

The Consumer Voice in Europe

## GETTING RID OF GREEN WASHING

Restoring consumer confidence in green claims



**Contact: Patrycja Gautier – [consumer-rights@beuc.eu](mailto:consumer-rights@beuc.eu)**

**BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND**

Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • [www.twitter.com/beuc](https://www.twitter.com/beuc) • [www.beuc.eu](http://www.beuc.eu)

EC register for interest representatives: identification number 9505781573-45



Co-funded by the European Union

Ref: BEUC-X-2020-116 - 02/12/2020

## Contents

<b>1. Green transition and how to get consumers on board .....</b>	<b>3</b>
<b>2. Green claims – definition and legal context .....</b>	<b>4</b>
<b>3. Pre-approval scheme vs UCPD revision – list of pros and cons .....</b>	<b>6</b>
<b>4. Pre-approval of green claims .....</b>	<b>7</b>
4.1. BEUC recommendation .....	7
4.2. The source of inspiration - health and nutrition claims in food .....	7
4.3. How the pre-approval scheme could be designed .....	9
4.3.1. Introduction .....	9
4.3.2. EU-level assessment .....	9
4.3.3. Procedure .....	9
4.3.4. Common methodology to substantiate claims – PEF and its shortcomings ....	11
4.3.5. The blacklist of claims impossible to substantiate .....	11
4.3.6. Market surveillance and obligation to provide evidence .....	11
4.3.7. Expiration of the authorisation decisions .....	12
4.4. How the pre-approval scheme can benefit traders .....	12
<b>5. Accreditation of green labels .....</b>	<b>12</b>
<b>6. Sector specific claims and labels .....</b>	<b>14</b>
6.1. Introduction .....	14
6.2. Finance .....	14
6.3. Food .....	15
6.4. Mobility .....	16
6.5. Housing .....	17
<b>7. Conclusions .....</b>	<b>18</b>

## Why it matters to consumers

Many consumers are concerned about the environment and the threat that the climate crisis brings. They make efforts to lead a more environmentally-friendly lifestyle and buy more environmentally-friendly products. This is, however, not an easy task. Too many unsubstantiated and even untruthful and misleading claims are being used on the market. This creates a lot of confusion among consumers and makes it difficult for them to identify the products and services that are more environmentally-friendly than others of the same product/service category.

## Summary

---

In the framework of the European Green Deal and the new Circular Economy Action Plan, the EU is planning to tackle the problem of misleading and unsubstantiated environmental claims. The aim of the upcoming legislative measures will be to empower consumers in the green transition.

BEUC welcomes these initiatives and calls on the EU to be ambitious and not shy away from measures that can effectively clean up the market from all misleading green claims and labels.

BEUC recommends that:

*In the field of green claims:*

1. A clear, swift and efficient pre-approval procedure for green claims is established after taking into account the experience with a similar scheme in the health claims Regulation;
2. A blacklist of claims that are impossible to substantiate should be drawn up;
3. An EU authority (e.g. the European Environment Agency) should be in charge of verifying the scientific substantiation of claims submitted for pre-approval;
4. A Public Registry should be created where all the authorisation or non-authorisation decisions should be published, together with the set of conditions to use a specific claim and any relevant restrictions to its use;
5. The Public Registry shall be given an *erga omnes* effect (i.e. authorisation/non-authorisation decisions should apply also to other traders that fulfil the same conditions);
6. Evidence supporting the claim should be submitted to the dedicated database ('product information database') before the claim is used;
7. Compliance checks should be performed by the market surveillance authorities within the product information database;

8. The methods developed for the Product Environmental Footprint (PEF) might be used as a basis for a common substantiation method but need to be developed and improved;
9. All claims still in use should be re-assessed five years following their initial authorisation, or following a reasonable request filed by a consumer organisation or a market competitor.

*In the field of green labels:*

1. A centralised accreditation scheme for green labels should be established;
2. A limited list of reputable and well-recognised ecolabels should be drawn up that would be exempted from an obligation to apply for an accreditation;
3. Labels that do not meet the accreditation requirement should be prohibited from use.

## 1. Green transition and how to get consumers on board

---

Climate change is a fact. Our environment is deteriorating at a very fast pace right in front of our eyes. This is a real life-threatening crisis for whole of the world's population and our planet, which unfortunately cannot be solved easily.

On 11 December 2019, the European Commission published its response to these environmental challenges: the European Green Deal<sup>1</sup>. In this communication, it presented the main priorities for its current mandate (2019-2024). Some of the key upcoming initiatives were later specified in the second Circular Economy Action Plan<sup>2</sup>, published in March 2020. The intention of the European Commission to tackle the problem of greenwashing was also further confirmed in November 2020, within its strategy for the years to come: the New Consumer Agenda<sup>3</sup>.

**61% of EU consumers find it difficult to understand products which are truly environmentally-friendly**

For this plan to succeed, we will need to make systemic changes to the way we live, produce, consume, eat heat our buildings and move around. The role of consumers will be crucial in this green transition. Having trustworthy information on how eco-friendly products are can empower them to play an active role, and in by doing so help to make the market for sustainable products more competitive. That said, consumers cannot shoulder these changes alone. For consumers to be able to choose sustainable products, they should be available to them. Therefore, the supply side also needs to be guaranteed.

In the long run, sustainable products and sustainable consumption should not be a choice but the norm. This new standard can only be achieved through ambitious political leadership and the right framework to transform the global production of goods.

