental labels if they bring added value and comply with the provisions of the GCD.
- A provision clarifying that environmental labelling schemes existing on the market prior to the date of application of the Directive, can continue to operate while the verification process in accordance is concluded should be added.

6. Scaling up enforcement activities to clean up the market

Regarding enforcement, we welcome that the Directive obliges authorities to regularly control green claims and fine companies which mislead consumers. Competent authorities will need to do regular checks of the claims and labels and publish online a report of those checks. We also welcome that Article 16 (2) foresees the possibility for “non-governmental entities or organisations promoting human health, environmental or consumer protection” to submit substantiated complaints to competent authorities when they deem - based on objective circumstances - that a trader is breaching the GCD. We also welcome the express provision that competent authorities should, as soon as possible, inform the complainant of the decision to accede to or refuse the request for action and shall provide the reasons for it.

This will offer our consumer protection network new legal avenues for strategic litigation on greenwashing cases. We very much welcome the list of possible penalties, which should dissuade companies from making unsubstantiated claims.

However, the enforcement regime is unclear regarding the reference in Article 13(2) to the Unfair Commercial Practices Directive (UCPD). According to this article, Member States have the possibility to derogate the detailed enforcement regime in Articles 14 to 17 by applying the enforcement rules of the UCPD. This approach could severely weaken enforcement of the GCD. Articles 14 to 17 of the GCD contain detailed powers that general rules in the UCPD should not replace. At the same time, the UCPD contains an individual consumer remedy in Article 11a which must be available in any event and in any case additionally to Articles 14 to 17 of the GCD. The individual remedy for consumers is important, so that consumers who suffer disadvantages because of breaches of the GCD, can also receive appropriate compensation.

It is therefore rather the case that the provisions in Articles 14 to 17 of the Green Claims Directive and Articles 11 to 13 UCPD can usefully complement each other. Both regulatory regimes should function in a complementary manner. This applies in particular to the individual remedy for consumers under Article 11a of the UCPD which must also apply to the GCD under all circumstances - not least, because a remedial action under Article 9 of the Representative Action Directive 2020/1828 always requires a substantive legal basis for a claim.

BEUC recommendations

- BEUC agrees that Member States may designate the national authorities or courts responsible for the enforcement of the Unfair Commercial Practices Directive (UCPD). However, we strongly recommend not giving Member States the choice to derogate from the following obligations: grant powers of inspection and enforcement to competent authorities, ensure regular market checks, evaluate infringements by companies, handle complaints and grant access to justice for organisations with legitimate interest - such as consumer organisations - as well as distribute regular and dissuasive penalties.
- To make sure that Member States properly enforce rules governing the use of green claims, the GCD needs to be applied in combination with the UCPD. Consumers harmed by non-compliance with the GCD should have access to proportionate and effective remedies in accordance with the UCPD.

END

