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SENSITIVE*
UNTIL ADOPTION

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on green claims

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The objective of this initiative is to set out the first set of detailed EU rules, applicable to all companies operating in the European Union, on the substantiation of voluntary green claims. It will contribute to increasing environmental sustainability and to the green transition towards a circular, clean and climate neutral economy in the EU by enabling consumers to make informed purchasing decisions, and creating a level-playing field for market operators making green claims. This initiative will contribute to fighting greenwashing, by building on the proposal for a Directive on empowering consumers for the green transition¹.

This initiative is one of the actions proposed by the Commission to implement the European Green Deal. The European Green Deal indicates the commitment to tackle false environmental claims by stating: *‘reliable, comparable and verifiable information plays an important part in enabling buyers to make more sustainable decisions and reduces the risk of ‘green washing’. Companies making ‘green claims’ should substantiate these against a standard methodology to assess their impact on the environment. The Commission will step up its regulatory and non-regulatory efforts to tackle false green claims.’*² The initiative implements the objectives of the New Circular Economy Action Plan and the New Consumer Agenda, and contributes to the EU ambition for its sustainability efforts to *‘drive also the global transition to a just, climate-neutral, resource-efficient and circular economy’*³. It is as a proposal referenced in the reply to the requests of the Conference on the Future of Europe⁴ and is in line with the results of the latest Eurobarometer survey⁵ where the respondents highlighted a current feeling of shared and individual responsibility to act to tackle climate change and to contribute to the green transition.

The aim of this proposal is to enable consumers to act on reliable information about the sustainability of products and traders. Indeed, consumer and business behaviour plays an important role in meeting the objectives of the European Green Deal and the European Climate Law. Consumers lack reliable information about the sustainability of products and face misleading commercial practices like greenwashing or the lack of transparency and credibility of environmental labels. Recent screening of websites by Consumer Protection Cooperation (CPC) Network authorities to detect misleading environmental claims confirmed that there is a need to strengthen the rules to facilitate enforcement in this area: out of the 344 sustainability claims assessed throughout November 2020, authorities had at least reasonable doubts in almost half of the cases (42%) that the claim might be false or deceptive. CPC authorities considered that in over half of the cases (57.5%), the trader did not provide sufficient elements allowing for judgement of the claim’s accuracy. In many cases, authorities

¹ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information COM(2022) 143 final COM(2019)640.

²

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM/2020/98 final

⁴ Annex to the Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee of the Regions, Conference on the Future of Europe. Putting vision into concrete action, COM(2022)404final.

⁵ [Fairness perceptions of the green transition - October 2022 - Eurobarometer survey \(europa.eu\)](https://ec.europa.eu/eurobarometer/surveys/trend/10943/fairness-perceptions-of-the-green-transition-october-2022)

had difficulties identifying whether the claim covered the whole product or only one of its components (50%), whether it referred to the company or only certain products (36%) and which stage of the products lifecycle it covered (75%)⁶.

The Commission carried out two inventories of green claims: one in 2014⁷ and one in 2020⁸. The studies looked at a sample of green claims for a wide range of products. They assessed claims against principles of the Unfair Commercial Practices Directive (UCPD) to determine whether these were potentially misleading: claims have to be clear, unambiguous, accurate and verifiable to be considered in line with the principles. The 2020 study found that a considerable share of environmental claims (53.3%) provide vague, misleading or unfounded information about products' environmental characteristics across the EU and across a wide range of product categories (both in advertisement as well as on the product).

This phenomenon is coupled with an increasing number of ecolabels active in the EU that present important differences in their standards and methods. These differences also have an impact on the reliability of the information: transparency on the standards/methods used, comprehensiveness of the standards/methods, frequency of revisions, openness of the process in developing them, level of auditing/verification.

The 2020 inventory of green claims analysed the substantiation of such claims looking at their clarity, accuracy and the extent to which they are substantiated with evidence that can be verified. The analysis found that 40% of claims were unsubstantiated. An assessment of 232 active ecolabels in the EU also examined their verification and certification aspects and concluded that almost half of the labels' verification was either weak or not carried out.

Most stakeholders consulted for the Impact Assessment accompanying the proposal for a Directive on empowering consumers in the green transition agreed that greenwashing is a problem, with the noticeable exception of industry representatives. This corresponds to the experience, both in B2C and B2B relations, of stakeholders who responded to the consultations related to the green claims initiative: more than half encountered misleading claims, and expressed less trust in environmental statements and logos managed by companies or private entities⁹.

Furthermore, consumer trust in green claims is quite low. During the 2020 public consultation on the green claims initiative, the general public did not agree with the statement that they trust environmental statements on products (1.57/ 4.00¹⁰). The level of trust was higher for claims on traders, but still low (2.25/4.00). Factors that would increase their trust include being sure that statements are scientifically sound (3.74/4.00 for products, 3.68/4.00 for traders), having access to more detailed information (3.63/4.00 for products, 3.60/4.00 for traders) and knowing the statements are based on EU harmonised methods (3.58/4.00 for products, 3.57/4.00 for traders).

⁶ Available at https://ec.europa.eu/commission/presscorner/detail/en/ip_21_269

⁷ [Consumer Market Study on Environmental Claims for Non-Food Products](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_269), European Commission 2014.

⁸ Available at <https://ec.europa.eu/environment/eussd/smgp/>

⁹ 2020 open public consultation on the green claims initiative.

¹⁰ Replies given on 1-5 Likert scales. These were converted into points to help consistent presentation and reflect well the degree of agreement. "Do not know" replies received 0 points, "not interested at all" or "not effective at all replies" 1 – at the other end of the scale, "very interested" or "always" replies received 4 point.

The results of the stakeholder consultations on the potential use of the Product Environmental Footprint (PEF) and Organisation Environmental Footprint (OEF) methods showed that 56% of respondents have already encountered misleading green claims¹¹.

Companies face obstacles in leveraging their environmental performance on the internal market based on claims. Companies wishing to prove their environmental credentials have difficulties in choosing an approach¹² that would be accepted in the whole internal market. Moreover, users of the environmental information (i.e. other companies along the value chain, consumers, investors, procurers, policy makers and other stakeholders) have difficulty interpreting the results and understanding how they relate to the information of other products or companies. Due to this confusion, the playing field in the green segment of the internal market is uneven: companies making claims based on substantive efforts to improve environmental performance compete with companies that apply less effort behind a similar claim or publish misleading claims. Although some methods and initiatives are more widely used than others, this has so far not dampened the proliferation and the ensuing problem of communicating environmental performance across several markets. This leads to a fragmentation of the internal market.

Furthermore, companies trading across borders, whether on EU markets or internationally are facing additional costs as they have to prove their environmental credentials in different ways on different markets, due to national policies or market needs.

74% of business respondents to the 2018/19 targeted consultation were using two or more substantiating methods and 51% were participating in two or more initiatives. The associated costs ranged between €5,000 and €2 million per business respondent, depending on the number of methods and initiatives and their complexity. 37% of respondents to the 2020 public consultation were using labels and methods, out of which 39% used two or more, with a cost range between €2,000 and €200,000. These comprise both private and public initiatives.

According to the 2020 open public consultation, respondents tend to agree that different requirements imposed by national legislation or private initiatives on environmental information on products (including labelling) increases the costs for companies when trading across borders. The increased costs result from having to comply with different methods in each country (this answer obtained a score of 3.48/4.00). Companies and business associations (3.56/4.00) as well as citizens (3.59/4.00) especially agreed with the statement. Public authorities (3.13/4.00) and civil society (3.11/4.00) somewhat agreed. Additionally, stakeholders indicated that the proliferation of methods on the environmental performance of products could hinder fair competition between companies (score of 3.28/4.00). Companies and business associations (3.32/4.00), citizens (3.28/4.00) and public authorities (3.22/4.00) voiced somewhat comparable support for this statement. Civil society agreed slightly less (3.10/4.00).

These problems therefore have important consequences for consumers, by leading them to make sub-optimal choices and reducing their trust in the environmental information currently available. At the same time, companies that offer truly sustainable products are disadvantaged compared to those that do not. They also risk unnecessarily high compliance costs as EU countries start to introduce different national solutions to address the problems described above. All these undermine the efforts of a transition towards a more sustainable and circular economy and limit the potential to achieve the objectives of the Green Deal.

¹¹ Available at https://ec.europa.eu/environment/eussd/smgp/pdf/EF_stakeholdercons19.pdf

¹² See for example *Seeking return on ESG – advancing the reporting ecosystem to unlock impact for business and society*, World Economic Forum, 2019.

The open public consultation on the green claims initiative foresaw a broader set of policy options, focusing mainly on the use of the Environmental Footprint methods. Based on the results of the consultation, and an internal assessment of the implications in terms of the burden on companies, the Commission considered it necessary to proceed with a gradual approach. The regulatory framework, composed of the current proposal and the proposal for a Directive on empowering consumers in the green transition, will constitute the first framework to the fight against greenwashing. Following learnings from its implementation, the Commission will consider if a review of the regulatory framework is necessary with the objective of further strengthening the measures against greenwashing.

- **Consistency with existing policy provisions in the policy area**

This proposal aims to complement the proposal for a Directive on empowering consumers in the green transition by introducing measures establishing criteria that environmental claims and labels on EU market have to meet. It will be considered as *lex specialis* compared to the proposal for a Directive on empowering consumers in the green transition. This proposal establishes measures aiming to ensure that:

- methods used to substantiate environmental claims are reliable and sufficiently specific to help avoid misleading omissions and trade-offs between environmental impacts;
- claims about future performance are made in a rigorous way, regularly monitored and transparent;
- if products or traders are compared with other products and traders, these comparisons are fair and methodologically sound, i.e. based on comparable information and data;
- the way the claim is communicated allows for transparency towards consumers and other stakeholders and does not overstate benefits;
- environmental labels are reliable, transparent, third party verified and the process for developing and updating them is open to interested parties.

These requirements translate the measures assessed in the impact assessment report accompanying the proposal for a Directive on empowering consumers in the green transition. Those measures were not included in the proposal itself adopted in March 2022, as the Commission considered these to be better suited to a dedicated legislative instrument.

The Unfair Commercial Practices Directive¹³ contains provisions on misleading practices and misleading omissions that can be applied to environmental claims in business-to-consumer transactions when they negatively affect consumers' transactional decision. For instance, an environmental claim can be misleading if it consists of vague and general statements of environmental benefits without appropriate substantiation of the benefit and without indication of the relevant aspect of the product the claim refers to. It is for Member State authorities to assess these practices case-by-case following a transactional decision test (case-by-case assessment). The Directive contains a blacklist of commercial practices that shall in

¹³ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive), *OJ L 149, 11.6.2005, p. 22–39*, as amended.

all circumstances be regarded as unfair without the need for case-by-case assessment. However, the Unfair Commercial Practices Directive is horizontal in nature and principle-based, as it addresses a wide range of practices, products and sales methods, and does not contain specific rules for environmental claims. The Guidance on the Unfair Commercial Practices Directive¹⁴, adopted in 2021, explains how the different articles and its Annex can apply to different economic sectors as well as sustainability and environmental claims. It is widely used by Member State authorities, by businesses, traders and consumers.

For most voluntary green claims made on the market, there are no existing EU instruments to substantiate them, or any requirements ensuring that these claims are reliable, comparable and verifiable. There are some exceptions, however, with claims on environmental excellence being covered by the EU Ecolabel¹⁵ or claims related to continuous environmental improvement of traders by the Eco-Management and Audit Scheme (EMAS)¹⁶.

The proposal for a Directive on empowering consumers in the green transition includes a series of modifications of the UCPD to address greenwashing:

- ensuring that traders do not mislead consumers about environmental and social impacts, durability and reparability of products;
- ensuring that a trader can make an environmental claim related to future environmental performance only when this involves clear commitments;
- ensuring that a trader can only compare products, including through a sustainability information tool, if they provide information about the method of comparison, the products and suppliers covered, and the measures to keep information up to date;
- a ban on displaying a sustainability label which is not based on a certification scheme or not established by public authorities;
- a ban of generic environmental claims used in marketing towards consumers, where the excellent environmental performance of the product or trader cannot be demonstrated in accordance with Regulation (EC) 66/2010 (EU Ecolabel), officially recognised eco-labelling schemes in the Member States, or other applicable Union laws, as relevant to the claim;
- a ban on making an environmental claim about the entire product, when it only concerns a certain aspect of the product.

This proposal for a Directive on substantiation of claims is meant to act jointly with the proposal for a Directive on empowering consumers in the green transition to reduce the risk of greenwashing and provide reliable, comparable and verifiable information that enables buyers to make more sustainable decisions. The two proposals establish a clear regime for environmental claims and labels to ensure that consumer protection against greenwashing is strengthened.

¹⁴ Commission notice, Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market (2021/C 526/01), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC1229\(05\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC1229(05)&from=EN)

¹⁵ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel, OJ L 27, 30.1.2010, p. 1–19.

¹⁶ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC, OJ L 342, 22.12.2009, p. 1–45, as amended.

The two proposals are further aligned with other EU rules on environmental sustainability, such as the proposal for Ecodesign for Sustainable Products Regulation (ESPR)¹⁷. The ESPR sets mandatory sustainability requirements for products to encourage their circular design and foster new business models. It introduces the possibility to set mandatory information requirements (product durability, reliability, reusability, upgradability, reparability etc.) for non-food products (based on a product-by-product approach), which may be linked with labelling requirements, and it will result in improved information flows through Digital Product Passports. This Directive will cover environmental claims made voluntarily by companies with marketing objectives and will set up requirements aiming to ensure their reliability, comparability and verifiability. It also foresees the possibility to develop Product Environmental Footprint Category Rules that can be relevant for the implementation of the ESPR.

The Environmental Footprint methods

The Product and Organisation Environmental Footprint (PEF/OEF) methods are annexed to the European Commission Recommendation on the use of common methods for measuring and communicating the life cycle environmental performance of products and organisations¹⁸. The term ‘organisation’ as used in this section of the explanatory memorandum and the Commission Recommendation 2021/9332/EU is equivalent to the term ‘trader’ in the context of this Directive. Review and updating of methodological requirements^{19,20}, impact assessment methods^{21,22}, data requirements²³ and tools are managed by European Commission’s Joint Research Centre (EC-JRC) and published in the European Platform on LCA (EPLCA)²⁴.

The methods were developed at the invitation of the Council, issued in the conclusions of the Sustainable Consumption and Production Action Plan²⁵: “taking into account Member States’ experience, to start working as soon as possible on common voluntary methodologies facilitating the future establishment of carbon audits for organisations and the calculation of the carbon footprint of products”. Based on additional studies²⁶, the Commission has developed methods that can accommodate a broader suite of environmental impacts.

PEF and OEF are Life Cycle Assessment methods. Accordingly, environmental performance is calculated taking into consideration environmental impacts throughout the value chain, from the extraction or growing of resources to the end of life of the product or product

¹⁷ Available at https://environment.ec.europa.eu/publications/proposal-ecodesign-sustainable-products-regulation_en

¹⁸ Commission Recommendation on the use of the Environmental Footprint methods [EUR-Lex - 32021H2279 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/rec/2021/16/20211216/EN) of 16 December 2021 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations

¹⁹ “[Suggestions for updating the Product Environmental Footprint \(PEF\) method](#)”, JRC Technical Report, 2019.

²⁰ “[Suggestions for updating the Organisation Environmental Footprint \(OEF\) method](#)” JRC Technical Report, 2019.

²¹ “[Update of Life Cycle Impact Assessment Methods : ecotoxicity freshwater, human toxicity cancer, and non-cancer](#)”, JRC Technical Report, 2020.

²² “[Development of a weighting approach for the Environmental Footprint](#)”. JRC Technical Report, 2018.

²³ “[Guide for EF compliant data sets](#)”. JRC Technical Report, 2020.