---

<sup>1</sup>[https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC_1&format=PDF)

<sup>2</sup> [https://ec.europa.eu/environment/circular-economy/pdf/new\\_circular\\_economy\\_action\\_plan.pdf](https://ec.europa.eu/environment/circular-economy/pdf/new_circular_economy_action_plan.pdf)

<sup>3</sup> [https://ec.europa.eu/info/sites/info/files/com-2020-696\\_new\\_consumer\\_agenda.pdf](https://ec.europa.eu/info/sites/info/files/com-2020-696_new_consumer_agenda.pdf)

The first important step towards that new normal is to tidy up the plethora of existing unsubstantiated green claims and regulate what can be legally claimed and how that is to be substantiated.

**57% of EU consumers are receptive to environmental claims when making their purchasing decisions**

To make environmentally-friendly choices, consumers need to have clear and reliable information to be able to easily identify the 'right' product to purchase.

According to an EU study<sup>4</sup>, 57% of EU consumers are receptive to environmental claims when making their purchase decisions. Unfortunately, the proliferation of such claims on the market and a high percentage of them being unsubstantiated and misleading, leads to the situation where the majority (61%) of consumers find it difficult to understand which products are truly environmentally-friendly. This can lead to an increasing lack of trust, which can even affect truthful and credible claims and labels. Consumers might give up on even trying to consume more sustainably and feel disempowered. To support consumers who want to make the right choice and foster the transition to more sustainable production, the European Commission has to make sure that any 'green claims' and labels do not mislead consumers but become a trusted and reliable source of information.

## 2. Green claims – definition and legal context

---

'Green claims' (or 'environmental claims') can be defined<sup>5</sup> as practices of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product or a service is environmentally-friendly (i.e. it has a positive impact on the environment) or is less damaging to the environment than competing goods or services (e.g. because it was produced with lower emissions). This may include claims indicating that a product is more environmentally-friendly because of its composition, the way it has been manufactured or produced, the way it can be disposed of and the reduction in energy or pollution which can be expected from its use. When such claims are not true or cannot be verified, this practice is often called '**greenwashing**'.

The **Directive 2005/29/EC (Unfair Commercial Practices Directive)**<sup>6</sup> is currently the main EU legal act that regulates unfair practices that harm consumers' economic interests, including misleading green claims. The UCPD provides a safety net and applies as long as there are no conflicting specific laws in place, in which case the later apply. This safety net is of utmost importance especially for implicit green claims (images, colours, type of package or even smells or sounds used for promoting products and suggesting their green characteristics) which are difficult to tackle via other legal instruments.

There are no explicit rules referring to the green claims in the Directive, but its general principles apply (laid down in articles 5, 6 and 7). Several practices related to green claims are also blacklisted in the UCPD annex<sup>7</sup>. The Directive, in its art. 12, also creates an

---

<sup>4</sup> Environmental claims for non-food products, study contracted by DG JUST (2014): [https://ec.europa.eu/info/sites/info/files/study\\_on\\_environmental\\_claims\\_for\\_non\\_food\\_products\\_2014\\_en.pdf](https://ec.europa.eu/info/sites/info/files/study_on_environmental_claims_for_non_food_products_2014_en.pdf)

<sup>5</sup> For the purpose of this paper we will use the definition included in the Guidance document on the implementation/application of Directive 2005/29/EC on unfair commercial practices ([SWD\(2016\) 163 final](#)). Another definition of environmental claims was also developed by the OECD ([DSTI/CP\(2010\)16/FINAL](#))

<sup>6</sup> [Directive 2005/29/EC](#) of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

<sup>7</sup> Points 1,2,3,4 and 10 of UCPD Annex could apply to green claims.

obligation for traders to possess scientific evidence to support their claims and be ready to provide it in an understandable way if the case is challenged by a public authority.

According to the **EU Guidance document** on the implementation/application of the UCPD<sup>8</sup>, all green claims need to be clear, specific, accurate and unambiguous. Moreover, green claims shall be regarded as misleading if they cause the consumer to take a transactional decision that they would not have taken otherwise and if they:

- Contain false or untruthful information;
- Deceive or are likely to deceive the average consumer, even if the information is factually correct.

To support the implementation/application of the UCPD, in 2016, a Multi-stakeholder Dialogue published a list of **compliance criteria on environmental claims**<sup>9</sup>, according to which:

- Claims need to reflect the main environmental impact of the product over its life cycle;
- Claims should be clear to which aspects of the product or its life cycle they refer to;
- Claims should be meaningful in the relevant market;
- The benefit claimed should not result in any secondary environmental impact;
- Comparisons should not be misleading but objective and relevant;
- Companies shall not make claims about aspects that are required by law.

Finally, several Member States adopted their own **national guidelines**<sup>10</sup> that complement the ones used at EU level.

Further clarifications and harmonisation are however needed in this area. Guidelines, even if very complete and of good quality, remain non-legally binding instruments. Moreover, different guideline documents being adopted in different Member States might create barriers to the internal market and lead to diverging legal interpretations of the existing rules.

This paper only focuses on environmental claims but other misleading sustainability claims also need to be addressed that are not related to products' environmental characteristics but still falling under the wider notion of '**sustainability claims**' (e.g. related to respecting labour rights, human rights, accessibility, equality etc).

Consumers are only currently protected from these claims via the Unfair Commercial Practices Directive, which needs to be improved and most importantly prioritised with the adequate resources in EU Member States.

