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Aeráide agus Cumarsáide
Department of the Environment,
Climate and Communications

(Draft) Green Claims Directive

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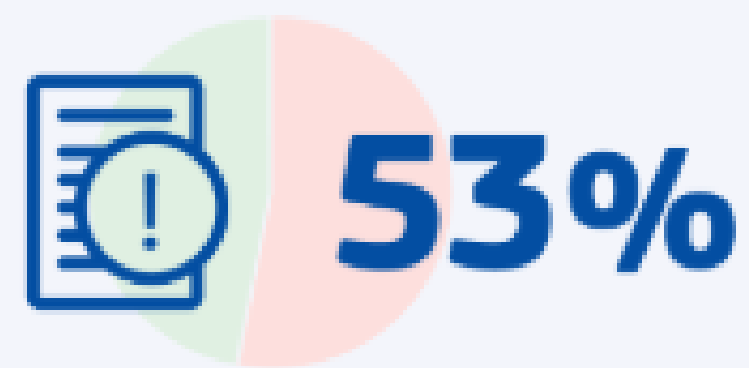
Environment Policy Division

Overview of Green Claims Directive

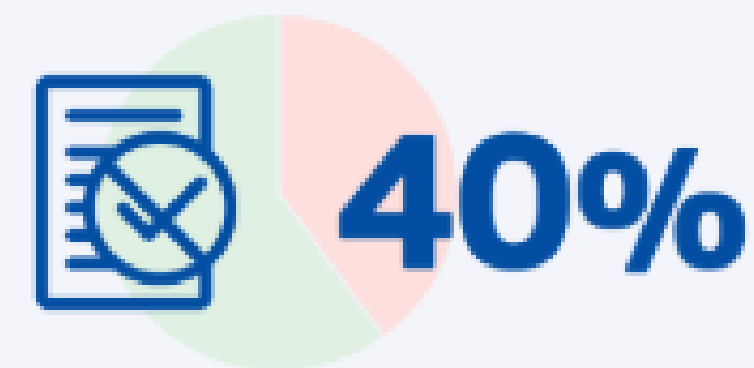


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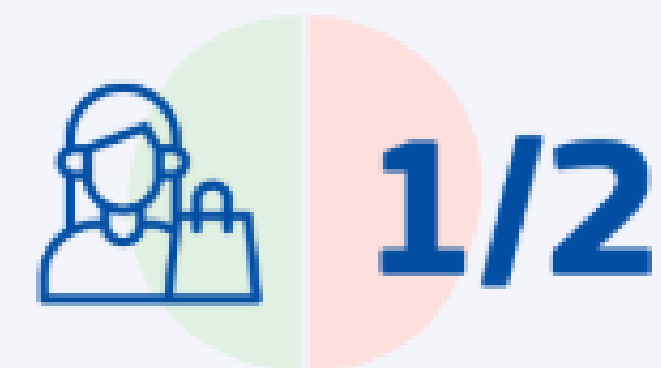
European Commission study 2020



53% of green claims give vague, misleading or unfounded information



40% of claims have no supporting evidence



Half of all green labels offer weak or non-existent verification



There are 230 sustainability labels and 100 green energy labels in the EU, with vastly different levels of transparency

Introduction I – consumer/business focus



- Claiming to be ‘green’ is a **competitiveness** issue
- Different rules in different MS hampers **trade** across the internal market
- Vast majority of consumers/businesses want to ‘**do the right thing**’
- Claims which are false **mislead the consumer**
- Lack of reliability, comparability and verifiability leads to:
 - a lack of **trust**
 - **confusion**
 - an **unfair advantage** for businesses who make ‘false;’ environmental claims

Introduction II - consumer/business focus



- Harmonise and **regulate further** environmental claims and tackle false environmental claims – draft Green Claims Directive
- Article 114 TFEU is the legal basis (**harmonisation** of the internal market)
- Overview:
 - Requirements around how environmental claims are be **substantiated, verified and communicated to consumers.**
 - Does not impose any environmental restrictions on products or services – **in itself will not improve environment / climate, but**
 - Allows consumers to make **informed sustainable purchasing decisions** and reduce the risk of ‘greenwashing’.

Scope I



- ‘*Lex specialis*’ – not intended to address environmental claims / labels covered by other EU legislation
- Does not apply to rules for financial services.
- Does not apply to future EU legislation on environmental claims/labels (e.g. *Count Emission EU* for the transport sector).
- Aims to complement the *Empowering Consumers for the Green Transition* to establish a clear regime for environmental claims and labels.
- ECGT prohibits ‘generic’ environmental claims’ (e.g. ‘eco-friendly’, ‘green’) unless based on ‘recognised excellent environmental performance’.
- ECGT regulates ‘implicit’ environmental claims (e.g. colour / image).

