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Green Claims Directive: superfluous double regulation that places an additional burden on companies

The EU has set itself the goal of improving the validity of environmental claims on products and companies. The Green Claims Directive (GCD) aims to substantiate environmental claims with facts and verify them externally in order to prevent greenwashing and the associated unfair competition. The ZVEI is also in favour of fair competition and a level playing field; the manufacturers represented in the association in particular stand for high quality and compliance with industrial standards. ZVEI supports the objectives of the GCD but does not consider the draft directive to be suitable: Instead of meaningfully supplementing existing legislation, the GCD would lead to superfluous double regulation and place a much greater burden on companies than before, without even ensuring that the GCD can enforce a fair level of competition. We therefore call for the GCD to be abandoned or at least significantly streamlined:

Our positions

- **Green Claims Directive is not necessary:** The Unfair Commercial Practices Directive (UCPD), which has been amended by the Empowering Consumers Directive (EmpCo) since 2024, already provides a sufficient framework for the substantiation of environmental claims. The UCPD now regulates the conditions under which environmental claims will be permitted in future. Environmental claims such as “environmentally friendly”, “CO₂-positive” or “climate neutral” are no longer permitted without proof. The same applies to product-related advertising with climate neutrality, advertising with environmental seals and advertising for the entire product, although only parts are environmentally friendly. In addition, the use of misleading and non-transparent environmental claims, including statements on future environmental performance, is generally prohibited, meaning that the legal framework for acting against false environmental claims is already in place. Based on the German act against unfair competition (Gesetz gegen den unlauteren Wettbewerb, UWG), the national equivalent of the UCPD, there have already been numerous cases of case law that prove that the current law already offers a very high level of protection. The GCD would therefore mean double regulation. It is therefore not necessary to avoid greenwashing and distortions of competition.

If the legislative procedure is nevertheless retained, the following aspects must be considered:

- **No mandatory prior third-party certification:** The Commission's draft provides for a multi-stage, extensive testing procedure by external verifiers for all claims, which must be completed prior to any use. This would force companies to involve external – often commercially active – test centres, with the result that companies would have no influence on the duration of the certification, among other things, so that product communication would have to be planned in dependence on third parties and, if necessary, decisive messages could not be used in the context of product marketing. In addition, mandatory third-party verification would create further bureaucratic burdens that are not in line with the objectives of less bureaucracy and more competitiveness. The EU Commission estimates that the certification of an environmental statement would cost between 500 and 54,000 euros.¹ According to a ZVEI member survey in May 2024, all responding companies rate the bureaucratic effort and two thirds the financial burden of third-party certification as problematic. In particular, because companies have to provide proof of environmental claims anyway, third-party verification should be voluntary at best.
- **Establish coherence with other EU legislation:** As the areas of regulation overlap, it is essential that the definitions used are consistent and that the areas of application between the EmpCo and UCPD on the one hand and the GCD on the other are clearly delineated. The UCPD regulates the permissibility of general environmental claims, while the GCD focuses on explicit environmental claims in consumer communication. How, for example, general and explicit statements are differentiated has not yet been clearly regulated. It is essential to harmonise the directives – especially with regard to the scope of application – in order to create legal certainty and avoid double regulation.
- **Do not generally rule out environmental claims when using certain chemicals:** In some cases, the manufacture of electrical and electronic devices also requires the use of chemicals that are classified as hazardous, for example to achieve certain safety or performance requirements. The manufacture of electrical appliances is currently not possible without the use of many of these substances. The mere presence of hazardous substances does not automatically mean negative effects on the environment or consumers and should therefore not mean that manufacturers are no longer allowed to make specific

environmental claims about their products, even if these are justified and sufficiently substantiated. The potential risk posed by the hazardous substances contained in these products is regulated under EU chemicals and product legislation. Accordingly, it must still be possible to make environmental claims about products that are in line with current EU chemicals legislation. Otherwise, environmental claims would no longer be permitted for almost all consumer devices, such as electrical household appliances, power tools and ICT. Buyers of the vast majority of electrical and electronic appliances could not be informed about environmental criteria independent of the ingredients.

- **Enable different verification methods and use existing standardisation:** Environmental claims should be based on scientific findings. The methods and standards used for substantiation must be suitable, reliable and verifiable. They must not be based on a single methodology, such as the Product Environmental Footprint (PEF). Existing standards, particularly those defined in the context of standardisation, such as the Life Cycle Assessment (LCA)², should also be able to be taken into account. The application of standards already ensures that environmental statements are well-founded and comprehensible. Companies should not be obliged to provide additional evidence of environmental performance.
- **The definition of “explicit environmental claims” should not include all oral claims:** The Council defines “explicit environmental claim” in its position as a statement made in written or oral form, including via audiovisual media. The extension of the rules to all “oral” claims is questionable as it raises the question of how market surveillance authorities could effectively enforce the rules on oral environmental claims. Monitoring and reviewing all oral claims seems impractical, if not impossible. For these reasons, we suggest either retaining the European Parliament's more practical definition or amending the Council's wording to read: “made in written or oral form, including through audiovisual media...”.
- **Implement regulations in a harmonised manner across the EU:** The Commission's draft and the positions of the Parliament and Council only provide for minimum requirements, which runs counter to the idea of harmonised conditions across the EU. Ensuring a level playing field is necessary to guarantee a functioning internal market. This must be taken into account in the further development of the directive, in national implementation and also in subsequent enforcement, e.g. by means of the principle of mutual recognition, i.e. statements that are permitted in one Member State must automatically be allowed to be used in the other EU states.
- **Sufficient transition period and timely establishment of inspection bodies:** We support an overall transposition period of 36 months as envisaged in the Council's position. However, 18 (instead of 24) months should be provided for transposition into national law. The transitional period until application by companies should be a further 18 (instead of 12) months.

Status

The European Parliament and the Council of the EU adopted their positions on the Commission proposal in March and June 2024 respectively. Trilogue negotiations between the EU institutions to finalise the legislative process at European level are scheduled to begin at the end of January 2025.

24 January 2025

¹ EU Commission: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on substantiation and communication of explicit environmental claims (Green Claims Directive), p. 14.

² The fundamental LCA principles and frameworks are based on the EN ISO 14040 series of standards and form the basis for a holistic life cycle assessment and the environmental statements based on it.

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