In some countries, like Denmark, the national guidelines were already made broader to cover these types of claims. Consumer organisations are very concerned about the number of misleading claims in this area and are trying to ensure consumers do not fall victim to such unfair trading behaviour. For example, our French member UFC-Que Choisir, recently launched legal action against misleading 'fair claims' used by Samsung<sup>11</sup>.

<sup>8</sup> Guidance document on the implementation/application of Directive 2005/29/EC on unfair commercial practices (SWD(2016) 163 final)

<sup>9</sup> [https://ec.europa.eu/info/sites/info/files/compliance\\_criteria\\_2016\\_en.pdf](https://ec.europa.eu/info/sites/info/files/compliance_criteria_2016_en.pdf)

<sup>10</sup> General guidelines on green claims were adopted for example in countries like: Denmark, Norway. France, Italy, Czech Republic, Finland, United Kingdom and the Netherlands.

<sup>11</sup> <https://www.quechoisir.org/action-ufc-que-choisir-ethique-en-toc-l-ufc-que-choisir-depose-plainte-contre-samsung-n82539/>

### 3. Pre-approval scheme vs UCPD revision – list of pros and cons

---

The urgency of the climate crisis is calling for real changes in the way we live, consume, move around, eat or heat our buildings. For this to happen consumers need to receive only reliable and scientifically proven information, which should guide them to choose their products wisely. It cannot be achieved with the current proliferation of misleading green claims on the market and the limited numbers of enforcement actions being launched to protect consumers only after the harm on the market was already done.

BEUC is therefore advocating for this ambitious reform because of a real change it can bring as compared to drafting yet another set of non-legally binding guidelines or even to revising the Unfair Commercial Practices Directive (UCPD). For the green transition to happen, we need to take strong measures that would effectively solve problems on the market and lead to long-lasting change.

Most importantly, we see the following important advantages of the pre-approval system:

- **Ex-ante control**

Currently, green claims are only being assessed if challenged (ex-post). Most are never verified and yet they are on the market for years. Meanwhile, the harm is done and consumer trust is undermined.

Even in cases where enforcement actions are taken by the authorities or consumer organisations, it can still take months or even years before a claim is actually prohibited and taken off the market. Moreover, an enforcement decision taken in one country is not valid and enforceable in another. This type of control system leads to situations where, by the time any enforcement measures are taken, the trader has already moved on to other marketing strategies. This does not help authorities and consumer organisations leading actions against misleading green claims based on the UCPD.

An ex-ante control mechanism is the only way to prevent any misleading and unsubstantiated claims onto the market in the first place and to have a fair marketplace from the start. The planet cannot wait for consumers, trying to improve their lifestyles, to continue being misguided.

- **Technical/scientific expertise**

Currently, in many countries, consumer authorities are in charge of enforcing the UCPD regarding green claims. Unfortunately, having to make a scientific assessment of the product and to analyse the technical documentation is a big burden on them requiring a lot of additional resources. Centralising the assessment of claims would allow for easier access to this kind of expertise and at a lower cost.

- **No risk of diverging interpretations**

The UCPD does not have any explicit provisions regulating green claims. Only general provisions of this Directive apply, which leads to a high risk of diverging interpretations, especially because the official guidelines on environmental claims also vary between countries.

- **Reduced risk of misleading green claims on the market**

For consumers to be able to make well-informed purchase decisions, they should only be exposed to reliable and substantiated claims. Consumers who are bombarded with misleading green claims at every step lose their trust in such statements, even in genuine claims and labels, feel disempowered and stop paying attention to them.

A pre-approval procedure is the only effective way to achieve this.

## 4. Pre-approval of green claims

---

### 4.1. BEUC recommendation

The urgency of the climate crisis is calling for more ambitious measures that would effectively clean up the market from all misleading environmental claims and allow consumers to fully rely on the ones that have been allowed to circulate. Consumers often lack reliable information or simply the technical knowledge and the time to assess whether the claims that are being made by traders can be relied upon. This may cause them to make poor purchase decisions despite their good intentions.

BEUC recommends therefore establishing a **pre-approval scheme for all green claims** by an EU authority (e.g. the European Environment Agency, EEA).

The relevant pre-approval procedure should be inspired by the experience and lessons learned from the scheme already in place for the health and nutrition claims in food (Regulation 1924/2006<sup>12</sup>). From our experience, this system can bring positive change for consumers and make enforcement in this area significantly easier for authorities.



**The green choice should become the easy choice**

BEUC recommends establishing a pre-approval procedure for all green claims that could draw inspiration from the model of the 2016 Health and Nutrition Claims Regulation.

This procedure needs to be clear, swift and efficient, with indications in terms of timing, avoiding too much bureaucracy, while using a credible and scientifically-proven approach.

### 4.2. The source of inspiration - health and nutrition claims in food

In 2006, an EU Regulation<sup>13</sup> was adopted which laid down harmonised rules for the use of health and nutrition claims in food. The purpose of that reform was to eliminate unsubstantiated and misleading claims and only allow claims that are scientifically proven and that consumers can trust.

---

<sup>12</sup> [Regulation \(EC\) No 1924/2006](#) of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods.

<sup>13</sup> Ibid.



Even though - similarly to green claims today - the general rules on misleading claims also used to apply in this sector (together with more specific rules on food labelling<sup>14</sup>), the Commission pointed out in its explanatory memorandum when publishing its proposal that these “general principles are open to different interpretations and therefore are not satisfactory for dealing with some specific claims”.

