

ENVIRONMENT

THE GREEN CLAIMS DIRECTIVE PROPOSAL

VdA EXPERTISE

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Proposal for a Directive on substantiation and communication of explicit environmental claims – The Green Claims Directive

On the 22nd of March 2023, the EU Commission presented the Proposal for a Directive on substantiation and communication of explicit environmental claims ("proposed Green Claims Directive"), which continues the development of the EU's Circular Economy Action Plan, one of the key sectors of the European Green Deal.

1. General Aim of the Directive

The main aim of the proposed Green Claims Directive is to create a system of common criteria to certify green claims. Through the establishment of this system, the Commission hopes to ensure reliability, comparability, and proper verification of green claims, therefore preventing greenwashing, the spread of misleading or vague environmental information and the proliferation of several types of green labels.

Additionally, the implementation of a system of common criteria benefits the companies that undertake genuine efforts to develop more sustainable products, as these products will be more easily recognised.

2. Applicability

The proposed Green Claims Directive is meant to be applied to all kinds of voluntary explicit environmental claims made by traders regarding their products, services or even the trader itself directed to EU consumers. All claims in textual form or in an environmental label that suggest a positive environmental impact, such as "eco-friendly", "carbon compensated", "carbon neutral", or "made of recycled materials" will need to be substantiated and verified in advanced.

The proposed Green Claims Directive exempts from its requirements:

- Microenterprises (companies with fewer than 10 employees and less than €2 million of turnover);
- Financial services or undertakings that already report environmental information under the EU Accounting Directive;
- Claims directed at other companies;
- Claims under EU green taxonomy;
- Claims that might be covered by adopted EU rules (such as the EU Ecolabel, the energy efficiency label, the organic farming label...).

Thus, it is configured as a general regime, applicable when there are no other specific sectoral provisions. Which means that, when there is nothing obliging companies to make ecological claims, if they choose to do so, these claims will fall within the scope of this regime.

3. Main aspects

Green claims will only be accepted if minimum requirements of substantiation and communication are observed.

The compliance with these requirements will need to be preemptively verified namely to ensure that:

- Claims are substantiated with largely recognised scientific evidence, use accurate information and take into account relevant international standards;
- Claims regarding comparisons with other products or organisations are based on equivalation information and data;
- Claims clearly specify if they related to the whole product, part of the product or a certain aspect of the activity of the trader;



- Claims related to carbon offsetting specifically demonstrate its impact, as well as the underlying calculations;
- Claims relate to a significant positive impact, superior to the one achieved through compliance with legal requirements;
- Claims provide all the available background information either with the physical product or through an electronic means.

In order to implement the Proposed Green Claims Directive, Member-States will need to set up procedures of verification of voluntary environmental claims to be carried out by accredited third parties.

Only after the conclusion of verification procedures will a certificate of conformity be issued.

Member-States may choose the concrete monitoring and enforcement mechanisms applicable to non-compliance situations, which should be *"effective, proportionate and dissuasive"* and may include penalties, deprivation of the benefits of non-compliance and confiscation of property.

Member-States should create measures aimed at supporting SMEs in the implementation of this directive.

4. Relation with other instruments

The proposed Green Claims Directive is linked to the objective of empowering EU consumers to actively contribute to the green transition, by granting consumers the possibility to make informed decisions.

Accordingly, the proposed Directive is expected to amend and complement the Unfair Commercial Practices Directive and the Proposed Directive on empowering consumers for green transition.

5. Next Steps

The proposed Green Claims Directive is currently under public consultation and comments may be submitted until the 5th of June 2023.

After the public consultation period the Proposed Green Claims Directive is to be discussed by the European Parliament and subject to the approval of the Parliament and the Council.

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