

# Green Claims Directive

**Summary:** The European Commission has issued a proposal for a [Directive on Green Claims](#) made by companies. This aims to stop companies from making misleading claims about the environmental merits of their products and services.

The Directive is mainly targeting explicit claims made on a voluntary basis and which are not required by EU rules. The specific objectives of the proposal include:

- Making green claims more reliable and comparable.
- Preventing greenwashing.
- Contributing towards the circular economy.
- Establishing a level playing field on the environmental performance of products.

Companies would consequently be obliged to prove their claims and abide by new EU rules on labelling.

**Key Words:** Environmental Claims, Greenwashing, Labels, Environment, Sustainability, Consumer Rights

## General Comments

The Malta Business Bureau (MBB) welcomes the general objectives of the proposal for a Green Claims Directive. The integrity of the EU single market and genuine business activity are both harmed by unsubstantiated claims due to the unfair advantage they give certain companies over competitors. Such unfair practices impact in particular those companies which have invested significantly to assess the lifecycle impact of their products or services and introduce real changes. Greenwashing is also directly opposed to the Green Deal objectives of reducing the environmental impact of human activity and increase circularity,

as it introduces the real risk of encouraging the use of products and services which are in fact unsustainable.

On their part, customers are placing a higher value on goods and services that minimize their environmental impact. As a result, there has been an increase in the number of goods, services, and companies claiming to satisfy that demand. Environmental claims should assist customers in making better decisions and to educate them towards more sustainable products. As a result, it is crucial that customers obtain only substantiated environmental statements from businesses.



The Directive has been put forward in the context of several other EU legislation and proposals which all introduce their own information requirements that companies must pass on to consumers. This includes the *Empowering Consumers for the Green Transition Directive*, the *Ecodesign for Sustainable Products Regulation*, the *Corporate Sustainability Reporting Directive*, and the *Corporate Sustainability Due Diligence Directive*. Furthermore, certain products, such as food stuffs and recycled plastic, are already covered by separate legislation.

Policymakers must remain mindful of the heavy administrative burden being placed on companies to step up their information and reporting obligation on multiple fronts. This is especially worrisome for SMEs which may face high costs and limited (human and financial) resources for compliance. Consequently, this may result in SMEs not advertising their environmentally friendly practices and limiting investment to this effect. It is crucial that the European Commission and member states make available appropriate incentives, in particular for SMEs, to allow for proper substantiation of claims made.

Greater awareness raising for consumers must be carried out by national authorities to provide a better understanding of the value of such environmental investments, and why such products tend to cost more than less sustainable options. Such awareness among the general public is unfortunately still absent.

Furthermore, the success of this proposal will depend on adequate enforcement and monitoring by competent national authorities to identify malpractice and ensure a level playing field across businesses. This applies especially for products imported from non-EU producers which may not follow the same stringent environmental standards placed on EU producers. In this respect, member states should already invest in enhancing the technical, human and financial resources of competent authorities before this proposal is enforced.



### Cost of substantiation and verification (Art. 10 & 11)

The requirement to verify every environmental statement made by companies through a third-party verifier is considered disproportionate. This could have significant implications in terms of limiting investment on environmentally friendly practices, or limiting the promotion of such investments due to fear of excessive costs associated with certification processes. Such an approach may also have the undesired effect of limiting environmental claims to businesses which can financially afford verification, creating an unlevel playing field.

Policymakers should consider an alternative approach to introduce proportionate criteria and information which claims must meet to be considered permissible. These criteria would need to be designed to be achievable by all operators regardless of their size, whilst simultaneously ensuring the transparency and credibility necessary to achieve the proposal's objectives. In addition, national authorities should take on the responsibility of carrying out checks to ensure compliance. This would help reduce the administrative burden and compliance costs placed on (especially smaller) businesses, whilst also affording regulatory oversight to avoid unfounded claims.

Third-party verification should be maintained as an option for those companies who are willing and can afford to do so. If companies do opt for independent third-party verification, the Directive should ensure a reasonable time period within which third-party verifiers must make their assessment and issue certificates of conformity. This will avoid negative repercussions for companies waiting for verification when launching a new or improved product, such as delayed or lower market penetration. Furthermore, the Directive should further contribute towards the free movement of services by ensuring that verifiers authorised to carry out verification in one member state may perform such services in all other member states. This will ensure that companies which are seeking third-party verification are not limited by the local supply of verifiers in their region or member state.



### Private Environmental Labelling Schemes (Art. 8)

Under the proposed Directive, private environmental labelling schemes shall only be permissible if they add value in terms of their environmental ambition, among other factors. The Directive must ensure that member states carry out swift assessments of such schemes and avoid lengthy or bureaucratic procedures.

Private environmental labelling schemes have the potential to play an important role in promoting sustainability and reducing the environmental impact of goods and services. However, it is essential that these schemes are rigorously assessed to ensure they deliver real benefits, both in terms of their environmental ambition and their effectiveness at driving

change. However, it is equally important that member states carry out swift assessments of these schemes and avoid lengthy or bureaucratic procedures. If assessment processes become too burdensome, this may delay the creation of valid private labelling schemes and disincentivise businesses from participating, thereby undermining the very goals of the proposed Directive.

To address this issue, there should be clear guidelines outlining what type of data needs to be collected from promoters of private labelling schemes. Additionally, member states could invest resources into capacity building within relevant institutions responsible for carrying out these assessments.



### **Penalties & Non-Compliance (Art. 15 & 17)**

A maximum penalty of up to 4% of a trader's annual turnover is considered excessive, especially for smaller companies which will struggle to recover from such a cost. Effort should rather be placed on remedial action, providing businesses sufficient opportunity to clarify their approach and to rectify incorrect claims, as specified in Art. 15.



### **Transposition (Art. 25)**

The proposed Directive allows for a transposition window of 18 months for member states, followed by an additional implementation period of 6 months. The latter is considered insufficient as such changes require significant time for businesses to comply with. Furthermore, a longer implementation period (extended to at least 1 year) would provide greater flexibility to ensure smooth implementation while minimizing the negative impact on business operations. This is especially the case for smaller operators who might face difficulties understanding or implementing all aspects of the new requirements.



**Links to more information:**

[https://mbb.org.mt/wp-content/uploads/2023/04/Policy-Brief\\_Green-Claims-Directive\\_April-2023-2.pdf](https://mbb.org.mt/wp-content/uploads/2023/04/Policy-Brief_Green-Claims-Directive_April-2023-2.pdf)

[https://environment.ec.europa.eu/publications/proposal-directive-green-claims\\_en](https://environment.ec.europa.eu/publications/proposal-directive-green-claims_en)

<https://europa.eu/!qWyjD6>

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