After this Regulation entered into force, health claims were collected and consolidated. Their assessment by the European Food and Safety Authority (EFSA) led to a situation where **80% of health claims made on food items (with the exception of botanical substances)<sup>15</sup> were rejected as not being scientifically proven**. In 2011, a positive list of health claims which can be used by the food industry in the EU was consequently drawn up and published in the EU Register of nutrition and health claims made on food items<sup>16</sup>. At first, only 222 health claims were included on that list, but EFSA continues to assess new claims submitted by individual applicants.

**80% of the health claims reviewed were rejected by EFSA as not scientifically proven**

The creation of this scheme was a milestone for consumer protection in the food sector. After some initial resistance from the food industry and efforts needed to set up this scheme, we have now reached a point where the market has been cleaned of scientifically unsubstantiated health and nutrition claims. It has resulted in long-term positive consequences for both consumers and traders (e.g. more legal certainty, reduced compliance costs)<sup>17</sup>. A similar market clean-up effect is also urgently needed for misleading green claims.

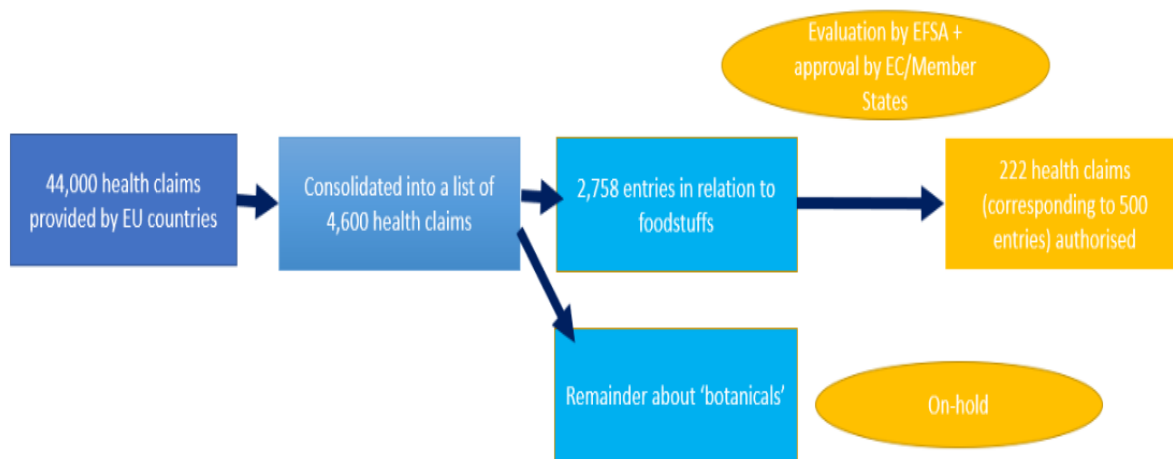


Diagram 1: illustration of how the list of authorised (and non-authorised) ‘general function’ health claims was established.

<sup>14</sup> [Directive 2000/13/EC](https://eur-lex.europa.eu/eli/dir/2000/13/20130320/oj) of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs.

<sup>15</sup> Health claims made on botanical substances have been put on hold pending a decision on how to deal with them.

<sup>16</sup> [https://ec.europa.eu/food/safety/labelling\\_nutrition/claims/register/public/?event=register\\_home](https://ec.europa.eu/food/safety/labelling_nutrition/claims/register/public/?event=register_home)

<sup>17</sup> Unfortunately, the nutrient profiles that are included in the original legislation and that would have restricted the use of approved health claims on nutritionally unbalanced products such as sweets or sugar sweetened beverages, have not yet been put in place by the European Commission. This would be a necessary step to truly and completely clean up the market from misleading health claims.

### 4.3. How the pre-approval scheme could be designed

#### 4.3.1. Introduction

In this section you will find some ideas on how the system of pre-approval for environmental claims could be designed. These are, however, only our preliminary suggestions that will need to be further discussed and examined.

#### 4.3.2. EU-level assessment

BEUC recommends that an **EU authority** (e.g. the European Environment Agency) is in charge of verifying the scientific substantiation of claims submitted for pre-approval. This would eliminate the diverging interpretations that create barriers to the internal market. It would also reduce the costs of each Member State hiring its own relevant technical experts.

#### 4.3.3. Procedure

In the first phase, after the new rules on the pre-approval scheme become applicable, all the green claims present on the market would need to be submitted to the **European Environment Agency (EEA)** together with the relevant supporting documentation. The agency would then classify and group them per type of claim, product or service category and sector.

Within the EEA, a **panel of experts**<sup>18</sup> could be assigned to assess specific claims. As a first step, it could establish a set of **conditions to use a specific claim** and any applicable restrictions for its use. Only then, as a second step, the panel of experts could decide whether (in the case of the product or service in question) these conditions have been fulfilled and whether sufficient evidence was submitted.