²⁴ <https://eplca.jrc.ec.europa.eu/index.html#menu1>

²⁵ <https://data.consilium.europa.eu/doc/document/ST-16914-2008-INIT/en/pdf>

²⁶ https://ec.europa.eu/environment/eussd/smgp/pdf/Product_Carbon_Footprint_study.pdf,

https://ec.europa.eu/environment/pubs/pdf/ERM_GHG_Reporting_final.pdf

portfolio of an organisation, respectively. These methods allow for the calculation of life-cycle environmental impacts covering 16 environmental impact categories.

Before considering developing a new method, the Commission carried out an in-depth analysis of the most widely applied methodologies^{27, 28}. The objective of this analysis was to assess whether the existing methodologies were appropriate to achieving a number of policy objectives. These included the improvement of resource efficiency along the value chain; benchmarking of environmental performance; enabling design for environment; reproducibility of results; and comparison of environmental performances. The analysis²⁹ indicated that none of the existing methodologies could be used in their present form, and that there was a need to fill methodological gaps. For instance, users of the examined methods have the flexibility to choose between different approaches for certain methodological steps and different secondary data for their calculations. This can lead to different outcomes even if the very same method or standard is applied to the very same product.

The PEF and OEF methods were developed by the European Commission's Joint Research Centre (EC-JRC) using as a basis existing methods and standards³⁰. They were then further improved during the Environmental Footprint pilot phase. The PEF and OEF methods build on existing standards (ISO 14040 and 14044) to a certain extent but specify additional methodological requirements in order to limit the potential flexibility of the user for certain choices. In addition, there are requirements in the methods that rely on recommendations from the FAO Livestock Environmental Assessment and Performance (LEAP)³¹ initiative and on methods recommended by the UN Environment Life Cycle Initiative³².

Quantitative information on the performance of a product or organisation can be obtained from calculations based on the PEF and OEF methods. However, this result is not comparable to results of other products or companies (for instance, product X has a lower impact than product Y). This is due to the PEF and OEF methods still leaving some methodological and data choices to the user. These choices remain available in order to apply the PEF and OEF methods to any product or organisation.

One important new feature of the methods is that they allow for the comparison of a product's environmental performance with a benchmark. This benchmark would represent the average environmental performance of the product category on the EU market. This feature requires the development of rules specific to each product category, called Product Environmental Footprint Category Rules (PEFCRs) and of sector-specific rules, called Organisation Environmental Footprint Sector Rules (OEFSRs).

²⁷ For products the methodologies assessed were: ISO 14044 (Environmental management -- Life cycle assessment -- Requirements and guidelines), ISO 14067 (carbon footprint of product), ILCD (International Reference Life Cycle Data System), Ecological footprint, Product and Supply Chain Standards Greenhouse Gas Protocol (WRI/ WBCSD), French Environmental Footprint (BPX 30-323), UK's Product Carbon footprint (PAS 2050), ISO 14025 (Environmental Product Declarations).

²⁸ For organisations the methodologies assessed were: ISO 14064 (Greenhouse gases -- Part 1, 2 and 3), ISO/WD TR 14069 (GHG - Quantification and reporting of GHG emissions for organisations), ILCD (International Reference Life Cycle Data System), Corporate Accounting and Reporting Standards Greenhouse Gas Protocol from WRI/ WBCSD, Bilan Carbon, DEFRA - Carbon Disclosure Project (CDP), CDP water, Global Reporting Initiative (GRI).

²⁹ The full JRC (2011) report is available at: [Analysis of Existing Environmental Footprint Methodologies for Products and Organisations: Recommendations, Rationale, and Alignment](https://eplca.jrc.ec.europa.eu/EnvironmentalFootprint.html)

³⁰ <https://eplca.jrc.ec.europa.eu/EnvironmentalFootprint.html>

³¹ <http://www.fao.org/partnerships/leap/en/>

³² <https://www.lifecycleinitiative.org/>

PEFCRs define a benchmark corresponding to the environmental performance of the average product on the EU market. The benchmark is defined for each environmental impact and for overall environmental impact (a single score). In this case, it is possible to compare the performance of a specific product with the benchmark of the same product category. PEFCRs also identify which are the most relevant environmental impacts, life cycle stages (e.g. manufacturing or use) and processes (e.g. production of ingredients – wheat grain) for the product category.

Similarly, OEFSRs identify the most relevant environmental impacts, life cycle stages (e.g. manufacturing or use) and processes (e.g. smelting) for the product portfolio of the organisation. OEFSRs currently do not contain benchmarks, but may define comparable indicators (e.g. results divided per total revenue).

The PEFCRs and OEFSRs were tested during the Environmental Footprint pilot phase, alongside other developments needed for these new methods to reach their full potential. Improvements stemming from the pilot phase include the enhanced availability of high-quality life cycle data; the set-up of a cost-effective, standardised verification system, as well as a transparent normalisation and weighting system.

While the Environmental Footprint methods represent robust and prominent methodology developed in full transparency with stakeholders and based on scientific consensus, the Commission thoroughly took into consideration stakeholders' feedback during the consultations on the green claims proposal. The Commission therefore considers it judicious to leave more flexibility to businesses regarding the methodology used for the substantiation of environmental claims. At the same time, the Commission will continue to work on further methodological changes in the light of the scientific updates that might emerge. In this regard, the Commission intends to do the following:

- gradually set up an Environmental Footprint Database; a first step is done based on a call for tenders under Horizon Europe launched in June 2022;
- work towards the finalisation of the PEFCR for apparel, marine fish, synthetic turf, cut flowers and potted plants, and flexible packaging³³;
- continue the development of methodological aspects, including by consulting the Technical Advisory Board for Environmental Footprint, and its subgroups, with priority on the assessment of impacts on biodiversity and carbon storage/removal/biogenic carbon/resource dissipation and revision and update of impact assessment methods already in place in the Environmental Footprint methods;
- organise a series of events aiming to foster the use of the Environmental Footprint methods (April to November 2022, to be continued also in 2023);
- continue supporting companies, and especially SMEs, through dedicated trainings and technical assistance;
- consider the further development of PEFCRs in line with Article 9.

³³ More information available at https://ec.europa.eu/environment/eussd/smgp/ef_transition.htm

- **Consistency with other Union policies**

This Directive builds on several Union policies. Following the announcements of the European Green Deal, the need to address greenwashing was set as a priority of the Commission both under the New Circular Economy Action Plan³⁴ and the New Consumer Agenda³⁵.

At the same time, by fighting greenwashing, including related to greenhouse gas (GHG) emissions reductions and climate neutrality claims, this Directive will contribute to reaching the objective of the European Climate Law³⁶ that GHG emissions and removals are balanced within the Union at the latest by 2050. In particular, this Directive will promote the use of the EU certification methodologies for carbon removals developed under the November 2022 proposal for a Regulation on carbon removal certification (CRC Regulation)³⁷, with the view to make claims of climate neutrality based on carbon removals more reliable and transparent. As regards removals but also other types of offsets to meet GHG emission reduction and “net-zero” targets, this Directive will promote a level of transparency consistent with the European Sustainable Reporting Standards [as expected] under the Corporate Sustainability Reporting Directive (CSRD).³⁸

This Directive will also reinforce overarching strategies such as the Zero Pollution Action Plan³⁹ and complement those targeting specific sectors, such as the Farm-to-Fork strategy⁴⁰, or issues, such as the calls for improving water efficiency and reuse in the EU Strategy on Adaptation to Climate Change⁴¹.

This Directive reflects calls by the Council and European Parliament to consider further action in the area. In December 2020, in its conclusions on making the recovery circular and green⁴², the Council noted its appreciation of the Commission’s intention to ensure the substantiation of green claims on the basis of environmental impacts along products’ life cycles, using the Product Environmental Footprint (PEF) and other life cycle-based methods. In its resolution on the New Circular Economy Action Plan⁴³, the European Parliament strongly supported the Commission’s intention to make proposals to regulate the use of green claims through the establishment of solid and harmonised calculation methods covering the full value chain, based on harmonised indicators and life-cycle assessments such as environmental footprints.

Finally, this Directive will contribute to reaching the Sustainable Development Goal 12.6 ‘Encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle’.

34 https://environment.ec.europa.eu/strategy/circular-economy-action-plan_en
35 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0696>
36 [Regulation \(EU\) 2021/1119](#)
37 Include COM reference
38 Insert OJ reference
39 https://ec.europa.eu/environment/strategy/zero-pollution-action-plan_en
40 [COM/2020/381 final](#).
41 COM(2021) 82.
42 Council Conclusions, 14167/20.
43 https://www.europarl.europa.eu/doceo/document/TA-9-2021-0040_EN.pdf

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The Initiative would be proposed on the basis of Article 114 of the Treaty of the Functioning of the European Union (TFEU), which applies to measures that aim to establish or ensure the functioning of the internal market, while taking as a base a high level of environmental protection. Different requirements imposed by national legislation or private initiatives regulating environmental claims create a burden for companies when trading cross-border, as they need to comply with different requirements in each country. This leads to an additional burden that affects their capacity to operate in and take advantage of the internal market. At the same time, market participants have difficulties with identifying reliable environmental claims and making optimal purchasing decisions on the internal market. The proposal therefore aims to ensure the functioning of the internal market for economic actors operating in the internal market and consumers relying on green claims. The measures proposed in this Directive will increase the level of environmental protection, while leading to further harmonisation regarding the regulation of environmental claims, and would avoid market fragmentation due to diverging national approaches that were introduced or would be introduced in the absence of rules at EU level. The internal market dimension of reaching the environmental objective is predominant and therefore it is appropriate to use Article 114 TFEU as the legal basis.

- **Subsidiarity (for non-exclusive competence)**

EU dimension of the problem

Putting in place a common set of rules within the EU internal market is essential to ensuring a level playing field for economic operators, with regards to the requirements they have to meet when making an environmental claim and the methodology to be used. If Member States act individually, the level of environmental protection would remain suboptimal and there is a risk that competing different systems, based on different methods and approaches, would be used. This would fragment the internal market, especially for cross-border products traded on the internal market, by distorting the conditions of competition and necessitating the amendment/modifications of the claims each time internal borders are crossed. This increases the risk of uneven awareness and availability of information to consumers on the environmental performance of products and traders across the EU, and additional costs for companies trading across borders.

Added value action at EU level

EU action is justified and necessary, because a harmonised and well-functioning internal EU market with regards to environmental claims would increase the level of environmental protection and set a level playing field for businesses operating in the EU. The proposal, which involves targeted and co-ordinated action, would reduce the risk of legal fragmentation of the single market and would lead to cost savings for businesses. The EU can rely on the experiences of Member States and private initiatives when promoting further harmonisation of methods to substantiate the environmental credentials of products and traders. Further EU coordination brings cost savings for both governments and private actors involved, as well as strengthens leverage on related global processes, including global value chains.

- **Proportionality**

The measures in the proposal are proportionate to the objectives of enabling consumers to make informed purchasing decisions and promoting sustainable consumption, based on reliable, comparable and verifiable information.

The proportionality of the general criteria for environmental claims used in marketing towards consumers is ensured by introducing uniform requirements which companies should follow when making such claims. This proposal does not require any specific methodology for the substantiation of any environmental claims and introduces general requirements that methods need to comply with to ensure reliable information for consumers. The proposal will also provide competent national bodies with uniform criteria for helping them to assess the fairness of any environmental claim, providing a high degree of legal certainty and facilitating enforcement activities. It is also the result of thorough consideration of stakeholder input, in particular from businesses including SMEs.

The proportionality of requirements on environmental labels concerns the fairness of their display in marketing to consumers. There are only a limited number of uniform requirements to ensure the transparency and credibility of such labels towards users. These uniform requirements ensure that entities running environmental labels, as well as the companies applying for those labels, do not face disproportionate costs. At the same time, it will ensure a high degree of legal certainty for companies. By providing competent national bodies with uniform criteria to assess the fairness of the use of any environmental label, this measure will also facilitate enforcement activities and pursue a high level of consumer protection.

- **Choice of the instrument**

The proposal is a stand-alone legal instrument that would not amend existing legislation. It sets a framework for the substantiation and communication of environmental claims. Given that it aims to ensure consumer protection in an area regulated by directives, the most appropriate instrument is a directive.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDERS CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

In the preparatory process of this proposal, the Commission consulted stakeholders via:

- Dedicated public consultations in the context of the proposal for a Directive on Empowering Consumers in the Green Transition;
- A public consultation on the product policy framework for the circular economy, with a section dedicated to potential future policy options based on the Environmental Footprint methods. The consultation was open between 29 November 2018 and 24 January 2019, 291 respondents provided feedback⁴⁴.
- Online targeted consultations that involved key stakeholders related to the Environmental Footprint methods. The consultation was open between 12 November 2018 and 18 December 2018. The target groups involved were: businesses and business associations (180 respondents), investors and financial institutions (5 respondents), public administrations and international organisations (12

⁴⁴ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1740-Towards-an-EU-Product-Policy-Framework-contributing-to-the-Circular-Economy_en

respondents), method and initiative owners (19 respondents), NGOs and method/initiative owners (8 respondents)⁴⁵.

- An SME survey, in which 600 SMEs from six EU Member States participated, to assess different options for communicating Environmental Footprint results⁴⁶.
- An open public consultation on the green claims initiative, between 27 August and 3 December 2020, through which 362 contributions were made⁴⁷.
- A stakeholder workshop with several sessions dedicated to overall feedback, feedback on communication options, on practical challenges for companies in substantiating green claims, on the reliability of information and on implications for ecolabels; on average 200 stakeholders participated per session⁴⁸.

Short explanation of the feedback given in the different consultation rounds, who was consulted?

The first public consultation (29 November 2018-24 January 2019) conducted in preparation of the green claims initiative, focused on the roadmap for the initiative and found that most respondents acknowledged the need of the initiative. More than half of the respondents agreed that companies should use the Product Environmental Footprint (PEF) method to prove environmental claims and a specific EU logo or label based on evidence derived from the PEF method. Some respondents indicated that companies should be able to freely choose how to generate environmental information, provided that they meet minimum criteria to avoid greenwashing. Many respondents highlighted challenges, such as the need for methodology improvement, data quality improvement and assurance, verification, administrative burden related to the development of Product Environmental Footprint Category Rules (PEFCRs) and Organisation Environmental Footprint Sectorial Rules (OEFSRs) and the cost of implementation. Respondents also highlighted the need for flexibility regarding the medium of communication: it should not be mandatory to use a label or QR code to provide information, as the type of information and level of detail may depend on the target audience. The respondents also highlighted the need to ensure that Environmental Footprint (EF) datasets are accessible and free, as well as the need to offer an SME tool or support from the European Commission for implementation. Some stakeholders expressed the need to improve the PEF/OEF method by addressing toxicity, microplastics and biodiversity.

The second public consultation (27 August-3 December 2020) found that **business (associations) respondents** preferred an EU body to keep control of the EF databases and methods or a system of (mostly) free core data for use by data developers to create a competitive data market. The respondents also urged the Commission to ensure the fast development of more PEFCRs. Some associations suggested the use of independent certification/verification organizations that operate in accordance with ISO14025. The construction-related associations emphasized there is a regulatory implementation of green claims and that they would want to use EN 15804 instead of PEF for construction products.

