

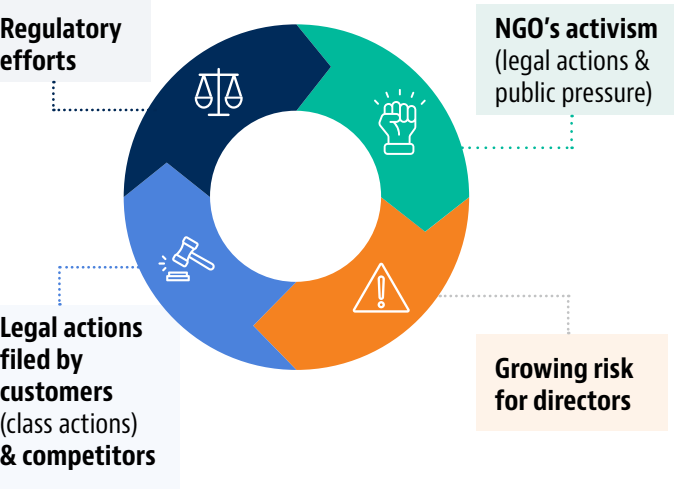


「**So You Think You Want To...**
stay on top of greenwashing legislation in the EU」

GLOBAL CONSUMER GOODS
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The European Commission launched the European (EU) Green Deal in 2019, which championed a vision of making Europe the world’s first climate-neutral continent by 2050. The EU Green Deal sets out a commitment to tackle false environmental claims by requiring that consumers receive reliable, comparable, and verifiable information to enable them to make more sustainable decisions and to reduce the risk of greenwashing. This has led to the proposed EU Green Claims Directive (the Directive), which was tabled by the European Commission in March 2023

The drivers in the sustainability landscape

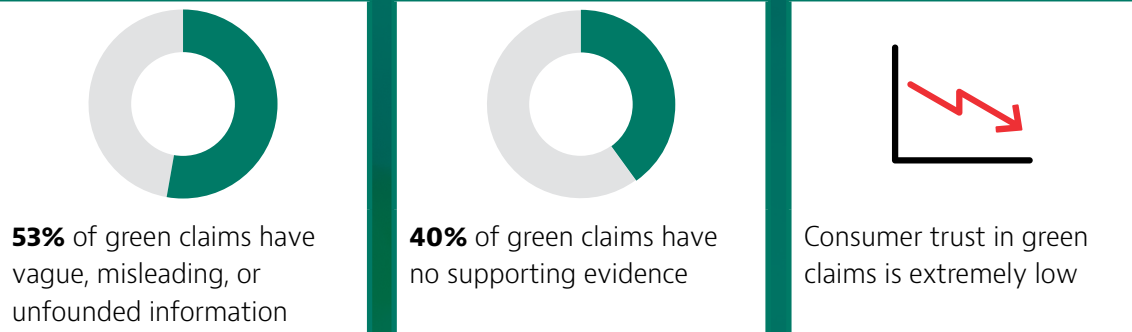


Greenwashing is defined as the practice of making unclear or poorly-substantiated environmental claims that potentially mislead consumers into believing that companies, products, or services are more environmentally friendly than they actually are. It is a hot topic that impacts companies across all sectors.

Greenwashing is increasingly becoming a key area of focus in the EU (and beyond) with businesses grappling with the risks of allegations of greenwashing arising from regulatory authorities, non-governmental organizations, consumers, and competitors.

The impact of regulations around greenwashing are far reaching as they generally affect all businesses, regardless of location, that target consumers in the affected region or country.

In a European Commission study, the European Commission found that consumers do not trust the environmental statements found on products:



In a recent study, the European Commission found that:



As the numbers reveal, consumers are confronted with unfair commercial practices, which lead to confusion and actively prevents them from making sustainable choices. As a result, reliability of environmental claims is seen as the biggest obstacle to consumers engaging in the green transition since a vast majority of consumers do not trust environmental standards or claims on products.