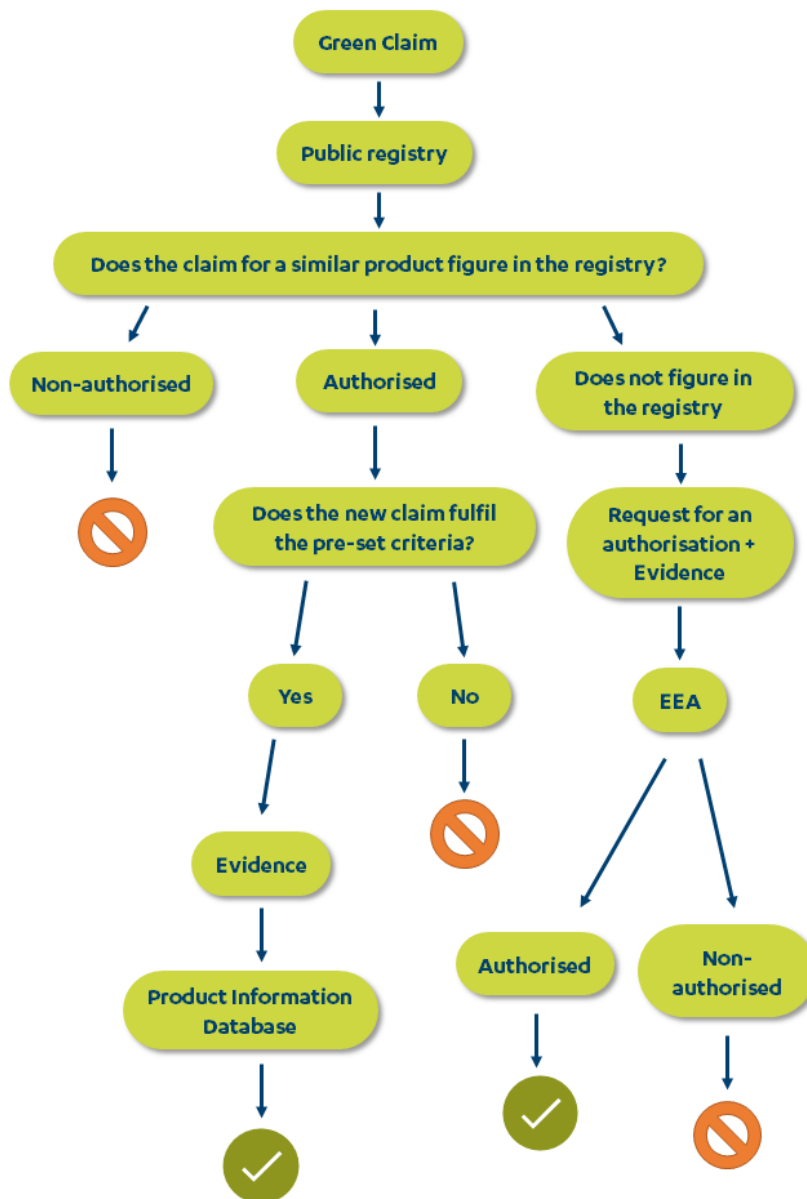
Secondly, a list of all the decisions concerning the authorisation or non-authorisation of claims could be published (together with the conditions to use and any applicable restrictions) in the **Public Registry**.

To reduce the administrative burden and avoid duplications of pre-approval requests, the pre-authorisation decisions, accessible via the Public Register, could have an *erga omnes* effect and therefore apply also to other traders.

From the moment of the publication of the list of authorised and non-authorised claims in the registry, traders wanting to make a specific claim could in the first instance verify whether it has already been approved or not. If so, they would verify whether their product or service fulfils the conditions that apply to its use. If these self-assessment conditions are met, the trader could be allowed to use the claim after submitting all the relevant documentation and evidence to the product information database (see also section 3.3.7 for more information about this database).

---

<sup>18</sup> In the area of health and nutrition claims in food, the [EFSA Panel on Nutrition, Novel Foods and Food Allergens \(NDA\)](#) deals with health claims. It comprises 16 experts. These experts are independent scientific experts with a three-year mandate. They work for universities or national food agencies. This panel is assisted in its work by the EFSA permanent staff. They check that dossiers are complete, pre-draft parts of the scientific assessments – which are then discussed, finalised and adopted by the expert panel themselves.



*Diagram 2: illustration of how the Public Register could be used to reduce the administrative burden.*

Finally, it is crucial that the above procedure is designed in such a way that is able to keep pace with the dynamics of this quickly evolving market, while guaranteeing its scientifically-proven approach and credibility. Clear and binding time indications for different steps of the procedure need to be put in place.

#### **4.3.4. Common methodology to substantiate claims – PEF and its shortcomings**

In 2013, the European Commission initiated a process to develop a common methodology of Life Cycle Assessment (LCA), which resulted in the Product and Organisational Environmental Footprint methods (PEF and OEF).

More recently, in its second Circular Economy Action Plan, it announced that it will propose that companies substantiate their environmental claims using the PEF method. This intention was also confirmed in a roadmap<sup>19</sup> published in June 2020. A relevant legislative proposal is currently foreseen for the second quarter of 2021.

However, BEUC has reservations about this idea. While PEF might be used as a basis for a common substantiation method, it cannot serve as a standalone instrument. For the moment, it has been developed only for a limited number of product groups. It also has severe shortcomings regarding specific environmental impact categories such as chemicals and biodiversity and therefore must be complemented through additional assessments.

We are also convinced that PEF methods should be further developed and improved, with the participation of all relevant stakeholders in a democratic and transparent manner.

#### **4.3.5. The blacklist of claims impossible to substantiate**

As an additional measure, BEUC recommends creating a blacklist of environmental claims that are deemed unsubstantiated (i.e. impossible to be true) and therefore prohibited: e.g. carbon neutral, climate friendly or biodegradable (if no agreed standards exist which define this term).

If such a list is created, it should be regularly updated.

#### **4.3.6. Market surveillance and obligation to provide evidence**

In order to improve market surveillance in this area, we propose to amend the existing obligation to submit evidence only when the claim has been challenged by a public authority to an ex-ante obligation to submit the relevant explanations and evidence, on how the criteria included into the public register have been fulfilled, before the product is placed on the market. Such evidence shall be submitted to the '**product information database**' accessible to the authorities (higher degree of detail) and consumers (lower degree of detail). This database could be further linked to the development of the **product passport**.