Large companies were overall in support of the EU-harmonized PEF method. 40% of respondents favours an EU legal framework requiring companies to substantiate environmental claims via the Environmental Footprint methods. In the short term, due to the

⁴⁵ https://ec.europa.eu/environment/eussd/smgp/pdf/EF_stakeholdercons19.pdf

⁴⁶ https://ec.europa.eu/environment/eussd/smgp/pdf/2018_pilotphase_commreport.pdf

⁴⁷ [to be added]

⁴⁸ More information available at https://ec.europa.eu/environment/eussd/smgp/initiative_on_green_claims.htm

shortcomings and inconsistencies of the PEF method that have to be solved before environmental claims can be substantiated via the methodology, companies indicated the use of PEF in complement to other existing tools as the favourite option. Companies highlighted that the EU framework should allow for flexibility regarding the medium of communication used to make claims. Applying the OEF method was seen as highly resource intensive, which is why several companies considered that the harmonisation of methods for products is more suitable than for traders. Companies also highlighted that the PEF should allow for comparisons among food products in general, not just for comparisons between products in the same category/functional unit.

SMEs argued that obligations related to making environmental claims on the basis of PEF and OEF will result in costs and additional time required before entering a market. This is particularly problematic for SMEs, as they have fewer overall means and capacity to comply with legislation. The following issues were highlighted: method complexity, costs for consultants, data and administrative burdens.

Environmental NGOs were mostly supportive of PEF and OEF. Instead of establishing a PEF label, which could be applied in any product category, a case-by-case approach was suggested. Single environmental scores should, by no means, be a way to hide trade-offs, and should be avoided. For labelling to be effective to communicate the environmental footprint to consumers, consumers should be made aware of what the labels mean and how to interpret them. Some environmental NGOs argued that PEF was not necessary to substantiate green claims, as official ecolabels could be used to do so.

Most **Consumer NGOs** supported the initiative but mentioned that PEF only to some extent helps to tackle greenwashing. PEF alone was not considered sufficient for consumer communication, it should include other aspects e.g. reparability, chemical aspects and durability. The NGOs also indicated that environmental claims could be substantiated by existing tools such as the type 1 ecolabels, Eco Lighthouse, EMAS and ISO14001.

Public authorities preferred establishing new EU legislation requiring companies to substantiate green claims based on the PEF method. A few respondents thought it should be possible to substantiate claims with ‘official’ ecolabels such as the Nordic Swan and EU Ecolabel. For OEF, several public authorities think that using EMAS and Corporate Sustainability Reporting guidelines are sufficient for company reporting. Public administrations slightly prefer independent certification and verification. For many public administrations, the preferable option is to create an EU life cycle inventory secondary database, including the necessary data to allow for the implementation of the Environmental Footprint methods. In line with the other stakeholder groups, public authorities underscore that the technical issues of the PEF/OEF methods need to be solved before they could be meaningfully applied.

Citizens mainly welcome the green claims legislation. Several respondents prefer the use of a common quantification method. They prefer an EU life cycle inventory secondary database, including the necessary data to allow for the implementation of the Environmental Footprint methods. For verification, independent certification/verification by accredited organisations is the preferred option. Some respondents were concerned about the cost of implementation (administrative and data-related).

Others: the respondents welcome the green claims initiative. Several respondents request to allow alternative LCA (life cycle assessment) methods, to improve the PEF/OEF methods including to reduce its complexity, to improve the way how data quality is defined and rated, solve issues in the toxicity methods, improve the robustness of weighting and enable better innovation. Research and consulting organisations asked for free access to EF secondary data

(also outside of PEF/OEF), some for free core data and/or a competing data market to drive improved data availability and quality.

Several workshops were organised in November 2020 to collect views from the different stakeholders on the scale of the problem of greenwashing and on the different policy options. The workshops confirmed that greenwashing needs to be addressed and that there is the need for a harmonised EU-level approach. There were, however, different views on the use of a single methodology, like the Environmental Footprint methods, and the need for a common EU label for products. Many stakeholders indicated the need to further improve the Environmental Footprint methods. Several stakeholders indicated the need to continue using the EU Ecolabel and other reliable type 1 ecolabels.

Technical Advisory Board for Environmental Footprint Expert Group (11 January 2021 and online survey): the expert group indicated its support for an EU Environmental Footprint database developed and managed centrally. The expert group also mentioned the need to develop further PEFCRs/OEFSRs, for data to be freely accessible, and for industry to provide data.

Further consultations took place in the context of the preparation of the proposal for a Directive on empowering consumers in the green transition.

- **Impact assessment**

This proposal is based on the Impact Assessment report accompanying the proposal for a Directive on Empowering Consumers for the Green Transition (ECGT) ⁴⁹. The Regulatory Scrutiny Board (RSB) first issued a negative opinion with comprehensive comments on 5 February 2021. After a significant revision of the initial draft, the RSB provided a positive opinion with further comments on 17 September 2021.

The Impact Assessment identifies two problems divided into several sub-problems. The current proposal aims to answer the problem that consumers face misleading commercial practices related to the sustainability of products, and more precisely to two sub-problems:

- Consumers are faced with unclear or poorly-substantiated environmental claims ('greenwashing') from companies;
- Consumers are faced with sustainability labels and digital information tools that are not always transparent or credible.

The Impact Assessment report concluded that the following measures are part of the preferred policy option:

- Ban on unfounded generic or vague environmental claims and setting criteria for assessing the fairness of environmental claims to ensure their transparency and credibility towards consumers;
- Setting criteria for assessing the fairness of sustainability labels and digital information tools, to ensure they are transparent and credible for consumers.

The preferred options would ensure that consumers are protected from greenwashing, since a certain standard will need to be met by those making such claims or using sustainability labels. It would also facilitate enforcement by consumer protection authorities.

⁴⁹ [Impact assessment report](#) accompanying the document *Proposal for a Directive amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information*, SWD(2022) 85 final.

Together with the measures included in the proposal for a Directive on empowering consumers in the green transition, the measures are expected to increase consumer welfare by at least EUR 12.5 – 19.4 billion over a 15-year period (around EUR 1 billion per year on average). It will also bring benefits to the environment, with a partial estimation of the total saved CO₂e being 5 - 7 MtCO₂e over a 15-year period. At the same time, businesses will have to adapt, which is expected to cost between EUR 9.1 – 10.4 billion. This represents an average one-off cost per company of between EUR 556 - 568, followed by an annual recurrent cost of between EUR 64 - 79 for the period covered. On the other hand, businesses will also experience very important benefits related to a level playing field as businesses that currently mislead consumers would have to align their practices with those that are truly sustainable. The cost for public administrations to enforce the preferred options is expected to be on average about EUR 440 000 – 500 000 per year per Member State.

- **Regulatory fitness and simplification**

The proposal is a new initiative aiming to complement the general consumer law directives and specifically, as *lex specialis*, the proposal for a Directive on empowering consumers for the green transition. The proposal does not aim directly at reducing regulatory burdens. However, with its objectives of strengthening the functioning of the internal market for green products and companies by setting minimum criteria on green claims, it will aim to reduce the risk of legal fragmentation of the single market and increase legal certainty. This, in turn, is expected to result in cost savings for businesses willing to make such claims and for competent authorities responsible for the enforcement of consumer law. Moreover, the proposal foresees a review clause six years after entry into force to assess if the Directive achieved its objectives, and whether further harmonisation is needed as regards substantiation and communication of green claims to achieve these objectives in a more efficient manner.

The proposal concerns green claims made in both the physical and digital environments and is thus considered digital-ready. The proposal also foresees the development of an Environmental Footprint database, based on the ongoing project covered by the call under Horizon Europe⁵⁰, which would provide the users of Environmental Footprint methods with solid environmental data to complement the company-specific data needed to perform Environmental Footprint studies. This will facilitate and reduce the costs of using Environmental Footprint methods for market operators, by providing easier access to high quality data and by ensuring interoperability with other databases developed at the national level. The set-up of such a database would also provide a market-intelligent tool that may be used to revise and refine product- or trader-related obligations in the future, including for Digital Product Passports.

- **Fundamental rights**

The proposal is in accordance with Article 38 of the Charter of Fundamental Rights, according to which the EU must ensure a high level of consumer protection. This will be ensured by ensuring the reliability, comparability and verifiability of environmental claims and by addressing greenwashing and the use of unreliable and non-transparent environmental claims and labels. The proposal will also enhance the right to a high level of environmental protection and the improvement of the quality of the environment, as enshrined in Article 37 of the Charter. In addition, by fighting greenwashing, the proposal will ensure a level playing field for businesses when marketing their greenness and therefore guarantees the freedom to conduct a business in accordance with Union law and national laws and practices.

⁵⁰ <https://etendering.ted.europa.eu/cft/cft-display.html?cftId=11475>

4. BUDGETARY IMPLICATIONS

The initiative involves a budget of a total of approx. EUR 25 million until 2027 (i.e. under the current MFF). The proposal will be fully financed through redeployment within the LIFE programme envelope. As detailed in the tables included in the section 3 Legislative Financial Statement, this amount covers the acquisition of datasets and related IP rights, the setting up of the database, the development of the PEFCRs and OEFSRs, the monitoring of environmental claims and the human resources needed to implement the Directive.

This is a realistic assessment notwithstanding the possibility to increase the amount further by EUR 5-6 million. Based on current experience of data acquisition, we have encountered several hurdles, namely the quality and need for the creation of EF-compliant datasets which vary widely. This makes it difficult to estimate the exact budget needed and the extent to which it can be used.

For example, acquiring datasets and related IP rights can require between EUR 6,2 and 12 million depending on their availability and quality. Which in turn sets the amount needed to cover for data gaps at the level between EUR 1,5 and 5 million. The rest of the amount would be used to develop and maintain the platform (including the staff needs).

In light of the important budgetary implications, in the future, covering the data acquisition costs by charging a user fee for the database should be considered. The detailed information is available in the financial fiche.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will submit a report, assessing the application of this Directive, to the European Parliament and Council no later than six years after its adoption.

- Detailed explanation of the specific provisions of the proposal

Article 1 introduces the subject matter and the scope of the Directive, by establishing that it contributes to the proper functioning of the internal market and to the achievement of a high level of consumer protection, as well as the improvement of the environmental sustainability of products and traders. More specifically, Article 1 sets out the scope of the proposed directive which will apply to environmental claims made on products available on the EU market and environmental claims on traders that provide activities on the EU market. The microenterprises are excluded from the scope of the Directive for proportionality reasons. In addition, the Article clarifies that the Directive applies to voluntary environmental claims and does not intend to amend any other EU legislation that already establishes requirements in terms of information provided to consumers (e.g. EU Ecolabel). A list of relevant EU legislation is provided in the corresponding recitals.

Article 2 introduces a list of definitions relevant to the implementation of the Directive. These definitions are aligned, as far as relevant, with the definitions included in other EU legislation (e.g. Unfair Commercial Practices Directive).

The core part of the Directive is set by Chapter II. Chapter II establishes harmonised requirements for the substantiation and communication of all types of environmental claims, including labels.

Article 3 establishes the detailed requirements which methodologies, used by traders to collect evidence to substantiate the environmental claim, must be compliant with. It incentivises the use of the Environmental Footprint methods and specifically PEFCRs and OEFSRs by

introducing a presumption of conformity in case the environmental claims are substantiated based on PEFCRs and OEFSRs adopted by the Commission via delegated acts.

Article 4 establishes the detailed requirements to be complied with by traders when communicating a claim that is substantiated according to Article 3. The Article should be seen as complementary to the requirements set out in the proposal on Empowering consumers for the green transition and the Commission guidance on interpretation and application of the Unfair Commercial Practices Directive⁵¹. It also introduces presumption of conformity with some of the requirements on communication for environmental claims based on PEFCRs/OEFSRs adopted by the Commission via delegated acts. The article also introduces empowerment for the Commission to adopt delegated acts to further specify requirements of this Article as regards specific environmental claims. The list of elements that fall under the scope of empowerment is included in the Annex.

Article 5 requires that, in addition to the conditions of Articles 3, 4, 6, and 7 environmental labelling schemes must comply with certain requirements with regards to their governance and transparency. The Article also aims to stop proliferation of environmental labelling schemes by prohibiting setting up of new national and regional type I environmental labelling schemes as of entry into force of this Directive. The Article also bans private labelling schemes based on an aggregated score of overall environmental performance and foresees a procedure to approve new private labelling schemes by the competent authorities.

Articles 6 and 7 deal with specific types of claims: comparative environmental claims and environmental claims related to future environmental performance. These Articles aim at complementing the general requirements introduced by the proposal for a Directive on empowering the consumers in the green transition.

Article 8 requires regular review of and updates to environmental claims.

Article 9 in Chapter III introduces detailed rules on the establishment of new PEFCRs/OEFSRs by the Commission with involvement of the Technical Secretariat as per Recommendation 2021/2279. The Commission will adopt delegated acts to formalise the draft PEFCRs/OEFSRs.

Chapter IV sets the requirements for enforcement. Article 10 introduces the obligation for the Member States to set up a system of verification for the substantiation of environmental claims by the independent verifiers and Article 11 establishes harmonised requirements to be complied with by the verifiers. Article 12 requires Member States to designate competent authorities and Article 13 defines their powers. Article 14 establishes the procedure to be followed to monitor environmental claims and how to deal with infringements. Article 15 concerns complaint handling and allows interested parties to submit complaints regarding environmental claims. Article 16 frames the necessary powers of the courts and administrative authorities. Article 17 requires Member States to set up a system of penalties.

Chapter V governs the final provisions. Article 18 sets out the framework empowering the Commission to adopt delegated acts. Article 19 sets out the framework for the committee procedure needed for the adoption by the Commission of implementing acts. Articles 20 and 21 fix the rules to be followed for the monitoring of the EU market and the evaluation and review of the Directive. Articles 22 to 24 ensure coordination with Regulation (EU) 2017/2394, Regulation (EU) 1024/2012 and Directive (EU) 2020/1828. Article 25 establishes

⁵¹ Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market, *OJ C 526*, 29.12.2021, p. 1–129

Member States' obligation to transpose the Directive. Articles 26 and 27 establish the date of entry into force and that the Directive is addressed to the Member States.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on green claims

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁵²,

Having regard to the opinion of the Committee of the Regions⁵³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Claiming to be “green” and sustainable has become a competitiveness factor, with green products registering greater growth than standard products. If goods and services offered and purchased on the single market are not as environmentally friendly as presented, this would mislead the consumers and hamper the green transition and prevent the reduction of negative environmental impacts. The potential of green markets is not fully realised. Different requirements imposed by national legislation or private initiatives regulating environmental claims create a burden for companies when trading cross-border, as they need to comply with different requirements in each country. This affects their capacity to operate in and take advantage of the internal market. At the same time, market participants have difficulties with identifying reliable environmental claims and making optimal purchasing decisions on the internal market. With a proliferation of different labels and calculation methods on the market, it is difficult for consumers, businesses, investors and stakeholders to establish if claims are trustworthy.
- (2) If claims are not reliable, comparable and verifiable, consumers and other market actors cannot fully leverage their purchasing decisions to reward better environmental performance. Similarly, the lack of reliable, comparable and verifiable information hinders incentives for optimising environmental performance, which would typically go hand in hand with efficiency gains and cost savings for companies along the supply chain as well. These consequences are exacerbated by the lack of a common reference across the single market and the ensuing confusion.
- (3) For users of environmental information (consumers, businesses, investors, public administrations, NGOs) included in claims, the lack of reliability, comparability and verifiability leads to an issue of trust in environmental information and confusion in

⁵² OJ C , , p. .

⁵³ OJ C , , p. .

interpreting heterogeneous, contradictory messages. This is detrimental to consumers and other market actors, as they may choose a product or a business transaction over other alternatives based on misleading claims.