Proposed EU Green Claims Directive

- On 22 March 2023, the European Commission tabled the proposed Directive, which aims to harmonize the evaluation and monitoring of green claims towards EU consumers and control the proliferation of public and private environmental labels.
- It complements the proposal for a directive on empowering consumers for the green transition, which was adopted by the European Commission in March 2022.
- Crucially, the proposed Directive extends beyond the EU. Any company that makes a voluntary environmental claim directed at EU consumers will need to comply with its requirements.

The proposed Directive applies to all voluntary claims made by companies:

- ✓ In textual form or contained in an environmental label
- ✓ That are directed at EU consumers
- ✓ That relate to the environmental impact, aspect, or performance of the company's products, services, or organization

This includes explicit and implicit claims such as "eco-friendly," "environmental footprint reduced by 20% since 2018," "carbon neutral," or "made of 30% recycled plastic."

How does this impact your business?

With an expected rise in greenwashing lawsuits, businesses need to be aware of:

- How to speak about issues in product claims and other public documents
- What disclosures to make to ensure consistency and accuracy
- How to continue being rigorous in the review of company communications
- How to identify a legal partner who can help to look out for new regulatory developments in this area

Key requirements under the proposed Directive



The substantiation and communication of green claims should be subject to third party verification prior to the green claim being made public or the label being displayed.



Green claims must be substantiated using widely recognized scientific evidence, taking into account relevant international standards.



Comparative claims comparing a product's sustainability performance against a competitor's are only permissible under certain conditions.



Green claims highlighting a company's efforts to improve future environmental performance should include commitments and a clearly specified time frame for achieving such milestones.



There should be transparency in claims relying on CO₂ offsetting.



Information about ownership, decision-making bodies, objectives, and monitoring procedures of environmental labeling schemes should be transparent, accessible, free of charge, easy to understand, and sufficiently detailed.



Claims that use aggregate scoring of a company's or a product's overall environmental impact are prohibited, unless based on EU rules or EU labeling schemes established to calculate such aggregated score.



Information on which the environmental claim is based must be made available to the public in physical form, via a weblink, via a QR code, or equivalent.

Monitoring and enforcement

The requirements under the proposed Directive, once adopted, will be monitored on a regular basis and enforced by appointed authorities in each Member State. The implementation and enforcement of the Directive in the Member States may not be consistent, with some states having more stringent requirements than others. Member States will be required to transpose the Directive into national legislation within 18 months of the Directive coming

into force and apply those laws within 24 months of the Directive coming into force.

The enforcement authorities will have inspection and enforcement powers, which may include the power to access any relevant information, data, or documents or to require any natural or legal person to provide such information, the power to impose adequate and effective remedies or adopt injunctive relief, and the power to impose penalties in case of infringements.



What's next?

The European Parliament and the Council of the European Union will now consider the adoption of the Directive through the ordinary legislative procedure.

The draft text may be subject to further amendments in the course of this process.

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How will the proposed Directive benefit your business?

The current varying standards of substantiating environmental claims and the unclear requirements to address the proliferation and credibility challenges of environmental labels have created an uneven playing field for companies. By establishing a consistent system of independent verification, it is the intention that companies will benefit from:

- A common approach for substantiating green claims across the EU that will allow companies to compete on a level playing field.
- A boost in the competitiveness of economic operators who increase the environmental sustainability of their products and activities.
- Increasing credibility for businesses trading in the EU and beyond.
- Increased confidence coupled with more demand for greener products and solutions from consumers.



Crucial next steps for your business

- Ensure that you keep up to date with the latest measures approved by EU Member States and assess their impact on your business as soon as possible to prepare a strategy for implementing the requirements.
- Work with industry associations to help influence the outcome of the proposed Directive.
- Analyze your marketing strategy in relation to claims that may be subject to the future Directive.
- Collect product lifecycle data of your products to help speed up verifications and aid in any further assessments of green claims.
- Prepare to set up a website that will contain relevant information relating to the substantiation of green claims, including a summary, in easily understandable language.

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