In order to create a sufficient deterrent effect and make sure that no unsubstantiated claims enter the market, effective **market surveillance** would be crucial. We propose clear and binding obligations for authorities to perform random checks of the product information database. **Two-fold controls** could take place:

- a) Verification of whether a trader using a green claim has submitted all the appropriate evidence with clear reference to a specific entry in the Public Register, indicating that the claim in question has been previously authorised, and on how it fulfils the pre-set conditions of using the claim ('administrative control').

---

<sup>19</sup><https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12511-Environmental-claims-based-on-environmental-footprint-methods>

- b) Scientific assessment of the evidence submitted to substantiate the claim ('scientific control').

#### **4.3.7. Expiration of the authorisation decisions**

Due to the dynamism of this market sector and the fast development of new technologies, what was once authorised might not be acceptable just a couple of years later.

Every authorisation decision could therefore expire after five years and the claim re-assessed. The relevant traders could be notified in advance so that they can confirm that they intend to continue using the claim and allow them to submit more recent scientific evidence, if relevant.

A re-assessment before this five-year period could also be possible following a reasonable and substantiated request filed by a consumer organisation or a competitor.

#### **4.4. How the pre-approval scheme can benefit traders**

Traders offering innovative and environmentally-friendly products and services are having a hard time to differentiate themselves from their competitors. They often need to compete against producers who make similar 'green' claims but without being able to back them up by appropriate evidence or a third-party assessment.

Too many claims on the market cause a lot of confusion among consumers, who are often not able to assess which claims are reliable and which are not. A pre-approval scheme of green claims would allow for a cleaning up of the market from all misleading claims and create a level-playing field for all traders. As a matter of fact, it eliminates unfair competition from the market, as unsubstantiated claims would have diverted consumers away from truly green goods and services, to the benefit of traders that do not invest in sustainability.

It would also raise incentives for traders to create greener products and invest in innovation as their efforts would bring a real added value making their products more easily identifiable and more valuable for consumers.

Diverging interpretation of the general rules in place and different national guidelines are also leading to the lack of legal certainty, creating barriers in the internal market and raising compliance costs significantly.

## **5. Accreditation of green labels**

---

Green (environmental) labels/logos can be defined as graphic marks or emblems used to convey environmental benefits of a product or a service.

The number of environmental labels is constantly growing on the market, with a striking 457 environmental labels currently used in the world<sup>20</sup>. Many of them are simply self-declared labels that are not verified by any third party. This proliferation of labels confuses consumers and undermines their confidence in environmental labels as a whole. According to an EU study<sup>21</sup>, consumers are "generally unable to understand the meaning of

---

<sup>20</sup> <http://www.ecolabelindex.com/>

<sup>21</sup>Environmental claims for non-food products, study contracted by DG JUST (2014): [https://ec.europa.eu/info/sites/info/files/study\\_on\\_environmental\\_claims\\_for\\_non\\_food\\_products\\_2014\\_en.pdf](https://ec.europa.eu/info/sites/info/files/study_on_environmental_claims_for_non_food_products_2014_en.pdf)

environmental labels and make no distinction between non-certified (self-declaration) and third-party certified labels”.

It is essential to remove all misleading, unclear, and unsubstantiated labels used on the EU market and introduce strict conditions in order to make it easier to assess which labels are reliable.

**457 environmental labels are currently being used in the world**

BEUC recommends introducing a **centralised accreditation scheme** for green labels to reach this goal. A limited **list of reputable environmental labels** already in use that represent a high quality standard (e.g. ISO Type I Ecolabels) should be drawn up via a delegated act in order to establish a list of labels that should be exempted from the obligation to apply for accreditation.



Other labels that would need to seek accreditation before the EEA must be able to fulfil a strict set of **pre-conditions**, which should include the following at the least:

- The award criteria should be publicly available;
- The label has to be evidence-based on objective and relevant criteria developed through an independent process;
- Award criteria should go beyond what is requested by law and represent a true environmental and/or societal improvement;
- Control procedure should be impartial with third-party verification ;
- If a label is focused on one environmental aspect (like MSC, a label developed by the Marine Stewardship Council), this should be made clear for consumers.

Labels that cannot fulfil the above preconditions and therefore do not receive the required accreditation, should be prohibited as inherently misleading.

Once a label is accredited, it could be awarded to different product groups covered by the label following its award criteria put forward during the accreditation procedure.

Finally, the Commission and Member States should ensure that the EU Ecolabel remains a label of environmental excellence both through the development of ambitious criteria and enforcement by competent bodies with reinforced resources to ensure regular checks of compliance including laboratory tests on relevant aspects.

BEUC recommends introducing a centralised accreditation scheme for green labels.

A limited list of reputable and well recognised ecolabels should be drawn up that would be exempted from an obligation to apply for accreditation.

Labels that do not meet the accreditation requirement would be prohibited from use.

## 6. Sector specific claims and labels

---

### 6.1. Introduction

In this section we describe the current situation related to the use of misleading green claims in some specific sectors, namely finance, food, mobility and housing. We also attempt to analyse the existing and upcoming initiatives that aim to solve this problem. Finally, we reflect on how our general recommendations could apply in these fields and what kind of alterations might need to be made in order to adapt to the specificities of these sectors.