- (4) The objective of the proposal is therefore to improve the functioning of the internal market for economic actors operating in the internal market and consumers relying on green claims. The measures proposed in this Directive would lead to further harmonisation regarding the regulation of environmental claims, strengthening the market for more sustainable products, and would avoid market fragmentation due to diverging national approaches that were introduced or would be introduced in the absence of a proposal at EU level. The proposal will contribute to improving environmental sustainability of products and traders in the EU and globally, setting a benchmark that can drive also the global transition to a just, climate-neutral, resource-efficient and circular economy⁵⁴.
- (5) This Directive sets the first EU detailed rules on substantiation of voluntary environmental claims, applicable to companies operating on the EU market in business to consumer communication. The Directive will contribute to the green transition towards a circular, climate-neutral and clean economy in the EU by enabling consumers to take informed purchasing decisions, and will help create level-playing field for market operators making green claims.
- (6) This Directive is one of the actions proposed by the Commission to implement the European Green Deal, which recognises that reliable, comparable and verifiable information plays an important part in enabling buyers to make more sustainable decisions and reduces the risk of ‘green washing’ and includes commitments to step up regulatory and non-regulatory efforts to tackle false green claims.
- (7) This Directive is part of a set of interrelated initiatives to establish a strong and coherent product policy framework that will make environmentally sustainable products and business models the norm, and not the exception, and to transform consumption patterns so that no waste is produced in the first place. The Directive is complemented, amongst others, by interventions on the circular design of products, on fostering new business models and setting minimum requirements to prevent that environmentally harmful products are placed on the EU market through the proposal for an Eco-design for Sustainable Products Regulation⁵⁵.
- (8) The Directive aims to counteract greenwashing in the area of environment building on the proposal for a Directive on empowering consumers for the green transition⁵⁶. Together with other applicable EU regulatory frameworks, it establishes a clear regime for environmental claims, including labels.
- (9) The Directive recognises the specific needs of individual economic sectors, and will be complemented by other existing and future Union rules, methodological

⁵⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM/2020/98 final

⁵⁵ Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC, COM(2022) 132 final

⁵⁶ Proposal for a Directive of the European Parliament and of the Council amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, COM(2022) 143 final

frameworks and datasets related to measuring and calculating environmental impacts, and providing mandatory and non-mandatory information to consumers on the environmental performance of products and organisations, such as the forthcoming initiative on accounting emissions of transport services, CountEmissions EU.

- (10) Furthermore, in November 2022, the Commission proposed a Regulation establishing a Union regulatory framework on the certification of carbon removals (CRC Regulation), which sets quality criteria to identify credible carbon removals, and requirements for the third-party verification and certification, in order to ensure the transparency, comparability and reliability of carbon removal certificates. To promote policy coherence and consistency, it is therefore appropriate for this Directive to recognise the rules developed under the CRC Regulation to substantiate claims of climate-neutrality, net negative emissions or other claims based on the removal of carbon from the atmosphere.
- (11) All environmental claims made in business to consumer communication on or with reference to products made available on the Union market, or to traders established or providing services in the Union, should fall under the scope of this directive. However, if they are already covered by relevant EU legislation that provide for a comparable level of assurance, the rules set out in this Directive should not apply.
- (12) In case Union legislation lays down rules on the assessment of environmental aspects or performance of a given product or trader, such as the eco-design requirements adopted under the framework of Eco-design requirements for sustainable products Regulation, the Taxonomy Regulation or the CRC Regulation, these rules shall be applied for substantiating respective voluntary environmental claims.
- (13) Examples of Union acts to which the requirements of this Directive shall not apply include Regulation (EC) No 66/2010 on the EU ecolabel⁵⁷, Regulation (EU) 2018/848 on organic production and labelling of organic products⁵⁸, Regulation (EU) 2017/1369 on energy labelling⁵⁹; CE marking according to Directive 2009/125/EC⁶⁰, Regulation (EU) No 305/2011⁶¹ and Regulation (EC) No 765/2008 on requirements for accreditation and market surveillance⁶²; requirements with regard to an organisation verified under EMAS Regulation (EC) No 1221/2009⁶³; consumer information on fuel

⁵⁷ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel, OJ L 27, 30.1.2010, p. 1–19

⁵⁸ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007, OJ L 150, 14.6.2018, p. 1–92.

⁵⁹ Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU, OJ L 198, 28.7.2017, p. 1–23.

⁶⁰ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast), OJ L 285, 31.10.2009, p. 10–35.

⁶¹ Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, OJ L 88, 4.4.2011, p. 5–43.

⁶² Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30)

⁶³ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC

economy and CO₂ emissions in respect of the marketing of new passenger cars covered by Directive 1999/94/EC⁶⁴; information requirements under Regulation (EU) No 305/2011 on marketing of construction products⁶⁵; information requirements under Regulation concerning batteries and waste batteries⁶⁶; information requirements under Directive 94/62/EC of 20 December 1994 on packaging and packaging waste⁶⁷.

- (14) In addition, this Directive shall not apply to sustainability information involving messages or representations that may be either mandatory or voluntary pursuant to the Union or national rules for financial services, such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice, including the services listed in Annex I to Directive 2013/36⁶⁸, as well as settlement and clearing activities and advisory, intermediation and other auxiliary financial services.
- (15) Furthermore, this Directive shall not apply to environmental information reported by undertakings that apply European sustainability reporting standards on a mandatory or voluntary basis as per Directive 2013/34⁶⁹ and sustainability information reported on a voluntary basis by undertakings defined in articles 3(1), 3(2) or 3(3) of this Directive where that information is reported according to standards provided for in articles 29b or 29c of Directive 2013/34/EU or according to other international, European or national sustainability reporting standards or guidelines.
- (16) Directive 2005/29/EC of the European Parliament and the Council⁷⁰ applies to misleading environmental claims towards consumers enabling the competent national enforcement authorities and courts to stop and prohibit such claims. For example, to comply with Directive 2005/29/EC, environmental claims should communicate only on environmental aspects, impacts or performance that contribute significantly to the overall environmental impact of the product or organisation. Environmental claims should also be clear and unambiguous regarding which aspects of the product or organisation and its life cycle they refer to and should not omit or hide important

⁶⁴ Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars, OJ L 12, 18.1.2000, p. 16–23.

⁶⁵ Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, OJ L 88, 4.4.2011, p. 5–43.

⁶⁶ Proposal for a Regulation of the European Parliament and of the Council concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020, COM/2020/798 final

⁶⁷ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, OJ L 365, 31.12.1994, p. 10–23

⁶⁸ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013, p. 338–436

⁶⁹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ L 182, 29.6.2013, p. 19–76

⁷⁰ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), OJ L 149, 11.6.2005, p. 22–39

information that consumers need to make informed choices based on the environmental performance of the product or organisation referred to in the claim. The wording, imagery and overall product presentation, including the layout, choice of colours, images, pictures, sounds, symbols or labels, included in the environmental claim should provide a truthful and accurate representation of the scale of the environmental benefit achieved, and should not overstate the environmental benefit achieved.

- (17) Consumers who can purchase goods or receive services conditional on the fulfilment of environmental criteria defined by the seller or service provider or where they receive favourable contractual terms or prices upon the fulfilment of such criteria, for example the so-called green loans, should not be subject to the rules of this Directive.
- (18) The Commission's proposal on empowering consumers for the green transition amends Directive 2005/29/EC by adding a number of specific requirements on environmental claims. For example, generic environmental claims, meaning environmental claims whose specification is not provided in clear and prominent terms on the same medium, which are not based on recognised excellent environmental performance relevant to the claim are to be prohibited in all circumstances.
- (19) This Directive complements the requirements of Directive 2005/29/EC by addressing specific aspects and requirements for environmental claims as regards their substantiation and verification. The requirements set out in this Directive apply to the specific aspects of environmental claims that are regulated therein and prevail over those of Directive 2005/29/EC in line with the *lex specialis* principle. Under this principle, the provisions of the general consumer law directives complement the provisions of sector specific EU law that prevail in the case of conflict.
- (20) This Directive therefore provides more legal certainty to economic actors using environmental claims by setting clear rules as regards their substantiation and verification. At the same time, it is without prejudice to the application of Directive 2005/29/EC to other aspects of environmental claims, including those regulated by the amendments under the proposal on Empowering consumers for the green transition.
- (21) This Directive establishes criteria that need to be complied with by methodologies used by the economic actors to substantiate their environmental claims. Methodologies used need to allow to identify the relevant environmental impacts for the product or trader referred to. Indications for the relevance of the environmental impacts could be stemming from the results of the life-cycle assessment studies, from the criteria set in various ecolabels type I, as for instance the EU Ecolabel, or in EU criteria for green public procurement, from requirements set by the Regulation on the establishment of a framework to facilitate sustainable investment (the Taxonomy Regulation⁷¹)^[OBJ] and related delegated acts, as well as product specific rules under the Eco-design requirements for sustainable products Regulation⁷²^[OBJ].
- (22) The methodologies used need to consider the life-cycle of the product, or of the overall activities of the trader and not omit any relevant aspects. At the same time, the methodologies need to consider multiple environmental impacts, and not focus on only

⁷¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ L 198, 22.6.2020, p. 13–43

⁷² [...]

one, and therefore omit relevant information. The benefits claimed shall not result in an unjustified transfer of impacts on other environmental aspects.

- (23) In order for the information to be considered robust, it has to reflect the environmental performance of the specific product or trader. The methodologies need thus to require the inclusion of primary, company-specific data, for relevant aspects contributing significantly to the environmental performance of the product or trader referred to in the claim. Consumer protection authorities in some countries are starting to question product specific environmental claims if no primary data has been used. The right balance should be found between ensuring relevant and robust information for substantiating claims and the efforts needed to gather primary information considering the accessibility of primary information. The requirement to use primary information should take into account how much influence the trader making the claim has over the respective process and if primary information is accessible. The requirement should take into account if the processes are run by the trader making the claim or the trader has access to primary information on the process, if it is not run by the trader making the claim. If the process is not run by the trader making the claim and primary information is not accessible, secondary information should be able to be used even for processes that contribute significantly to the environmental performance of the product or trader.
- (24) The relevant aspects are different for each type of environmental claim. For instance, for claims on recycled or bio based content, the composition of the product has to be covered by primary data; for claims on being environmentally less pollutant, information on emissions and impacts has to be based on primary data as well. Both primary and secondary, i.e. average data, have to show a high level of quality and accuracy.
- (25) It is important that the methodologies used are transparent in the way they are set up and reviewed, and allow for an appropriate involvement of interested parties. Interested parties might be individuals or groups concerned with or affected by the environmental performance being measured with that specific methodology, and no major stakeholder, like environmental or consumer protection NGOs shall be excluded.
- (26) The methodology needs to be accessible to any third party wanting to use it, and any access fee established has to be proportionate.
- (27) This Directive foresees the possibility to use Environmental Footprint methods to substantiate environmental claims on life-cycle environmental impacts on the basis of specific product category rules that are to be adopted by the Commission. As set out in Commission Recommendation (EU) 2021/2279⁷³, these methods allow measuring and communicating about the environmental performance of products and organisations across their whole lifecycle, relying on scientifically sound assessment methods agreed at international level. They cover 16 environmental impacts, including climate change, and impacts related to water, air, soil, resources, land use and toxicity. The methods are considered as robust and based on scientific consensus and thus constitute a relevant basis that can be built on to substantiate the environmental claims on life-cycle impacts, provided that the requirements set out in Article 3 (1) of this Directive

⁷³

Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations, OJ L 471, 30.12.2021, p. 1–396

are met. The term ‘trader’ used hereafter is considered equivalent to the term ‘organisation’ as used in the Commission Recommendation (EU) 2021/2279.

- (28) The use of the most harmful substances shall ultimately be phased-out in the EU to avoid and prevent significant harm to human health and the environment, in particular their use in consumer products, as committed in the Chemicals Strategy for Sustainability⁷⁴. For products containing such substances environmental claims should not be made. Where the use of a substance for that product has been proven to be essential for the society, the product containing the substance may be eligible for environmental claims during the transition to safe and sustainable alternatives. The Commission will define criteria for essential uses to guide the application across relevant EU legislation as committed in the Chemicals Strategy for Sustainability.
- (29) The methodology has to be science based, and any lack of consideration of certain environmental impacts or aspects has to be carefully considered. For instance, the fact that a significant environmental impact of a product is not covered by the 16 impact categories of the Environmental Footprint method does not justify the lack of consideration of such impacts.
- (30) Furthermore, assessment of life-cycle impacts related to the release of microplastics does not benefit yet of a reliable methodology. However the economic actor making any specific claim on microplastics has an obligation of diligence to provide evidence to substantiate it, while demonstrating that from a life-cycle perspective microplastics release is a relevant environmental impact for the concerned product group or economic sector.
- (31) Environmental claims based on an aggregated indicator presenting an overall environmental performance shall not be deemed to comply with the requirements on substantiation of environmental claims laid down in this Directive, unless these aggregated scores come from mandatory EU or national rules or are substantiated by a PEFCR or OEFSR.
- (32) Clear rules on how the environmental claims shall be communicated to consumers are also established in conjunction with rules set out in Directive 2005/29/EC and the proposal on empowering consumers for the green transition. They should help competent bodies in Member States to determine the fairness of an environmental claim in very different sectors. For example, the criterion that an environmental claim should be clear and unambiguous regarding which aspects of the product or its life cycle the claim refers to, can be used to assess the fairness of making claims that plastic products are ‘biodegradable’. As set out in the Communication “EU policy framework on biobased, biodegradable and compostable plastics”⁷⁵, only certified industrially compostable plastics should be labelled as ‘compostable’ and always specify that they are intended for industrial composting. With regard to claims on biobased plastic content, claims should only refer to the exact and measurable share of biobased plastic content in the product, stating for instance, that the “product contains 50% biobased plastic content”, as well as the sustainability criteria they comply with.
- (33) Climate-related claims have been shown to be particularly prone to being unclear and ambiguous and to mislead consumers, amounting to greenwashing. This relates

⁷⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Chemicals Strategy for Sustainability Towards a Toxic-Free Environment, COM/2020/667 final

⁷⁵ [Insert reference](#)

notably to environmental claims that products or entities are “climate neutral”, “carbon neutral”, “100% CO₂ compensated” or similar. Such statements are often based on “offsetting” of GHG emissions through “carbon credits” generated outside the company’s value chain, for example from forestry or renewable energy projects. The methodologies underpinning offsets vary widely and are not always transparent, accurate, or consistent. This leads to significant risks of overestimations and double counting of avoided or reduced emissions, due to a lack of, i.a.: additionality, permanence, ambitious and dynamic crediting baselines that depart from business as usual, or accurate accounting. These factors result in offset credits of low environmental integrity and credibility that mislead consumers when claims are based on such offsets.

- (34) It is deemed appropriate to address climate-related claims based on offsets in a more transparent manner. Therefore, the methodology used to substantiate climate-related claims is expected to require any greenhouse gas emissions offsets used by the traders to be reported separately as additional environmental information, which is also the approach followed by the PEF/OEF methods. In addition, this information should also specify whether these offsets relate to emission reductions, avoidances, or removals. In addition, climate-related claims that include the use of offsets have to be substantiated by methodologies that ensure the integrity and correct accounting of these offsets and thus reflect coherently the resulting impact on the climate.
- (35) The proposal for the EU CRC Regulation has as objective that carbon removals are of high quality, which means that they are accurately quantified, they are additional, they ensure long-term storage and they are sustainable. The certification methodologies established under this Regulation aim therefore to be a reliable means to substantiate environmental claims based on carbon removals. Also, any climate-related claim that rely on greenhouse gas emission offsets to achieve the claimed climate impact shall indicate to which extent they rely on offsets and whether these relate to emissions reductions, avoidances, or removals.
- (36) Claims shall not be made on environmental impacts in case these improvements lead to the kind of trade-offs that significantly worsen performance as regards other environmental impacts, for example if savings in water consumption lead to a notable increase in greenhouse gas emissions, or of the same environmental impact in another life-cycle stage of the good, for example CO₂ savings at the stage of manufacturing leading to a notable increase of CO₂ emissions at the use phase.
- (37) As the scope of the Directive covers only environmental claims, those claims that cover other aspects than those related to environment, like “sustainability” claims, are covered by this Directive only in regards to the environmental ones (environmental sustainability).
- (38) Consumers are misled also by comparative claims put on the EU market. In order to allow the consumers to have access to reliable information, it is needed to ensure that this type of claims can adequately be compared. For instance, choosing indicators on the same aspects but that use a different formula for quantification makes comparisons impossible, and therefore there is a risk of misleading consumers. In case two traders make a claim on climate change where one considered only direct impacts, whilst the other considered both their direct and indirect impacts, the results are not comparable.
- (39) Traders are more and more interested in making claims on their future environmental performance, including by joining initiatives that are promoting practices that could be conducive to a reduced impact or to more circularity. It is therefore needed to set clear

rules on how these claims are made. For instance, it will be required to indicate a baseline year for targets. Improvements can seem spectacular without a reference year, overstating the benefit (“50% reduction of greenhouse gas emissions” instead of “50% reduction of greenhouse gas emissions compared to 2000”). It is also needed to allow for an appropriate monitoring. If a target set for 2030 does not include any periodic milestones, it is impossible for stakeholders, or the trader itself, to monitor whether they are on track and what are the challenges. It is also essential that the trader considers collateral effects when evaluating how to reach a target, so that there is no unjustified transfer of environmental impacts.

