

ECMA response to the Green Claims Directive

20 July 2023

ECMA welcomes the Commission's proposal for a Directive for the substantiation and communication of explicit environmental claims. In the framework of the European Green Deal and the Circular Economy Action Plan, it is crucial to ensure that claims made by traders are sufficiently backed by evidence and that products consist of and deliver the environmental benefits that they claim to have.

In addition to this, the role of consumers is clearly recognised: the transition to a Circular Economy will not happen without them and greenwashing is a threat to their involvement – consumers will not be able to make more sustainable choices without receiving reliable, comparable, and verifiable information.

We would like to take this opportunity to communicate our asks, as follows:

1. Ensure consistency of the Directive with relevant EU legislation while maintaining a level-playing field with imported products.

Regulatory consistency is important and the need to avoid legislative overlaps, especially considering that the relevant pieces of legislation have either not been adopted yet or are yet to be implemented. In particular, the Empowering Consumers Directive has not been adopted yet. As a result, it is unclear how greenhouse gas offsets will be regulated in the two pieces of legislation, as the European Parliament intended to ban claims solely based on carbon offsets in its position. Moreover, the legislative process on the Packaging and Packaging Waste Regulation (PPWR) creates uncertainty concerning where the substantiation of environmental claims on recycled and biobased content should be regulated. It is crucial to support the industry innovations by providing a stable and reliable regulatory framework by consistently addressing specific product groups, such as packaging, via different legal instruments.

Furthermore, there is an interlinkage between this Directive and the Ecodesign for Sustainable Products Regulation (ESPR). The ESPR establishes a general framework to make sustainable products the norm via the setting of eco-design requirements for specific product groups to significantly improve sustainability performance. Information on the products sustainability performance shall be communicated via the Digital Product Passport (DPP), including information on the environmental footprint of a product. Hence, care must be taken to ensure that the data on products' environmental footprints coincides in both the ESPR and the Green Claims Directive.

Moreover, reporting requirements should be aligned with the provisions of the Corporate Sustainability Reporting Directive to avoid contradictory signals to businesses as well as an unnecessary increase in compliance costs.

The need for coherence should also be preserved when drafting delegated acts for specific explicit environmental claims. The involvement of relevant industry experts would ensure that requirements, e.g., on recyclability or biodegradability, are realistic, consistent with international standards and at the same feasible for the industry in an economically and technically viable way.

Finally, the Directive should apply to all products, whether they are produced in the EU or imported, to ensure a level playing field.

2. Ensure (information) requirements are strictly relevant to the substantiation and protect confidential information.

While the Green Claims Directive's purpose of fighting greenwashing is welcome care should be taken to avoid administrative burden and duplication of efforts by both companies and authorities during the verification process. Ex-ante third-party verification of individual claims should not be the focus of the Directive but rather ensuring a clear, efficient, and consistent verification procedure across the EU by setting clear guidelines and thus contributing to legal certainty. Care should be taken that the verifiers should focus on the supportive documents for all the claims put forward by a trader, but not the individual communication of every claim. The opposite could risk a long process that may discourage traders of new innovative biobased products from putting forward claims and consequently, not allowing the products to have a fair chance of competing in the EU market.

It is crucial that a claim verified and validated in one Member State is recognised across the European Union as it would allow consumers to make informed choices and would discourage traders from seeking the fastest verification procedure amongst the Member States, thus disrupting the Single Market. It is paramount to ensure the quality of the verification process, and this also will require verifiers to possess sufficient knowledge of life-cycle assessment methodologies and give priority to peer-reviewed studies.

Further to this, clarifications should be provided via a common set of guidelines on:

- How extensive an LCA must be, particularly depending on the type of claim (e.g., generic, or specific claim).
- To what extent and under what conditions environmental improvements that only concern a specific part of a product may be advertised (e.g., packaging).
- To what extent a B2B supplier is required to share information if the trader chooses to make a claim.

Furthermore, it is of utmost importance that the disclosure of the required data and information does not interfere with a company's intellectual property or reveal confidential or sensitive business information. Different access rights shall be granted to different stakeholders – B2C, B2B, B2Gov – based on a “need to know” principle. As more and more information needs to be made available to consumers, we propose that the substantiation of different claims can be explained on one website, accessible via one QR code. Furthermore, we propose that it should be possible to combine various digital information requirements, such as Digital Product Passports.

3. Clarify rules for the comparison of different product categories and further develop methods to calculate the life-cycle environmental impacts of products.

The Directive leans heavily on life cycle assessments (LCA). LCA however, is not a tool to deliver useful information for consumer decision making. Where the LCA methodology is well developed, there are issues in practice.

4. Ensure that existing, well-known third-party verified environmental certification schemes and labels are fully recognized.

Labels are an important guide for consumers and support them in their decision-making, provided they are based on verified, comparable and reliable information that is appropriately certified. We agree that the proliferation of misleading environmental labels must be curbed as it leads to greenwashing. The Green Claims Directive is a step in that direction and complementary to the

Directive on Empowering Consumers for the Green Transition. However, the Directive should also recognise certified, well-established, recognised schemes and labels including for sustainable forest management, e.g., PEFC and FSC.

We look forward to the next steps and remain open for collaboration.

The European Carton Makers Association (ECMA) brings together folding carton converters, cartonboard mills, national associations, and suppliers to the folding carton industry. ECMA represents over 500 carton producers with a current workforce of 50,000+ located across nearly all countries in the European Economic Area – this equates to over 80% of the €13 bill European folding carton market.
