



Star4bbs

Green claims

New EU regulatory landscape

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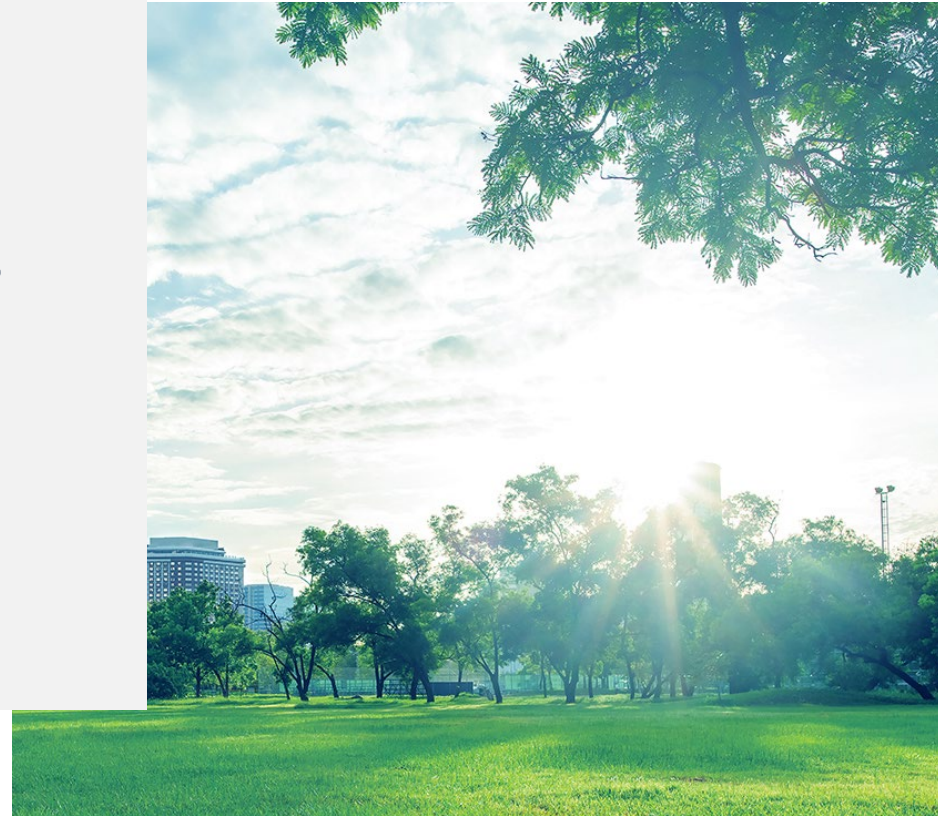
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Environmental Coalition on Standards

is an international NGO with a network of members and experts advocating for environmentally friendly technical standards, policies, and laws.



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Why claims matter



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The consumer angle

- 76% of the products on the EU market carry an implicit or explicit green claim, and more than 50% of [them] are **misleading, unsubstantiated, or inaccurate** (European Commission, 2023)
- 70% of consumers in Europe think claims should be independently verified, and 35% think this is already the case (BEUC, 2024)



The company angle

- Sustainable businesses suffer from **unfair competition**
- Misleading claims expose companies to **legal action**
- 2022, Netherlands Authority for Consumers and Markets decision against H&M for (i.a.) failing to disclose the **use of mass balance in its claims on fiber content**:
 - H&M committed to remove all problematic claims and donate €500 000 to a foundation
- 2024, the network of consumer protection authorities accepted to analyse further a complaint against **misleading claims on plastic bottles**: 100% recyclable, 100% recycled content, use of green imagery



Avoiding illegal claims



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European Legislation - UCPD

- Unfair Commercial Practices Directive (2005) and Directive on Empowering Consumers in the Green Transition (2024)
- Law on what companies **should not do** when communicating with consumers



Article 6 – Misleading actions

- Environmental and social characteristics, circularity aspects are now included as main characteristics of a product
- Advertising benefits that are **irrelevant** and **do not result from any feature** of product/business
- **Environmental claims related to future environmental performance banned** unless :
 - Clear, objective, publicly available and verifiable commitments
 - Set out in a detailed and realistic implementation plan
 - Verified by independent third-party expert



Article 7 – Misleading omissions

Material information for product comparisons on environmental/social/circularity aspects: method of comparison, the products being compared, and measures to keep that information up to date



Annex I – Greenwashing Blacklist

- Voluntary **sustainability labels** not based on third party certification scheme or not established by public authorities
- **Generic environmental claims** without proof of recognized excellent environmental performance
- Misleading environmental claims about **entire product or business** when it concerns only specific aspect/activity
- **Climate neutral/positive/reduced claims** on products based on GHG emission offsetting schemes
- Presenting **legal requirements** as distinctive feature



Annex I – Early obsolescence Blacklist

- Withholding information about **software updates negatively impacting** the functioning or use of goods and services
- **Presenting software update as necessary** when it only enhances functionality features
- Commercial communications **on goods with a feature introduced to limit durability**
- **Falsely claiming** that good has certain **durability**



Annex I – Early obsolescence Blacklist

- **Falsely** presenting good as allowing repair
- **Inducing the replacement or replenishment** of consumables earlier than necessary
- **Withholding information on impairment** of functionality of good when using spare parts/consumables/accessories not supplied by original producer;
- **falsely claiming** such impairment



Note

- The **Consumer Rights directive** was also amended
- Inclusion of **durability** and **reparability** information
- New harmonized EU label on **Commercial Guarantee** of Durability and **Legal Guarantee** notice



Legislative timeline





Green Claims Directive

- New law under negotiation. **How companies can communicate sustainability** to consumers
- Key rules for substantiation and communication of claims
 - Companies must **be able to prove** their claims
 - Defines what is a good environmental claim (e.g. relevance from a **lifecycle perspective**)
 - **Information** must be available to consumers and authorities
- Regulation of environmental labelling schemes
- Verification procedure
- Access to justice procedure and Sanctions



Substantiation

- Claims must be **substantiated**
- Agreement on: (wording may change slightly)
 - Specify **what part** of the product or trader is subject of claim
 - Demonstrate **relevance** from a lifecycle perspective
 - Take into account all environmental aspects or environmental impacts which are **significant** to assessing the environmental performance
 - Demonstrate that it is **not equivalent to legal** requirements



Environmental labelling schemes

- **Transparency** on the governance, objectives and criteria
- Avoid the exclusion of **SMEs**
- **Consultation** of stakeholders to develop requirements: ensure **scientific robustness and relevance to society**
- Must have a **complaint and dispute** resolution mechanism
- Procedure for **non-compliance** by certificate holders
- **Verification** procedure and rules for the **creation of new labels**



Still under discussion

- Wording may change during trilogues
- Climate claims
- **Verification procedure** and possible simplification
- After adoption: the Commission can develop **delegated acts for specific claims**



Lessons learnt and recommendations

- Greenwashing protects polluters and prevents sustainable companies' growth
- Voluntary rules and laws with no enforcement cannot fight greenwashing. **Market surveillance is key!**
- Companies need **clear rules and support** to draft good environmental communication
- Environmental information **should not be marketing/advertisement**

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Thank you for your attention!



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