- (40) It is essential that environmental claims, and in particular their substantiation, reflect correctly the environmental performance or impacts of the claim, and consider the latest scientific evidence. This means that the economic actor making the claim has to review regularly the substantiation of the claims as well as compliance with the Directive.
- (41) In the context of a dynamic evolvement of marketing strategies and consumer interest in obtaining more environmental information, it is necessary for the Commission to ensure that the criteria for the substantiation and communication of environmental claims are further specified for specific claims (e.g. climate-related, including on offsets, recyclability, recycled content). To this effect, the Commission is empowered to adopt delegated acts to supplement this Directive by further specifying these requirements.
- (42) Currently, more than 200 environmental labels (‘ecolabels’) are active on the EU market. They present important differences in how they operate, e.g. concerning the transparency and comprehensiveness of the standards or methods used, the frequency of revisions, or the level of auditing or verification. These differences have an impact on how reliable the information that the labels communicate is. While claims based on the EU Ecolabel or its national equivalents follow a solid scientific basis, have a transparent development of criteria, require testing and third-party verification and foresee regular monitoring, evidence suggests that many labels currently on the EU market are misleading. In particular, many labels lack sufficient verification procedures. Therefore, environmental claims made through the displaying of environmental labels should be based on a certification scheme. Evidence suggests that third-party certification is the most effective way to ensure the independence and scientific rigour, and therefore the fairness of environmental labelling schemes.
- (43) In cases where the displaying of an environmental label involves a commercial communication that suggests or creates the impression that a product has a positive or no impact on the environment, or is less damaging to the environment than competing products, that environmental label also constitutes an environmental claim. The content of such environmental label is therefore subject to requirements on substantiation and communication of claims.
- (44) In line with the proposal on empowering consumers for the green transition, displaying a sustainability label which is not based on a certification scheme or not established by public authorities is an unfair commercial practice. This means that the so-called ‘self-certification’ schemes, where no third-party verification and regular monitoring takes place as regards compliance with the scheme’s requirements, cannot award environmental labels to be used to promote a product or trader.
- (45) In order to combat misleading claims communicated in the form of environmental labels, this Directive should establish criteria for all environmental labelling schemes

to fulfil. This should not apply to existing national or regional EN ISO 14024 type I ecolabelling schemes that have been established by public authorities and those developed under Union law as they are considered as already in compliance with these criteria. The Commission will be empowered to adopt delegated acts to establish a list of such national or regional schemes.

- (46) The requirements should also enable more effective enforcement and establish a level playing field.
- (47) To avoid further proliferation of national or regional EN ISO 14024 type I environmental labelling schemes and ensure more harmonisation in the single market, new public schemes should be developed only under the Union law and be applicable in the Union as a whole.
- (48) To prevent misleading consumers as regards the environmental impacts of products or traders and to limit competition with existing EU, national or regional EN ISO 14024 type I environmental labelling schemes, the labels developed under voluntary environmental labelling schemes should not be based on aggregated scores of overall environmental performance of products or traders, unless substantiated by a PEFCR or OEFSR.
- (49) In order to prevent the proliferation of voluntary environmental labelling schemes established by private operators, that may create confusion of consumers or undermine their trust in environmental labels, in particular those developed by public authorities, Member States shall only allow schemes that provide significant added value as compared to the existing regional or national schemes in terms of environmental ambition of the criteria to award the label, coverage of relevant environmental impacts, and completeness of the underlying assessment. Member States shall set up a procedure to approve new environmental labelling schemes based on a certificate of conformity drawn up by the independent verifier.
- (50) In order to allow operationalising the Environmental Footprint methods for the purposes of this Directive, where considered relevant the Commission should be empowered to develop Product Environmental Footprint Category Rules (PEFCRs) and Organisation Environmental Footprint Sectorial Rules (OEFSRs) and make them applicable through delegated acts.
- (51) In case the Product Environmental Footprint method does not yet cover an impact category, which is relevant for a product category, the development of PEFCR will take place only once these new relevant environmental impact categories have been added to those specified in the Commission Recommendation (EU) 2021/2279. For example, as regards fisheries, the PEFCR should reflect the fisheries-specific environmental impact categories, in particular the sustainability of the targeted stock. Concerning space, the PEFCR should reflect defence and space-specific environmental impact categories, including the orbital space use. As regards food and agricultural products, biodiversity and nature protection, as well as farming practices and the use of pesticides should also be reflected.
- (52) To ensure that claims are reliable, it is needed to set up a system of verification of the substantiation of claims. The verifiers, complying with the harmonised requirements set up by the Directive, will have the mandate to check that the substantiation is sufficiently robust to be used when communicating environmental claims and draw up a certificate recognised across the Union to this effect.

- (53) The verifiers will also have the mandate to verify whether the environmental labelling schemes comply with the governance requirements set out in this Directive for such schemes.
- (54) Based on the results of the implementation of this Directive, the Commission may envisage drafting guidance to ensure proper enforcement of the requirements.
- (55) Robust compliance assurance of this Directive is essential to ensure a level-playing field on the Union market, where claims about the environmental performance of a product or a trader are based on reliable, comparable and verifiable information. Therefore, this Directive should establish common rules on how its provisions are enforced.
- (56) Member States should designate their own competent authorities responsible for the application and enforcement of this Directive. Member States may decide to designate the same competent authorities as those responsible for enforcement of the Unfair Commercial Practices Directive. The enforcement system set up in each Member State's territory should ensure a close cooperation between all designated competent authorities, including the exchange of information, and an effective exercise of their respective duties.
- (57) Competent authorities should have a minimum set of investigation and enforcement powers in order to ensure compliance with this Directive, to cooperate with each other more quickly and more efficiently, and to deter market actors from committing infringements covered by this Directive. Those powers should be sufficient to tackle the enforcement challenges of e-commerce and the digital environment effectively and to prevent non-compliant market actors from exploiting gaps in the enforcement system by relocating to Member States whose competent authorities are not equipped to tackle unlawful practices.
- (58) The implementation of this Directive and the exercise of powers in its application should also comply with other Union and national law, including with applicable procedural safeguards and principles of the fundamental rights. That implementation and that exercise of powers should also be proportionate and adequate in view of the nature and the overall actual or potential harm caused by an infringement of this Regulation.
- (59) Competent authorities should take all facts and circumstances of the case into account and should choose the most appropriate measures, namely, those which are essential to address the infringement covered by this Directive. Those measures should be proportionate, effective and dissuasive. Member States should remain free to set out conditions and limits for the exercise of the powers to fulfil duties in national law, in accordance with Union law.
- (60) Where an infringement is not restricted to their national territory, and the environmental claim has been advanced between traders, the competent authorities should inform the other Member States of any evaluation they have carried out, any action that they have required the trader responsible to take, and any measure that they have taken to prohibit the use of the non-compliant claim. In order to ensure an effective communication through an existing centralised communication mechanism, competent authorities should use the Internal Market Information System ('IMI'), as established by Regulation (EU) No 1024/2012, for this exchange of information.

Where the environmental claim in question has been advanced between a trader and a consumer, the provisions of Regulation 2017/2394⁷⁶ should apply.

- (61) Competent authorities should carry out checks at regular intervals of environmental claims on the Union Market to verify that the requirements laid down in this Directive are fulfilled. Competent authorities should also carry out checks of environmental claims on the Union Market when in possession of and based on relevant information, including substantiated concerns submitted by third parties. Parties submitting a concern should be able to demonstrate a sufficient interest or maintain the impairment of a right, where administrative procedural law of a Member State requires this as precondition.
- (62) Member States should lay down rules on administrative penalties applicable to infringements of this Directive and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive. To facilitate a more consistent application of penalties, common non-exhaustive criteria should be established for determining the types and levels of penalties to be imposed. These criteria should include, inter alia, the nature and gravity of the infringement and the economic benefits derived from and the environmental damage caused by the infringement, insofar as these can be determined.
- (63) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁷⁷. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (64) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission as regards adopting a common format for certificate of conformity for substantiation of environmental claims and of environmental labelling schemes to be issued by verifiers. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷⁸.
- (65) The Commission should carry out an evaluation of this Directive. Pursuant to paragraph 22 of the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016, that evaluation should be based on the criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures.

⁷⁶ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004, OJ L 345, 27.12.2017, p. 1–26

⁷⁷ OJ L 123, 12.5.2016, p. 1.

⁷⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13–18

- (66) Information should be collected by the Commission and the Member States in order to assess the performance of the legislation against the objectives it pursues and in order to inform an evaluation of the legislation in accordance with paragraph 22 of the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016.
- (67) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents⁷⁹, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

HAVE ADOPTED THIS DIRECTIVE:

Chapter I

General provisions

Article 1

Subject matter and scope

- (1) The purpose of this Directive is to provide for a high level of consumer and environmental protection, while contributing to the proper functioning of the internal market, by approximating the laws, regulations and administrative provisions of the Member States related to environmental claims made on or with reference to products made available on the market or to traders making available products on the market.
- (2) The requirements set out in this Directive shall concern environmental claims made by traders in business-to-consumer commercial practices.
- (3) The definition of environmental claim set out in Article 2(o) of Directive 2005/29/EC as amended by [COM(2022) 143final] and of the business-to-consumer commercial practice as defined in Article 2(d) of Directive 2005/29/EC shall apply.
- (4) This Directive is without prejudice to the existing or future Union rules relating to substantiation, verification and communication of mandatory and non-mandatory environmental information as regards products or traders. In the case of conflict between the provisions of this Directive and other EU rules regulating environmental claims the latter shall prevail and apply.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

⁷⁹ OJ C 369, 17.12.2011, p. 14.

- (1) ‘comparative environmental claim’ means an environmental claim which states or implies that a product or a trader has less or more environmental impacts than other products or traders;
- (2) ‘environmental label’ means a sustainability label covering predominantly environmental aspects of a product, a process or a business;
- (3) ‘Environmental Footprint (EF) methods’ means the Product Environmental Footprint method and Organisation Environmental Footprint method as established by the Recommendation (EU) 2021/2279⁸⁰;
- (4) ‘Product Environmental Footprint (PEF) method’ means the life-cycle assessment method to quantify the environmental impacts of products, as established by Recommendation (EU) 2021/2279;
- (5) ‘Organisation Environmental Footprint (OEF) method’ means the life-cycle assessment method to quantify the environmental impacts of a private or public organisation, as established by Recommendation (EU) 2021/2279;
- (6) ‘Product Environmental Footprint Category Rules (PEFCRs)’ means product category specific, life cycle-based rules that complement general methodological guidance for PEF studies by providing further specification at the level of a specific product category, in line with the PEF method and established in conformity with this Directive;
- (7) ‘Organisation Environmental Footprint Sector Rules (OEFSRs)’ means sector-specific, lifecycle-based rules that complement general methodological guidance for OEF studies by providing further specification at the level of a specific sector, in line with the OEF method and established in conformity with this Directive;
- (8) ‘product category’ means a set of products that serve similar purposes and are similar in terms of use, or have similar functional properties, and are similar in terms of consumer perception;
- (9) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (10) ‘environmental labelling scheme (ecolabelling scheme)’ means a certification scheme which certifies that a product, a process or a business complies with the requirements of an environmental label.
- (11) ‘verification’ means the conformity assessment process carried out by a verifier to check whether the substantiation of the environmental claims has been carried out in compliance with the requirements of the present Directive;
- (12) ‘value chain’ means all activities and processes that are part of the life cycle of a product, as well as possible remanufacturing;
- (13) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, consisting of raw material acquisition or generation from natural resources, pre-

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Commission Recommendation of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations, OJ L 471, 30.12.2021., replacing Commission Recommendation of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations, OJ L 124, 4.5.2013, p. 1–210.

processing, manufacturing, storage, distribution, installation, use, maintenance, repair, upgrading, refurbishment and re-use, and end-of-life;

- (14) ‘primary information’ means company-specific information. This refers to directly measured or collected information from one or more facilities (site-specific information) that are representative for the activities of the company (company is used as synonym of trader)
- (15) ‘primary supply chain information’ means information related to specific processes within the supply chain of the company, on which the company has no operational control.
- (16) ‘secondary information’ means information that is not from the company itself or a specific process within the supply-chain of the company. This refers to information that is not directly collected, measured or estimated by the company, but rather sourced from other sources such as literature studies, engineering studies and patents.
- (17) ‘public’ means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, traders or groups;
- (18) ‘public concerned’ means the public affected or likely to be affected by, or having an interest in, the decision-making procedures for the implementation of the obligations under this Directive. For the purposes of this definition, non-governmental traders promoting human health, environmental or consumer protection and meeting any requirements under national law shall be deemed to have an interest.
- (19) ‘environmental performance’ means measurement of the environmental aspects or environmental impacts of a certain product or trader
- (20) ‘environmental aspect’ means an element of a trader’s activities or products that interacts or can interact with the environment.
- (21) ‘environmental impact’ means any change to the environment, whether adverse or beneficial, that wholly or partially results from a trader’s activities or products during its life cycle.
- (22) The definitions of ‘product’, ‘explicit environmental claim’ ‘sustainability label’, ‘consumer’, ‘trader’, and ‘certification scheme’ laid down in Article 2 of Directive 2005/29/EC as amended by [*proposal COM(2022) 143final*] shall apply.