A pre-authorisation scheme which we propose in this paper is aimed to be a horizontal tool which would be without prejudice to stricter criteria applied in specific sectors.

### 6.2. Finance

Consumers often face significant challenges when choosing the right ethical or sustainable investment fund. According to a consumer survey<sup>22</sup> carried out by our member Which?, UK investors often still face a significant uphill struggle when choosing the right sustainable investment fund, a task made all the more difficult by widespread greenwashing practices in the investment fund industry. For instance, recent research<sup>23</sup> shows that many investment fund providers make misleading claims about the environmental credentials of their investment products. A recent ranking of asset managers produced by a leading campaigning group meanwhile shows that despite asset managers often touting their responsible investment credentials, many investment fund providers often have a substandard approach when it comes to responsible investment issues.<sup>24</sup>

The European Commission is currently working at high speed to address concerns about greenwashing via different legislative and non-legislative initiatives, examples of which are:

- The EU Taxonomy: the world's first-ever "green list" – a classification system for sustainable economic activities, common language that investors can use everywhere when investing in projects and economic activities that have a substantial positive impact on the climate and the environment. It will require financial actors, including fund managers, bond issuers and listed companies, to disclose how green their investments are.

---

<sup>22</sup>[https://www.which.co.uk/news/2020/08/is-ethical-investing-just-too-difficult/?utm\\_campaign=whichmoney&utm\\_medium=social&utm\\_source=twitter&utm\\_content=ethicalinvesting\\_310720&utm\\_term=twnews](https://www.which.co.uk/news/2020/08/is-ethical-investing-just-too-difficult/?utm_campaign=whichmoney&utm_medium=social&utm_source=twitter&utm_content=ethicalinvesting_310720&utm_term=twnews)

<sup>23</sup> <https://scmdirect.com/wp-content/uploads/2019/11/SCM-Direct-Greenwashing-Report.pdf>

<sup>24</sup> <https://shareaction.org/research-resources/point-of-no-returns/>

- **Sustainable Finance Disclosure Regulation:** the EU Sustainable Finance Disclosure Regulation will require financial products to disclose their sustainability characteristics and objectives in pre-contractual and periodic documentation to consumers. The European Supervisory Authorities are currently consulting on how these disclosure rules should work. These rules will ensure better transparency to consumers regarding the sustainability of their investment products.
- **The EU Ecolabel:** The Commission is currently developing the EU Ecolabel for Retail Financial Products within the framework of the Sustainable Finance Action Plan. Labelling of financial products can help driving private capital towards the investments needed in those sectors and activities that can contribute to the sustainability and transition of our economy.
- **Enhancing Environmental Information Disclosure:** Corporate Social Responsibility (CSR) reports and sustainability reporting provide information about the Environmental, Social and Governance (ESG) performance of companies on a voluntary basis. Companies focus on their positive impacts on society and the environment, neglecting the negative impact they produce. The European Commission is currently working on a review of the non-financial reporting Directive.

Much of the impact of financial institutions on the environment and society does not come from their direct operations but instead is indirect. Thus, as this debate matures and the EU initiatives throw more light on what can be classified as green and companies are forced to report according to a standardised framework, BEUC believes that recommendations for cleaning up the market from misleading green claims and labels could be applied also to financial products, with a number of considerations and the further necessary discussions. By way of example, third-party verification is crucial to assess the credibility of voluntary disclosures by companies and banks, bringing accountability and transparency. It will ensure that funds obtained through green financing are not allocated to assets with no environmental value. Thus, third-party verification could also help supervisors of financial products when examining and approving products. Against this backdrop, any future EU authority in charge of verifying the scientific substantiation of green claims submitted for pre-approval, could closely collaborate with financial supervisors and regulators, regarding financial products.

### **6.3. Food**

According to a survey coordinated by BEUC<sup>25</sup>, two-thirds of Europeans are open to changing their food habits for environmental reasons. Yet, consumers face barriers in eating more sustainably, among which unclear information and the difficulty to spot the sustainable options when food shopping.

Claims and labels have mushroomed on the market, suggesting a food item is 'made from natural ingredients', was grown in a way that 'preserves soil and water resources', is 'carbon neutral' or has 'eco-friendly' packaging. Yet, except for a few well-recognised, trustworthy labels (e.g. organic), it remains difficult for consumers to distinguish between products with genuine sustainability credentials and greenwashing.

---

<sup>25</sup> BEUC, One bite at a time: consumers and the transition to sustainable food, An analysis of a survey of European consumers on attitudes towards sustainable food, June 2020.



As part of the 'Farm to Fork' Strategy for a fair, healthy and environmentally-friendly food system<sup>26</sup>, the European Commission announced it will, "examine ways to harmonise voluntary green claims".<sup>27</sup> A pre-approval scheme for such claims would help clean the market from bogus ones, thereby making the sustainable choice easier for consumers. The Commission has also expressed its intention to create a broader sustainability label for food, covering more than just aspects such as the carbon footprint or biodiversity.

#### 6.4. Mobility

Transport is the only sector in the EU whose emissions have been rising since 1990. Yet many green claims and false affirmations are made by historically polluting modes of transport, luring consumers into the illusion of compensating their emissions or reaching net zero emissions with fossil-fuelled technologies.

This is particularly the case in the airline industry. Compensation mechanisms are often presented to consumers as an extra fee when buying a plane ticket in order to make their journey 'green'. Such allegations are simply misleading both in terms of potential and actual reality of compensation mechanisms.

