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Proposal for a Directive on Green Claims

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# Proposal for a Directive on Green Claims

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## I. Introduction

On 22.03.2023, the European Commission issued a [Proposal for a Directive on substantiation and communication of explicit environmental claims \(Green Claims Directive\)](#) [the “Proposal”]. This initiative was part of the European Commission’s broader proposal to update EU consumer law by providing specific rules and complementing the proposed changes to [Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market](#) with a view to protect consumers and empower them to contribute actively to the green transition.

The Proposal corresponds to the European Commission’s commitment under the European Green Deal to tackle false environmental claims and to ensure that consumers receive reliable, comparable and verifiable information and are able to make more sustainable decisions.

## II. Objectives

The main objectives of the Proposal are the to:

- ❖ Increase the level of environmental protection and contribute to the acceleration of the green transition towards a circular, clean and climate neutral economy;
- ❖ Protect consumers and companies from greenwashing and enable them to contribute to the acceleration of the green transition by making informed purchasing decisions based on credible environmental claims and labels;

- ❖ Improve the legal certainty as regards environmental claims and the level of playing fields on the internal market, boost the competitiveness of economic operators that make efforts to increase the environmental sustainability of their products and activities, and create cost saving opportunities for such operators that are trading across borders.

## III. Substantiation of explicit environmental claims

The Proposal defines “explicit environmental claims” as environmental claims that are in textual form or contained in an environmental label and establishes the minimum requirements that should be met for the substantiation of said claims.

More specifically, pursuant to Article 3 of the Proposal, Member States shall ensure that traders carry out an assessment to substantiate explicit environmental claims. Said assessment shall, *inter alia*:

- ❖ Specify if the claim is related to the whole product, part of the product or certain aspects of the product, or to all activities of a trader or a certain part or aspect of these activities, as relevant to the claims;
- ❖ Rely on widely recognized scientific evidence, use accurate information and take into account relevant international standards;
- ❖ Demonstrate that environmental impacts, environmental aspects or environmental

performance that are subject to the claim V. are significant from a life-cycle perspective;

- ❖ Where a claim is made on environmental performance, take into account all environmental aspects or environmental impacts, which are significant to assessing the environmental performance;
- ❖ Demonstrate that the claim is not equivalent to requirements imposed by law on products within the group, traders or within the sector.

The Proposal further introduces:

- ❖ Rules on the substantiation of comparative environmental claims;
- ❖ Rules on the communication of both explicit and comparative environmental claims;
- ❖ Detailed new rules regarding environmental labelling schemes;
- ❖ Introduction of the requirement for companies to obtain ex-ante verification for the use of environmental claims and environmental labels.

#### IV. Monitoring and Penalties

According to the Proposal Member States shall confer on their competent authorities the powers of inspection and enforcement necessary to ensure compliance with the (proposed) Directive. The competent authorities shall undertake regular checks of environmental claims and environmental labelling schemes. The reports detailing the results of those checks shall be made available to the public online.

Finally, the Proposal provides that Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to the proposed Directive and shall take all measures necessary to ensure that they are implemented.

#### V. Next steps

The Proposal will be subject to the approval of the European Parliament and the Council of the European Union. Once it is published in the Official Journal of the European Union and entered into force, Member States will have 18 months to transpose it into national law and the relevant measures shall apply 24 months from the date of its entry into force.

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