Chapter II

Substantiation and communication of environmental claims

Article 3

Requirements for the substantiation of environmental claims

- (1) Member States shall ensure that environmental claims made as regards products or traders are substantiated based on a methodology which complies with the following requirements:
 - (a) The methodology shall be based on widely recognised scientific evidence and state of the art technical knowledge and take into account relevant international standards.
 - (b) The methodology shall allow identifying the environmental impacts of the product or trader, taking into account the life-cycle, and the causes of these impacts, including those that contribute significantly to the environmental performance of the product or trader; the methodology shall set the criteria for assessing the significance of the environmental impacts;
 - (c) The methodology shall take into account all environmental impacts relevant to the product or trader or to the economic sector to which the product or trader referred to belongs and the interlinkages between these impacts;
 - (d) The methodology shall be able to ensure that environmental aspects which contribute significantly to the environmental performance of the product or trader are not omitted, in particular product composition, processes, materials used in the production, impacts on biotic resources, emissions from the processes, the use of the product, its durability, reparability and end of life aspects;
 - (e) The methodology allows to assess whether the product or trader performs significantly better on the environmental impact, aspect or performance which is subject to the claim than the common practice for products in the respective product group or traders in the respective sector.
 - (f) The methodology allows to assess if the achievement of positive environmental impacts, aspects, or performance leads to significant increase of any other negative environmental impact, in particular related to climate change, resource consumption and circularity, sustainable use and protection of water and marine resources, pollution, biodiversity and ecosystems, or leads to a significant increase of the same environmental impact in another life-cycle stage of the product or part of the trader;
 - (g) Primary information shall be included for environmental aspects which contribute significantly to the environmental performance of the product or trader, in particular, product composition, processes, materials and energy used in the production, emissions from the processes, impacts on biotic resources, the use of the product, its durability, and reparability and end of life aspects;

- (h) The primary and secondary information used shall be accurate; the secondary information shall reflect the value chain of the product or trader referred to in the claim;
 - (i) The methodology shall be accessible to any third party;
 - (j) Interested stakeholders shall have the opportunity to provide feedback on the draft methodology at the stage of its preparation, this feedback shall be duly taken into consideration ;
 - (k) The methodology shall be regularly reviewed by a third party with a view to take account of technical and scientific progress and the development of relevant international standards as well as revised where necessary to reflect such progress. As part of the review, interested stakeholders shall have the opportunity to provide their views.
- (2) If a PEFCR or an OEFSR is available in line with Article 9, environmental claims based on the respective PEFCR or OEFSR are deemed to comply with paragraph (1) as far as they concern claims made in relation to the individual environmental impact categories or an aggregated score covered by the respective PEFCR or the OEFSR. Such environmental claims referring to the representative product or trader covered by the PEFCR or the OEFSR shall be based on the respective PEFCR or OEFSR only.
- (3) Where the products contain substances meeting the criteria for the following hazard classes laid down in Annex I of Regulation (EC) 1272/2008, whether on their own, in mixtures or in an article, such products are not eligible for environmental claims, except where the use of the substance in that product is proven essential for the society:
- (a) Carcinogenicity category 1A and 1B
 - (b) Germ cell mutagenicity category 1A and 1B
 - (c) Reproductive toxicity category 1A and 1B
 - (d) Endocrine disruptions category 1
 - (e) Persistent, bioaccumulative and toxic
 - (f) Very persistent, very bioaccumulative
 - (g) Persistent, mobile and toxic
 - (h) Very persistent, very mobile
 - (i) Respiratory sensitisation
 - (j) Specific target organ toxicity category 1.
- (4) Where there is no recognised scientific method or insufficient evidence to assess environmental impacts and aspects, the exclusion of these impacts shall be transparent and efforts shall be made to develop methods and accumulate evidence to enable the assessment of the respective impact. Until the method meeting the requirements set out in paragraph (1) is developed, the claims referring to such environmental impacts shall not be made.
- (5) Where Union legislation lays down rules on the assessment of environmental aspects or performance of a given product, trader or sector, these rules will take precedence over this Directive for the concerned products, traders and sectors in line with Article

1 (4). These rules shall be applied as appropriate for the purpose of methodologies for substantiating environmental claims in accordance with this Article.

- (6) The Commission is empowered to adopt delegated acts in accordance with Article 18 to supplement this Directive by further specifying the requirements of Article 3 in relation to products or traders bearing certain environmental claims, including by further specifying requirements for specific product categories or sectors according to Article 9. Those requirements shall include the elements listed in the Annex. In preparing the delegated act, the Commission shall take into account the advice expressed by the Commission expert group established pursuant to Article 18.

Article 4

Requirements for the communication of environmental claims

- (1) Member States shall ensure that explicit environmental claims comply with the following requirements as regards commercial communication:
- (a) Only environmental aspects, impacts or performance that are assessed in accordance with the requirements laid down in Article 3 shall be communicated;
 - (b) Claims shall not be made on positive environmental impacts, aspects or performance the achievement of which has led or will lead to significant negative increase of any other environmental impact or aspect, in particular related to climate change, resource consumption and circularity, sustainable use and protection of water and marine resources, pollution, biodiversity and ecosystems, unless the negative increase is transparently communicated together with the claim in a way that is clear and understandable to the consumers targeted by the claim;
 - (c) Claims shall not be made on positive environmental impacts, aspects or performance the achievement of which has led or will lead to a significant negative increase of the same environmental impact or aspect in another life-cycle stage of the product or part of the trader,;
 - (d) If the explicit environmental claim is related to a final product, and the use phase is among the most relevant life cycle stages, it shall include information on how the user of the product may relevantly contribute to decrease the environmental impacts of that product in line with the environmental claim;
 - (e) Information on the assessment on which the environmental claim is based shall be made available together with this claim.

The access to this information may be provided in the form of a weblink, QR code or equivalent.

The information shall include at least:

- information on the product or activities of the trader subject to the claim;
- environmental aspects, environmental impacts or environmental performance covered by the claim;
- the methodology used,
- the relevant EU or other recognised standards where appropriate;

- the underlying studies or calculations used to assess, measure and monitor the environmental impacts or aspects covered by the claim, including the results of the studies or calculations, explanations of their scope, assumptions and limitations, unless the information is confidential;
 - a brief explanation how improvements in environmental performance are achieved;
 - the certificate of conformity of substantiation of the claim and the coordinates of the verifier that certified the substantiation of the claim.
 - a summary of the points listed above in paragraph 1 (d) that is clear and understandable to the consumers targeted by the claim and is in the language of the Member State where the environmental claim is made.
- (2) Environmental claims that comply with Article 3(2) and with the following conditions shall be considered as complying with the requirements of paragraph 1 points (a) and (b) if:
- (a) The claim is related to one or several individual environmental impact categories or an aggregated score covered by the PEFCR or OEFSR established in line with Article 9;
 - (b) The environmental claims list the three most relevant impact categories.
- (3) The Commission is empowered to adopt delegated acts in accordance with Article 18 to supplement this Directive by further specifying the requirements of Article 4 in relation to products or traders bearing certain specific environmental claims. Those requirements shall include the elements listed in the Annex. In preparing the delegated act, the Commission shall take into account the advice expressed by the Commission expert group established pursuant to Article 18.

Article 5

Requirements for environmental labels

- (1) Environmental labels shall be based on certification schemes, complying with the Articles 3, 4 and where relevant 6 and 7 as well as with the conditions below:
- (a) Award of the label and monitoring of compliance with environmental labelling scheme's requirements shall be done by a party independent from both the label owner and the operator being verified.
 - (b) The information about the environmental labelling scheme's ownership and its decision-making bodies is transparent, easily available free of charge and in a clear and complete way.
 - (c) The environmental labelling scheme's stated objectives, requirements and procedures for monitoring compliance are documented, published and accessible free of charge in a clear, easy to understand and sufficiently detailed way.
 - (d) The environmental labelling scheme is open under transparent and non-discriminatory criteria to all traders willing and able to comply with its requirements. Moreover, the certification bodies shall work proportionately and take into account the size of the companies.

- (e) The environmental labelling requirements are developed by experts that can ensure their scientific robustness and submitted for consultation to a heterogeneous group of stakeholders to review and ensure their relevance from a societal perspective.
 - (f) The environmental labelling scheme has a complaint and dispute resolution mechanism in place.
 - (g) Procedures for dealing with non-compliance are implemented, and foresee the withdrawal or suspension of the environmental labelling in case of persistent and flagrant non-compliance.
- (2) Existing national or regional EN ISO 14024 type I environmental labelling schemes established by public authorities and voluntary schemes developed under Union law are deemed to comply with the conditions in the previous paragraph.

In order to safeguard the functioning of the single market, from [*the date of entry into force of this Directive*] no new national or regional EN ISO 14024 type I ecolabelling schemes shall be established; such schemes shall be established only under the Union law. A Member State may ask to initiate such a label under Union law.

The Commission shall draw up a list of national or regional EN ISO 14024 type I ecolabelling schemes considered to comply with paragraph 1 by means of a delegated act adopted in accordance with Article 18.

- (3) Only labels adopted under the EU law or labels substantiated by a PEFCR or OEFSR may present a rating or score of a product or trader based on an aggregated indicator presenting an overall environmental performance, or another generic comparative claim on the overall environmental performance of a product or trader.
- (4) Member States shall ensure that newly established private environmental labelling schemes are approved by the Member States for operation only if these schemes provide a significant added value in terms of their environmental ambition, their coverage of environmental impacts, of product category or sector and their ability to support the green transition of SMEs as compared to schemes referred to in paragraph 2. Member States shall take into account the potential for further development of the schemes referred to in paragraph 2 in terms of reviewing their requirements and widening of the scope of their application.
- (5) In order to receive approval referred to in paragraph 4, the party which initiates and leads the development of criteria for newly established private environmental labels shall produce supporting evidence and analysis setting out the following:
 - (a) rationale underlying the development of the scheme and the proposed scope, including compliance with the requirement set out in paragraph 4;
 - (b) a proposal for draft criteria and the methodology used to develop and award the label and the expected market impacts;
 - (c) detailed description of the scheme's governance in line with paragraph 1.

Those documents shall be subject to verification in line with Article 10 and, if compliant with the requirements of this Directive, shall be submitted together with the certificate issued in line with paragraph 3 of Article 10 for final approval to the competent authority. Member States shall set up a procedure for approval of environmental schemes referred to in paragraphs 4 and 5.

- (6) The Commission shall adopt implementing acts to provide details regarding the content of supporting analysis and a procedure for approval referred to in point 5 of the Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19.

Article 6

Requirements for comparative claims

- (1) Comparative environmental claims shall comply with the requirements laid down in Articles 3 and 4. In addition, the methodology should comply with the following requirements:
- (a) The methodology used for assessing the environmental impacts, aspect or performance of products or traders to which the comparison is made, shall be the same as the methodology used for the product or trader which is subject to the claim;
 - (b) Data used for the substantiation of the comparative claim shall be generated or sourced in an equivalent manner to ensure their comparability;
 - (c) The coverage of stages along the value chain is equivalent for the products and traders compared and ensures that the most significant stages are taken into account for all products and traders compared;
 - (d) The coverage of environmental impacts, aspects or performances is equivalent for the products and traders compared and ensures that the most significant environmental impacts, aspect or performances are taken into account for all products and traders compared;
 - (e) Assumptions used for the comparison are set consistent for the products and traders compared to avoid distorted and unreliable results.
- (2) Comparative environmental claims shall not relate to an improvement in terms of environmental impacts compared to a product from the same trader or a competitor that is no longer available on the market or the trader no longer sells to consumers, unless it is based on evidence proving that this improvement is significant and achieved in the last five years; the substantiation shall explain how the improvement communicated affects other relevant environmental aspects for the product or the trader; the baseline year shall be clearly stated.
- (3) Environmental claims on individual impact categories based on a PEFCR established in accordance with Article 9 and with the requirements of this Article are deemed to comply with Article 4(1) paragraphs (a) and (b).

Article 7

Requirements for environmental claims related to future environmental performance

- (1) In addition to the requirements set up by Articles 3 and 4 any environmental claim related to future environmental performance of a product or trader shall comply with the following requirements:
- (a) The claim shall be based on commitments backed by the highest management level of the trader making the claim;

- (b) The claim shall be accompanied by commitments that include milestones to be achieved within clearly specified time frames;
- (c) The information referred to in Article 4 (1) (d) shall include annual reporting on the achievement of the milestones, including on non-achieved commitments;
- (d) Environmental claims communicating an improvement of the product's or trader's environmental performance on individual relevant environmental aspects shall include the reference year and the indicators reflecting performance in the baseline year and the year linked to the improvement set out in the claim;
- (e) The claims shall not include actions or targets already achieved;
- (f) The substantiation of environmental claims communicating improvement of the product's or trader's performance regarding specific environmental impacts shall explain how the improvement communicated affects other relevant environmental impacts for the product or the trader.

Article 8

The review of the environmental claims

- (1) The substantiation of the environmental claims shall be reviewed and updated when there are circumstances that may affect the accuracy of the claim, in particular when there are updates of the scientific methodology substantiating the claim in line with Article 3(1). Otherwise, the accuracy of the environmental claim and its substantiation shall be reviewed in all cases not later than five years from the date of the underlying studies or calculations and of information covered by Article 4(1)(i). The review shall consist of:
 - (a) revising all the underlying studies or calculations and of information referred to in Article 4(1)(i),
 - (b) ensuring that the requirements of Article 3 are fully observed in light of the studies or calculations undertaken under point (a), and
 - (c) ensuring that the communication of the claim complies with Article 4, 6 and 7 of this Directive.

Chapter III

Supporting measures

Article 9

The establishment of a PEFCR or an OEFSR

- (1) The Commission may establish PEFCRs or OEFSRs by means of delegated acts. When establishing PEFCRs or OEFSRs the Commission shall use the state-of-the art and scientifically robust methods for measuring and communicating the life cycle environmental performance of products and organisations.

- (2) The delegated act shall be adopted in accordance with the procedure referred to in Article 18.
- (3) In case the Product Environmental Footprint method does not yet cover an environmental impact or aspect, which is relevant for a product category, the development of PEFCR for that product category will take place only once these new relevant environmental impacts or aspects have been added to those specified in the Commission Recommendation (EU) 2021/2279.

Chapter IV

Enforcement

Article 10

The verification of the substantiation of environmental claims and environmental labelling schemes

- (1) Member States shall set up procedures for verifying the substantiation of environmental claims put on the market and of the environmental labelling schemes as per Article 5.
- (2) The verification shall be undertaken by a verifier fulfilling the conditions of Article 11.
- (3) Upon completion of the verification the verifier shall draw up a certificate certifying that the substantiation of claims or the environmental labelling scheme complies with the requirements of this Directive.
- (4) The certificate shall be recognised by the competent authorities responsible for enforcement of this Directive across the Union. Member States shall make available the list of certificates via the Internal Market Information System established by Regulation (EU) No 1024/2012.
- (5) The Commission shall adopt implementing acts to provide details regarding the form of the certificate referred to in paragraph 3 and the technical means by which it is issued. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19.

Article 11

The verifier

- (1) The verifier shall be accredited by national accreditation bodies appointed by the Member States pursuant to Regulation (EC) No 765/2008.
- (2) In all cases, the verifier shall comply with the following requirements:
 - (a) The verifier shall be a third-party organisation independent of the product bearing, or trader associated to the environmental claim; and it shall be

independent of any and all business ties with organisations having an interest in those products or traders.

- (b) The verifier, its top-level management and the personnel responsible for carrying out the verification tasks shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to verification activities.
 - (c) The verifier and its personnel shall carry out the verification activities with the highest degree of professional integrity and the requisite technical competence and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their verification activities, especially as regards persons or groups of persons with an interest in the results of those activities.
 - (d) The verifier shall have the expertise, equipment and infrastructure required to perform the verification activities in relation to which it has been accredited;
 - (e) The verifier shall have a sufficient number of suitably qualified and experienced personnel responsible for carrying out the verification tasks;
 - (f) The personnel of a verifier shall observe professional secrecy with regard to all information obtained in carrying out the verification tasks.
 - (g) Where a verifier subcontracts specific tasks connected with verification or has recourse to a subsidiary, it shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established, including by assessing and monitoring of the qualifications of the subcontractor or the subsidiary and the work carried out by them.
- (3) The Commission shall adopt implementing acts to provide details of the requirements for verifiers as indicated in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19.

Article 12

Designation of competent authorities and coordination mechanism

- (1) Member States shall designate one or more competent authorities as responsible for the application and enforcement of this Directive.
- (2) Where there is more than one competent authority in their territory, Member States shall ensure that the respective duties of those authorities are clearly defined and that appropriate communication and coordination mechanisms are established to enable those authorities to collaborate closely and exercise their duties effectively.
- (3) Member States shall notify the Commission and other Member states without delay of the identity of the competent authorities in their Member State and areas of competence of those authorities.

Article 13

Powers of the competent authorities

- (1) Member States shall confer on their competent authorities the powers of investigation and enforcement necessary to ensure compliance with this Directive.