In the same vein, we recently observed Ryanair presenting itself as the 'greenest airline group'. While lacking evidence, such a claim is particularly disturbing when looking at the recent inclusion of Ryanair in Europe's top ten carbon emitters in 2019<sup>28</sup>. As a response, the British Advertising Standards Authority (ASA) ruled that the airline's ad was misleading consumers, but the same advertisement has been run in ten other European countries without action from national authorities despite formal complaints from some consumer organisations.

On the road transport side, the surge of alternative fuels and new powertrains leads to many claims around their allegedly high potential for drastically lowering CO<sub>2</sub> emissions, while concealing the emission of other pollutants affecting climate or human health. Many fuels (such as biofuels or CNG) and powertrain technologies (plug-in hybrids) thus label themselves as 'green', putting consumers into a maze of incomplete information about the real impact of their motorisation choice.

The most well-known example of greenwashing in the car sector is without a doubt Volkswagen claiming to offer 'clean diesel' cars just months before the Dieselgate scandal came to light revealing that the company was cheating on their vehicles' emission levels.

While the transport sector needs drastic changes to achieve decarbonation by 2050 at the latest, misleading consumers can only put a hold to the swift rollout of truly clean technologies and alternatives to polluting transport modes. In this respect, BEUC has established recommendations on how best to get consumers on board this revolution, notably by giving them the right information and making the sustainable choice the most affordable and easy one<sup>29</sup>.

---

<sup>26</sup> European Commission, 'Farm to Fork' Strategy for a fair, healthy and environmentally friendly food system, 20 May 2020.

<sup>27</sup> The Commission also aims at creating a sustainable labelling framework covering the nutritional, climate, environmental and social aspects of food products. While there are some feasibility challenges, BEUC survey found that most consumers (57%) want sustainability information to be compulsory on food labels.

<sup>28</sup> <https://www.transportenvironment.org/press/ryanair-europe%E2%80%99s-7th-biggest-carbon-polluter-last-year-aviation-emissions-continued-grow>

<sup>29</sup> BEUC, [Breaking out of fossil-fuelled mobility: how consumer policy can help clean up transport](#), July 2020.

## 6.5. Housing

Electricity suppliers offer 'green' energy contracts to consumers. A similar trend is expected in the gas sector in the near future.

When offering 'green electricity' tariffs, suppliers need to demonstrate the share of energy from renewable sources in their energy mix and therefore have to purchase so-called Guarantees of Origin (GOs). These are electronic documents evidencing to a final customer the origin of energy produced from renewable sources.<sup>30</sup>

GOs are a tracking instrument and as such they do not result in additional investments into renewables. However, when opting for a 'green' tariff, consumers expect that their choice has a positive impact on the environment and that they contribute financially to an increase in renewable electricity generation (i.e. the 'additionality' principle). This is only the case if consumers' decisions lead to the generation of additional green electricity and an additional benefit for the environment.

Misleading 'green' tariffs can significantly undermine consumers' confidence and trust in energy markets. Therefore, BEUC has been advocating for clear, comparable and credible information about 'green electricity' tariffs advertised by companies and measurable criteria regarding their additional environmental benefits. We identified three graded principles to remedy market distortions: (1) Binding rules for all market participants established by National Regulatory Authorities or by the national energy ombudsman; (2) Sustainability ranking of market participants by an independent organisation (such as consumer organisations and environmental NGOs); (3) Voluntary quality labels which should ensure transparency, establish environmental criteria and guarantee additionality among others.<sup>31</sup>

In addition, increasing quantities of green gas produced through different production processes, with different levels of sustainability, are entering the market. There is a risk that this increasing complexity in the gas offer may lead to unclear or misleading commercial practices. Consumers should receive trustworthy and easy-to-understand information on the gas supply they are purchasing.

Alongside confusing energy tariffs, the transparency on the environmental impact of the construction materials that will be used for retrofits remains to be fine-tuned (e.g. in terms of emissions, pollutants, biodegradability, etc.)

Lastly, concerning contractors and installers, the existing labels and charters do not quite yet provide assurance on a coherent and coordinated installation of energy efficient measures in buildings. This shifts the responsibility of coordinating different providers onto homeowners. A reliable approach to guarantee the quality of the works and a holistic implementation of energy efficiency measures are still missing.

---

<sup>30</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

<sup>31</sup> BEUC, [A 'green electricity' market that works for consumers](#), January 2017.

## 7. Conclusions

---

Sustainable consumption is key to mitigating the climate crisis. Consumers are becoming more and more environmentally conscious and look for 'green' products. Their efforts are unfortunately hindered by the lack of reliable information on the market and a flood of unsubstantiated claims. The current system does not protect them from misleading green claims sufficiently.

If we really want to make a change and enable the green transition, we cannot afford ill-informed consumer choices any longer. The urgency of the situation justifies taking a more ambitious approach. Without such an effort, there is a serious risk of undermining consumer involvement in the green transition.

BEUC recommends introducing a new regulatory framework establishing a clear, swift and efficient pre-approval procedure for all green claims and labels, taking into account the experience gathered in the application of the scheme already in place for the health and nutrition claims in food (Regulation 1924/2006<sup>32</sup>).

END

---

<sup>32</sup> [Regulation \(EC\) No 1924/2006](#) of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods.



*This publication is part of an activity which has received funding under an operating grant from the European Union's Consumer Programme (2014-2020).*

*The content of this publication represents the views of the author only and it is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the Consumers, Health, Agriculture and Food Executive Agency or any other body of the European Union. The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains.*