Scope II



- The draft Green Claims Directive will apply:
 - to environmental claims in written, oral or label format.
 - in **addition** to (complementing) the ECGT (which amends the UCPD),
 - Only to **‘voluntary’ environmental** claims/labels
 - Only to claims made in a **business to consumer** context (not B2B)
 - to **‘explicit’** environmental claims:
 - Generic (e.g. ‘eco friendly’ allowed if claim is compliant with the ECGT)
 - Specific (e.g. “Packaging made of 30% recycled plastic”)
- GCD introduces rules governing how claims are to be substantiated, verified and communicated.

Substantiation of a claim I



- The **assessment** that underpins the claim.
- Based on widely **recognised scientific evidence** (sound methodologies studies)
 - Developed in line with best practice (transparent, involvement of stakeholders, scientific, industry and civil communities), or
 - Independently peer reviewed by experts, published in internationally recognised literature).
- Should result in **transparent, comparable and verifiable** information to the consumer.
- Consider the **'life cycle'** or justify why the life cycle is not assessed

Substantiation II



- In line with the ECGT, requirements imposed by law or common practice should not be presented as environmental claims – misleading for the consumer when comparing products / services.
- **‘Negative trade offs’** need to be considered and identified as part of the substantiation (e.g. savings in water may lead to increases in greenhouse gas emissions).
- Primary information if possible, accurate secondary information (not to disadvantage SMEs).

Substantiation III



- Climate claims on **‘off setting’**
 - Transparency key in relation to climate claims (e.g. declare whether claim is based on offsetting or reductions).
 - Commission to further specify rules for the assessment for climate claims.
- **‘Future’** environmental performance claims also subject to ECGT and GCD.
- Substantiation can be based on 16 **‘Environmental Footprint’** methods – use where possible for harmonisation.
- **Producer** will typically have the information to substantiate a claim, for labelling schemes, the **labelling scheme owner** must substantiate the claim.

Substantiation IV



- **Exceptions** from full substantiation / verification for certain claims.
- **Simplified procedure** (use equivalent alternative assessment / no third-party verification) for less complex claims:
 - Exceeds minimum standards/requirements;
 - Certified by an environmental label
 - Interventions supporting our CAP Strategic plan;
 - Commission to devise a list of further categories.
 - E.g. Reduced energy/water consumption, reduced resources used etc.
- Simplified procedure not applicable to '**comparative claims**'.
- **Self-declaration** instead of verification – information made available.

Substantiation V



- Comparative claims/labels:
 - Transparent regarding what is being compared (apples with apples),
 - Same methodologies used / same metrics being compared.
- Substantiation to be reviewed every 5 years (e.g. consider latest scientific standards)
- Commission to establish further methodologies for substantiation

Communication of claims / labels



- Communication not subject to 3rd party verification.
- Communication must comply with both ECGT and GCD requirements.
- GCD requirements:
 - Supporting information made available with the claim (physical form / link – e.g. on website or on packaging)
 - Preferable if supporting information in digital format (e.g. QR code)
- ‘Aggregated scores’ of environmental performance – EU or national rules
- Commission to establish further rules/provisions for communication of claims/labels

Labelling schemes



- Environmental labelling schemes established by public authorities may be exempted from third party verification if the scheme can demonstrate an existing equivalent verification.
- EN ISO 14024 Type I ecolabelling schemes exempted from verification, MS to notify Commission of such schemes.
- New labelling schemes prohibited unless they can demonstrate ‘added value’.
- Commission to establish further rules/provisions for labelling schemes (including how to establish ‘added value’).

Verification



- Substantiation of environmental claim to be **'verified'** before that claim is made public.
- Verifier to be **accredited** and an **independent** third party.
- Verification to be valid for a maximum period of **5 years**.
- Commission to establish further rules/provisions for verification.

Other Provisions



- **Support** for Microenterprises / SMEs
- Designation of **competent authorities**
 - Monitor compliance
 - Handle complaints regarding non-compliance
 - Require corrective actions to be taken
 - Penalties
- Monitoring of the application of the Directive (**biennial report** to Commission)
- Commission to carry out **evaluation** of Directive 5 years after adoption.

Application of Directive (if/once adopted)



- **Draft Directive** – currently undergoing Trilogue negotiations.
- All the provisions in this presentation based on the **MS or Council position**.
- Council position:
 - Transposition 2 years after adoption.
 - Applicable 3 years after adoption.
 - Microenterprises – 4 years (50 months).

Key takeaways



- Directive will apply to **voluntary** claims / labels not covered by other EU legislation and in a **business to consumer** context.
- Requirements for **substantiation** / **verification** lie typically with producer / labelling scheme owner.
- Directive is undergoing trilogue negotiations and **subject to change** (this presentation based on MS / Council positions).
- Transposition / application likely to be **2/3 years** post its adoption.



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Thank you!

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