- (2) The powers conferred on competent authorities under paragraph 1 shall include at least the following:
- (a) the power of access to any relevant documents, data or information related to an infringement covered by this Directive, in any form or format and irrespective of their storage medium, or the place where, they are stored, and to take or obtain copies thereof, with the exemption of classified information;
 - (b) the power to require any natural person or legal person to provide any relevant information, data or documents, in any form or format and irrespective of their storage medium, or the place where they are stored, for the purposes of establishing whether an infringement covered by this Directive has occurred or is occurring, and for the purposes of establishing the details of such infringement with the exemption of classified information;
 - (c) the power to start investigations or proceedings on their own initiative to bring about the cessation or prohibition of infringements ;
 - (d) the power to require traders to take appropriate action to bring an infringement to an end.
 - (e) the power to impose penalties in accordance with Article 17.
- (3) Competent authorities may use any information, document, finding, statement, or any intelligence as evidence for the purpose of their investigations, irrespective of the format in which and medium on which they are stored with the exemption of classified information.

Article 14

Compliance monitoring measures

- (1) Competent authorities shall undertake regular checks of the environmental claims used on the EU market. The reports detailing the result of the checks shall be made available to the public.
- (2) Where the competent authorities of one Member State have sufficient reason to believe that an environmental claim presents a risk of infringement of this Directive they shall carry out an evaluation covering all relevant requirements laid down in this Directive.
- (3) Where, in the course of the evaluation referred to in the first subparagraph, the competent authorities find that the environmental claim does not comply with the requirements laid down in this Directive, they shall notify the trader making the claim about not complying with the present Directive. The respective trader shall answer within 10 working days from the notification. In case of absence of answer or not satisfactory answer, the competent authorities shall without delay require the relevant trader to take all appropriate corrective action to bring the claim into compliance with those requirements or to stop the communication of the non-compliant claim. Such action shall be as effective and rapid as possible, while complying with the principle of proportionality.
- (4) Without prejudice to the regime set up by Regulation (EU) 2017/2394, where the competent authorities consider that an infringement is not restricted to their national territory, they shall inform the other Member States of the results of the evaluation and of the actions which they have required the trader to take.

- (5) The Member States shall ensure that appropriate corrective actions are taken by the trader in respect of the non-compliant claim used throughout the Union market within 30 working days from the moment they received the request to take the measures.

Article 15

Complaint-handling and access to justice

- (1) Members of the public concerned (a) having a sufficient interest, or alternatively; (b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition, or legal persons shall be entitled to submit substantiated complaints to competent authorities when they deem, on the basis of objective circumstances, that an organisation is failing to comply with the provisions of this Directive.
- (2) Competent authorities shall diligently and impartially assess the substantiated concerns and take the necessary steps, including inspections and hearings of the organisation, with a view to verify those concerns. If confirmed, they shall take the necessary actions in line with Article 14.
- (3) Competent authorities shall, as soon as possible and in any case in accordance with the relevant provisions of national law, inform the natural or legal persons referred to in paragraph 1, which submitted observations to the authority, of its decision to accede to or refuse the request for action and shall provide the reasons for it.
- (4) Member States shall ensure that the natural or legal person as provided under paragraph (1) submitting substantiated concerns shall have access to a court or other independent and impartial public body competent to review the procedural and substantive legality of the decisions, acts or failure to act of the competent authority under this Directive.
- (5) Any such procedure shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive.
- (6) This Directive shall be without prejudice to any provisions of national law which require that administrative review procedures be exhausted prior to recourse to judicial proceedings.

Article 16

Courts and administrative authorities

Without prejudice to already available powers under national procedural law, Member States shall confer upon the courts or administrative authorities powers enabling them in the civil or administrative proceedings provided for in Article 17:

- (a) to require the organisation to furnish evidence as to the accuracy of its environmental claim; and
- (b) to consider environmental claims as inaccurate if the evidence demanded in accordance with (a) is not furnished or is deemed insufficient by the court or administrative authority.

Article 17

Penalties

- (1) Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.
- (2) When determining the type and level of penalties to be imposed in case of infringements, the competent authorities of the Member States shall give due regard to the following:
 - (a) the nature, gravity, extent and duration of the infringement;
 - (b) the intentional or negligent character of the infringement, where applicable;
 - (c) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;
 - (d) the economic benefits derived from the infringement by those responsible, in order to ensure that those responsible are deprived of those benefits;
 - (e) any previous infringements by the natural or legal person held responsible;
 - (f) any other aggravating or mitigating factor applicable to the circumstances of the case.

Chapter V

Final provisions

Article 18

Exercise of the delegation

- (1) The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
- (2) The power to adopt delegated acts as referred to in Article 3(7) and Article 5(2) shall be conferred on the Commission for a period of five years from DD/MM/YY. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
- (3) The delegation of power referred to in Article 3(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- (4) Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
- (5) As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
- (6) A delegated act adopted pursuant to Article 3(7) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

Article 19

Committee procedure

- (1) The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
- (2) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission

shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

Article 20

Evaluation and review

- (1) By [*six years after the date of entry into force of this Directive*], the Commission shall carry out an evaluation of this Directive in light of the objectives that it pursues and present a report on the main findings to the European Parliament and the Council [, the European Economic and Social Committee, and the Committee of the Regions].
- (2) The report shall assess whether this Directive achieved its objective, in particular with regard to:
 - (a) ensuring that claims made about the environmental performance of a product or trader are based on reliable, comparable and verifiable information;
 - (b) ensuring that environment labelling schemes other than those referred to in Article 5(2) are based on certification schemes and meet the relevant requirements of Article 5;
 - (c) ensuring that environmental labelling schemes, other than those referred to in Article 5(2) but concerning products or traders already covered by these schemes, are established only if these schemes and the underlying substantiation provide added value as compared to the existing schemes.
 - (d) clarifying rules for making environmental claims on the EU market, and avoiding duplication of costs when making claims;
 - (e) strengthening the functioning of the internal market;
 - (f) unlocking opportunities for the circular, bio and green economy. To this end the report shall assess the appropriateness and feasibility of making the use of Environmental Footprint methods mandatory.
- (3) Member States shall provide the Commission with the information necessary for the preparation of that report.
- (4) Where appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Directive.

Article 21

Monitoring

- (1) Member States shall regularly monitor the application of the Directive based on the following indicators:
 - (a) An overview of environmental claims and of the environmental labelling schemes which have been notified to enforcement authorities;
 - (b) An overview of environmental claims and environmental labelling schemes with regard to whom enforcement authorities have required the trader responsible to take corrective action, as laid out in Article 14, and, if applicable, have taken enforcement measures in line with Article 15.

- (2) The information above shall include an identification of the claim or labelling scheme; the nature of the infringement alleged; and the nature and duration of the corrective action and, if applicable, of the enforcement measure taken.
- (3) Member States shall supply this information to the Commission on an annual basis.
- (4) The European Environmental Agency shall publish, every two years, a report containing an assessment of the evolution as regards environmental claims and environmental labelling schemes in each Member State and for the Union as a whole.

Article 22

Amendments to Regulation (EU) 2017/2394

- (1) In the Annex to Regulation (EU) 2017/2394, the following point is added:
'29. Directive (EU) ... of the European Parliament and of the Council of ... on green claims ([OJ L ..., date, page](#)), only when the environmental claim is addressed to consumers as defined in point (12) of Article 3 of that Regulation.'

Article 23

Amendment to Regulation (EU) 1024/2012

- (1) In the Annex to Regulation (EU) 1024/2012, the following point is added:
'16. Directive (EU) ... of the European Parliament and of the Council of ... on green claims ([OJ L ..., date, page: Articles 13\(3\) and 15](#))'.

Article 24

Amendment to Directive (EU) 2020/1828

- (1) In the Annex I to Directive (EU) 2020/1828, the following point is added:
'(67) Directive (EU) ... of the European Parliament and of the Council of ... on green claims ([OJ L ..., date, page](#)).

Article 25

Transposition

- (1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
- (2) Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 26

Entry into force

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*. This directive shall apply as from... [*the provisions on verification may need to apply 6 months earlier than other provisions to allow the economic operators to prepare*].

Article 27

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned

1.3. The proposal/initiative relates to:

1.4. Objective(s)

1.4.1. General objective(s)

1.4.2. Specific objective(s)

1.4.3. Expected result(s) and impact

1.4.4. Indicators of performance

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

1.5.3. Lessons learned from similar experiences in the past

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

1.5.5. Assessment of the different available financing options, including scope for redeployment

1.6. Duration and financial impact of the proposal/initiative

1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

3.2.2. Estimated output funded with operational appropriations

3.2.3. Summary of estimated impact on administrative appropriations

3.2.4. Compatibility with the current multiannual financial framework

3.2.5. Third-party contributions

3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT for the CIRCULAR ECONOMY PACKAGE

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Circular Economy package:

This financial legislative statement concerns the following proposals:

- **Green Claims:** proposal for a Directive of the European Parliament and of the Council on substantiation of green claims;
- **Packaging and packaging waste:** Proposal for a Regulation of the European Parliament and of the Council on packaging and packaging waste replacing and repealing Directive 1994/62/EC of the European Parliament and of the Council;
- **Carbon removal:** [Proposal for a Regulation of the European Parliament and of the Council establishing a Union regulatory framework for the certification of carbon removals.](#)

1.2. Policy area(s) concerned

[09 - Environment & Climate Change](#)⁸¹

1.3. The proposal/initiative relates to:

- ☒ **a new action**
- ☐ **a new action following a pilot project/preparatory action**⁸²
- ☒ **the extension of an existing action**
- ☐ **a merger or redirection of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objectives

Green claims:

The objective of this initiative is to set out the first EU detailed rules on voluntary green claims, applicable to all companies operating in the European Union. It will contribute to creating a circular, clean and green EU economy by enabling consumers to take informed purchasing decisions, and will help create a level-playing field for market operators making green claims.

Packaging and packaging waste:

The general objective of the legislative proposal is to reduce negative environmental impacts of packaging and packaging waste and improve the functioning of the internal market, thus boosting efficiency gains in the sector. The aim is to create a resilient value chain, starting from the design of the packaging till its re-use or -

⁸¹ For the Green Claims, the legal basis of the initiative is the Single Market but budgetary resources come from 09 – Environment and Climate Action.

⁸² As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

integration in high quality products, thus creating innovative, “green” jobs in a low carbon packaging industry.

Carbon removal:

To set up a EU-wide regulatory framework for certifying high quality carbon removals, with the view to support the scale up of carbon removal activities and contribute towards climate neutrality by 2050. This Regulation will help support the deployment at scale of carbon removals with the view to achieve the 2050 climate neutrality objective set in the European Climate Law and the environmental objectives of the European Green Deal.

1.4.2. *Specific objectives*

Green claims:

1. Ensure that environmental claims on products and organisations are based on reliable, comparable and verifiable information;
2. Achieve clarity on rules for making environmental claims on the internal market.

Packaging and packaging waste:

1. Reduce the generation of packaging waste;
2. Promote a circular economy for packaging in a cost-efficient way;
3. Promote the uptake of recycled content in packaging.

Carbon removal:

1. Set out four quality criteria (under the acronym **QU.A.L.ITY**): **QU**antification, **A**dditionality and baselines, **L**ong-term storage, and **sustainaBILITY** in order to identify and certify high quality carbon removals generated in the EU.
2. Develop a number of specific certification methodologies that are tailored to each type of carbon removals, while being aligned with the four **QU.A.L.ITY** criteria.
3. Increase the public trust in carbon removals by ensuring the transparency and robustness of the certification process and of the certification schemes recognised by the Commission, and of registries of carbon removals.

1.4.3. *Expected result(s) and impact*

Green claims:

By reaching the specific objectives, more market operators would be able to integrate reliable, comparable and verifiable environmental information into their decision-making (e.g. purchasing decisions, choice of suppliers or co-operation with suppliers and business partners, product design, procurement choices).

Consumers would be able to trust the environmental claims on the products they buy, enabling them to integrate environmental considerations more systematically in their purchasing decisions.

This would trigger more demand for greener products and solutions, driving growth in green markets. It would unlock opportunities in the supply chain for more

efficiency and better environmental performance. This would then contribute to the general objective of unlocking opportunities for the circular and green economy. Establishing an EU approach to environmental claims would address the general objective of strengthening the functioning of the internal market, specifically of green markets.

A common EU approach answering the objective of reliability, comparability and verifiability would make it easier for enforcers to check claims, further enhancing their effect. This would further strengthen drivers for better environmental performance of products and organisations, contributing to European Green Deal objectives.

Packaging and packaging waste:

The modelling of the preferred option suggests for 2030 a reduction of waste generation, reduction in GHG, and environmental externalities avoided.

Reduced waste management costs and reduced sales and consumption of packaging result in overall economic savings. The complex impacts on employment are estimated to result in a slight net increase of about 29.000 “green” jobs.

The preferred option results in a decrease in fossil fuel needs and increases the overall packaging recycling rate by 6.5% in 2030, whereas landfill is decreased by 9%. This push for circularity results in significantly reduced needs of virgin raw materials such as wood, glass and aluminium.

Overall, moving towards a more circular economy within packaging would deliver benefits such as empowering consumers, reducing negative impacts on the environment and human health, reducing the EU’s import dependency for raw materials and fossil fuel, stimulating innovation and boosting economic growth, and finally reducing unnecessary household expenditures.

Carbon removal:

The most important impact of the adoption of the proposed Regulation will be an increase in high quality carbon removals and contributing towards climate neutrality in 2050. The proposed Regulation affects economic operators such as farmers but also industrial companies that will develop carbon removal projects on the ground; Member States authorities, who may develop national certification schemes to verify operator’s compliance with the EU quality criteria for carbon removals. More in general, the proposed Regulation affects all European and world citizens, as climate action is a public good that is cross-border in nature.

1.4.4. Indicators of performance

Green claims:

1. Environmental claims on products and companies are reliable, comparable and verifiable: increasing share of reliable environmental claims, and correspondingly decreasing share of misleading environmental claims monitored through:

o Number of environmental claims that respect (or not) the requirements of the green claims initiative;

- o Effective implementation of the green claims initiative;
 - o Share of national authorities that believe GCI has made it easier to address greenwashing.
- 2. Users of information trust environmental information:** increasing trust of users of information (consumers, businesses, investors, public administrations and NGOs) in environmental claims monitored through:
- o Level of consumer trust in environmental claims;
 - o Level of consumer trust in sustainability labels;
 - o Level of trust of other users of information (businesses, investors, public administrations, NGOs) in environmental claims in scope.
- 3. Environmental performance of products and organisations improves:** positive evolution of benchmark values in Product Environmental Footprint Category Rules (PEFCRs) and Product Environmental Footprint (PEF) and Organization Environmental Footprint (OEF) profile results showing a trend that products and organisations are becoming greener; decreasing consumption footprint of EU (as per the [consumption footprint indicator developed by JRC](#)), covering all 16 environmental impacts of the Environmental Footprint methods. This will be monitored by the following indicators:
- o Evolution of benchmark values in PEFCRs;
 - o Evolution of EF profile results on PEF and OEF over time;
 - o Evolution of consumption footprint in the EU.
- 4. Obstacles on green markets are reduced:** obstacles related to complying with multiple methods and to provide environmental information are reduced. This will be monitored by the following indicators:
- o Perception of businesses on the internal market of green products.

Packaging and packaging waste:

The indicators of progress and achievement of the objectives will be:

- Increased quality of recyclates (secondary raw materials)
- Improved recycling efficiencies and higher material recovery for packaging materials (e.g. plastic, metal, glass, paper/cardboard, textile, wood, ceramics...);
- All packaging will be fully recyclable by 2030;
- Extended Responsibility Schemes fees are properly modulated;
- Mandatory targets for recycled content for plastic packaging;
- Reuse and refill targets for certain sectors.

Carbon removal:

Indicator #1: number of certification methodologies for carbon removal activities, particularly for carbon farming, developed by the Commission.

Indicator #2: number of carbon removal activities certified under the EU certification framework and thus generating high quality carbon removals that contribute to the 2050 climate neutrality goal.

Indicator #3: amount of carbon removals certified under the EU certification framework by type of carbon removal activities, including industrial removals and carbon farming activities.

1.5. Grounds for the proposals / initiatives

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

Green claims:

Short-term requirements

The Member States will have two years to transpose the Directive. This proposal is closely linked with the review of Unfair Commercial Practices Directive, proposed by the Commission in March 2022, and it is expected that the two Directives may be transposed jointly.

In addition to the transposition of the rules on substantiation and communication of environmental claims, the Member States will have to set up a procedure for verifying the substantiation of environmental claims on products/organisations put on the market, designate competent authorities and coordination mechanism.

The proposal foresees that voluntary environmental claims have to be substantiated either based on Environmental Footprint methods or equivalent methodologies that meet specific standards set out in Article 4 and 5. In cases where PEFCR/OEFSRs exist, the economic operators will be able to make specific claims on individual environmental impacts on their basis due to presumption of conformity with some key requirements (as set out in Article 9). In other cases, the economic operators will be obliged to first ensure the conformity of the methodology to substantiate, communicate and verify the claims with the requirements of the Directive as transposed by the Member States.

In support of the implementation of this Directive, and shortly after its entry into force, the Commission will adopt an implementing act to provide details regarding the form of certificate to be issued by the verifier of environmental claims as per Article 12.

Five years after the date of entry into force of this Directive, the Commission shall carry out an evaluation of this Directive in light of the objectives that it pursues and present a report on the main findings and where appropriate a legislative proposal for amendment of the relevant provisions of this Directive.

Ongoing requirements

The competent authorities will be obliged to undertake regular checks of the environmental claims used on the EU market.

The Member States will be obliged to regularly monitor the application of the Directive based on an overview of environmental claims which have been notified to enforcement authorities; an overview of environmental claims with regard to whom enforcement authorities have required the organisation responsible to take corrective action, and, if applicable, have taken enforcement measures. Member States will supply this information to the Commission on an annual basis.

The Commission will be empowered to adopt implementing acts establishing new PEFCRs or OEFSRs. This will be an ongoing process to develop further the EF methods.

The Commission will also be empowered to adopt delegated acts to supplement the requirements for specific environmental claims in line with Article 4(7).

Packaging and packaging waste:

The detailed requirements would need to be adopted through implementing/delegated acts in a time horizon of 3-8 years. A series of actions in terms of mandates, delegated or implementing decisions and impact assessment reports will stem from this proposed regulation. These will cover verification of compliance with sustainability requirements, conformity checking system, sustainability requirements, as well as information and labelling. A detailed list of these envisaged actions is provided below:

- Amend reporting obligations;
- Develop a Delegated Act on establishing design for recycling requirements for certain packaging categories and establishing harmonised rules of reporting to extended reporting responsibility schemes;
- Develop a Delegated Act on harmonised calculation and verification rules for the recycled content in packaging;
- Develop a Delegated Act on harmonisation rules for the labelling requirements and formats for consumer sorting, reusable packaging, recycled content, compostable and possibly a QR code;
- Develop a Delegated Act on packaging minimisation to amend the performance criteria and minimisation documentation of packaging;
- Develop an Implementing Act on deposit return scheme (DRS) to establish methodology for the calculation and verification of collection rates under DRS;
- Develop an Implementing Act on reporting formats to amend the Commission Implementing Decision (EU) 2018/896 and Commission Decision 2005/270/EC to introduce additional reporting of annual consumption of various types of plastic bags and reporting formats to the Commission;
- Develop a Delegated Act on restrictions on substances of concern in packaging;
- Develop an Implementing Act on Extended Responsibility Schemes (EPR) to establish harmonised rules of reporting to the EPR schemes.

Carbon removal:

In 2021, the EU increased its climate ambition through Regulation (EU) 2021/1119 (the European Climate Law). This law establishes a binding overall net greenhouse gas (GHG) reduction target of at least 55% by 2030 compared to 1990 and climate neutrality by 2050. The March 2020 Circular Economy Action Plan has announced that the Commission will develop an effective regulatory framework for the certification of carbon removals to incentivise the uptake of carbon removal and to

increase circularity of carbon, in full respect of the biodiversity objectives. This proposal delivers on the above-mentioned policy commitment.

During the start-up phase (2024-2025): in close consultation with the relevant expert group, the Commission will prepare at least three delegated acts setting out the certification methodologies for carbon removal activities in the area of permanent storage, carbon storage products, and carbon farming. These methodologies will need to be updated on a regular basis. In addition, for the relevant Committee approval, the Commission will need to prepare two implementing acts setting out the rules for the operation of certification schemes and their assessment and recognition by the Commission, and for the set up and operation of public registries of carbon removals.

During the full-scale operational phase (2025-and later): in close consultation with stakeholders and the relevant regulatory Committee, the Commission will carry out the assessment of a number of certification schemes and recognise those compliant with the EU regulatory framework through specific Commission decisions. [The Commission will also need to develop a number of certification methodologies. In addition, the Commission will need to develop a policy on carbon removals for period after 2030.](#)

- 1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Green claims:

It is essential to ensure a level playing field for economic operators in terms of requirements to be met when making an environmental claim, including the requirements on the methodology to be used, by putting in place a common set of rules within the EU internal market.

Based on the status quo, and if Member States were to act individually, there is a high risk to end up with many competing different systems, based on different and uncomparable methods and approaches, leading to a fragmented internal market, especially for cross-border products traded on the internal market, increasing the risk of having uneven awareness and information levels on the environmental performance of products and organisations across EU, and additional costs for companies trading cross-border (especially if they have to use different methods or comply with different labelling schemes).

In the absence of EU-level action, the market operators will continue to be faced with misleading information on environmental aspects, while obstacles on the internal market would impede businesses to operate in equivalent conditions. In addition, certain aspects, like the development of methods to underpin specific claims and the establishment of related databases (if needed) cannot be achieved at national level, given their scope in terms of coverage of products, sectors or geographical regions.

There is a clear added value in setting common requirements at EU level, because a harmonised and well-functioning internal EU market would set a level playing field for businesses operating in the EU.

It is expected that following the action at EU level Member States will be prevented from introducing unilaterally specific measures and the Directive will to reduce the

risk of legal fragmentation of the single market and will bring cost savings for governments and the private sector.

Packaging and packaging waste:

Recent internal market notifications from the Member States show that the implementation of some not-fully-harmonised provisions of the Directive, such as labelling requirements, or vague requirements, such as essential requirements on packaging minimisation or recyclability, are causing additional cost to the economic operators. These are strongly calling for further harmonisation not only to be able to work more cost efficient, but also to overcome regulatory uncertainty about the environmental requirements for packaging, so that appropriate infrastructure investments can be made.

The problems cannot be sufficiently addressed by the Member States alone. The EU packaging market is in many respects one large market, rather than 27 individual markets. The packaging market is characterised by high-levels of cross-border trade between Member States, with many producers placing packaging on the market in multiple Member States. National initiatives could perhaps bring certain benefits but would inevitably contribute to further fragmentation of the internal market. Similarly, the packaging-related environmental concerns are widespread, with key underlying causes being common across all Member States.

There is clear added value in setting common requirements at EU level, as this will ensure a harmonised and well-functioning internal market across all Member States and, therefore, a level playing field for packaging producers. With requirements and targets set at EU level, the move towards packaging being reusable or recyclable in an economically viable manner will take place in a coherent way in all Member States, creating a larger and more efficient market. Harnessing its strength to support the move towards a circular economy for packaging will support the achievement of targets in a more cost-effective way.

Economies of scale will be achieved through consistent approaches to, for example, influencing packaging design in such a way that packaging can be more cost-efficiently collected, sorted and recycled everywhere in the EU. Member State action alone could not achieve such harmonisation and thus economies of scale.

Carbon removal:

Climate change is a trans-boundary problem. Its effects are global, irrespective of the location of e.g. sources of greenhouse gas emissions. Therefore, these challenges cannot be solved by national or local action alone, since individual action is unlikely to lead to optimal outcomes. Coordination at the European level enhances climate action and can supplement and reinforce national and local action effectively; EU action is justified on grounds of subsidiarity, in line with Article 191 of the Treaty on the Functioning of the European Union.

A European framework would be more appropriate than national initiatives in addressing the difficulty to assess the quality of carbon removals. Such framework would create a level-playing field and a fair internal market for the certification of carbon removals, enhancing comparability and trust. A patchwork of national initiatives in this area would only exacerbate the problem rather than solving it.

1.5.3. *Lessons learned from similar experiences in the past*

Green claims:

This is a new initiative however, as shown by the 2013-2018 Environmental Footprint pilot phase, the role that EU can play in mainstreaming the development of environmental footprint methods is essential. In particular the positive response and wide support from businesses highlight cost savings at micro level and further need for harmonised rules at EU and international level.

Packaging and packaging waste:

A number of related initiatives are very important for packaging: The Waste Framework Directive (WFD) establishes horizontally applicable concepts related to waste generation and waste management, including waste treatment, recycling and recovery. It creates the waste hierarchy, giving priority to waste prevention over reuse and/or recycling, subsequently recycling over other recovery options and final disposal via landfilling. Further, it obliges Member States to have in place functioning Extended Producer's Responsibility (EPR) schemes, which ensure that producers of products bear responsibility for the management of the waste stage of their products. In the Circular Economy Action plan (CEAP), the Commission committed to assess feasibility of harmonising the separate waste collection systems in the Member States.

The Single-Use Plastic Directive (SUPD) focusses -amongst other plastic products- also on certain plastic packaging (e.g. carrier bags, beverages cups, food and beverage containers including bottles) with the main purpose to prevent littering and its environmental impact. It contains product bans, the obligation for Member States to ensure the separate collection for recycling and to reduce the volume of certain groups of single use plastics. Finally, it established minimum recycled content targets for single use plastic beverage bottles.

Another legal act with respect to plastic packaging is the 2020 Own Resource Decision (ORD), which established an own resource based on plastic packaging waste not recycled in a specific Member States, irrespective whether this Member States meets the target or not. The ORD creates an incentive for Member States to put in place measures in the pursuit of high recycling rates for plastic packaging. It gives flexibility to the Member States in deciding on their efforts to have high plastic recycling rates in line with the WFD.

However, the Packaging and Packaging Waste Directive (PPWD) is the main EU-level instrument dealing with placing on the market of packaging and requirements for its end-of life. There are also provisions on packaging or relevant to it in other EU legislation. Therefore, the revision of the PPWD is rather comprehensive dealing with packaging waste prevention, packaging recyclability, bio-based, compostable and bio-degradable packaging, use of recycled content and hazardous substances in packaging, as well as enabling measures, such as labelling for separate collection, packaging related green public procurement requirements and EPR requirements.

Carbon removal:

While the proposed Regulation establishes a new EU-wide certification framework for high quality carbon removals, it builds on the following existing experience at EU level:

- Under the Innovation Fund⁸³, the Commission⁸⁴ has developed detailed a number of EU methodologies for the quantification of GHG emission avoidance of industrial activities, including carbon removal activities such as bioenergy-based CCS (BECCS) and Direct Air Carbon Capture and Storage (DACCS) projects. Furthermore, the Implementing Regulation (EU) 2018/2066⁸⁵ sets out detailed rules on monitoring and reporting of GHG emissions under the ETS.

- Under the EU Renewable Energy Directive (RED), the Commission has gained nearly 15 years of experience in the certification of sustainability criteria for bioenergy. These EU criteria are implemented by around 15 public or private certification schemes (called voluntary schemes) that have been recognized by the Commission. Under RED, the Commission has recently adopted an implementing act setting detailed rules for the certification process carried out by certification bodies and controlled by certification schemes.

1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The initiatives fall under the umbrella of the European Green Deal, which guides the EU's recovery strategy. The Green Deal recognises the advantages of investing in our competitive sustainability by building a fairer, greener and more digital Europe. This includes circular economy, which is the main driver of increasing material recovery and improving quality of secondary raw materials.

The initiatives are financed under Heading 3 (Natural Resources and the Environment), Title 9 (Environment and Climate Action) of the Multiannual Financial Framework. As detailed below, the implementation will require additional human resources, spending under the LIFE programme and some supporting expenditure in the EEA. The corresponding increase of the subsidy to the agencies will be offset from the EU programme for the environment and climate action (LIFE) 2021–2027.

More specifically, the linkages with other instruments are:

Green claims:

Other policy areas would provide support to businesses for implementing the PEFCRs/OEFSRs, in particular EU funding provided on innovation and investments to businesses. The European Regional Development Fund, through smart specialisation, LIFE and Horizon Europe complements private innovation funding and support the whole innovation cycle with the aim to bring solutions to the market. The Digital Europe Programme is expected to launch by end 2022 an 18-month long Concerted Action to propose and agree with relevant stakeholders the design and prototypes of the digital product passport in three sectors, including requirements for

⁸³ Innovation Fund, https://climate.ec.europa.eu/eu-action/funding-climate-action/innovation-fund_en

⁸⁴ Call for proposals Annex C: Methodology for calculation of GHG emission avoidance https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/innovfund/wp-call/call-annex_c_innovfund-lsc-2020-two-stage_en.pdf

⁸⁵ Commission Implementing Regulation (EU) 2018/2066, https://eur-lex.europa.eu/eli/reg_impl/2018/2066/oj

cross-sectoral interoperability. The Innovation Fund is one of the world's largest funding programmes for the demonstration of innovative low-carbon technologies and solutions. It will provide around EUR 10 billion of support over 2020-2030, aiming to bring to the market industrial solutions to decarbonise Europe and support its transition to climate neutrality.

Packaging and packaging waste:

The support and commitment of the European Commission in the research in the field of circular economy and in particular of better design of packaging and improving material recovery is expressed by the number of projects funded under the H2020 programme (over to 100 projects) and the financial contribution to their implementation (around 500 Million Euros). The results of these projects will support and promote circularity and recyclability of packaging formats.

Carbon removal:

The March 2020 Circular Economy Action Plan has announced that the Commission will develop an effective regulatory framework for the certification of carbon removals to incentivise the uptake of carbon removal and to increase circularity of carbon, in full respect of the biodiversity objectives. This legislative proposal is complementary to the climate and energy proposals made in the Fit-for-55 legislative package, particularly the LULUCF regulation and the revised Renewable Energy Directive.

There are equally strong interlinkages with other Commission initiatives on improving the resilience of the EU's forests to climate change, restoring degraded land and ecosystems, rewetting peatlands and promoting the bio-economy, including the use of durable harvested wood products, in full respect of ecological principles fostering biodiversity:

- a) EU Biodiversity Strategy for 2030;
- b) Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system;
- c) EU Forest Strategy;
- d) EU Nature Restoration Plan;
- e) EU Strategy on Adaptation to Climate Change;
- h) A sustainable Bioeconomy for Europe;
- i) Circular Economy Action Plan for a cleaner and more competitive Europe;
- j) Zero Pollution Action Plan;
- k) A long-term Vision for the EU's Rural Areas;

In addition, the proposed Regulation presents synergies with other EU policies that cover land-related activities, mainly the Common Agricultural Policy.

1.5.5. Assessment of the different available financing options, including scope for redeployment

Green claims:

In light of the magnitude of the costs for implementing the initiative, several options were assessed. These include coverage by ENV services only with a mix of procuring services for datasets, to exploring cooperation with other services and agencies. The best option retained combines a contribution from RTD to seek funding of data acquisition calls based on their funding programme, and a contribution to the EEA to seek expertise from their staff.

Packaging and packaging waste:

In theory, national legislations in Member States could have been established. However, there would have been no guarantee of consistent application across the EU and would inevitably contribute to further fragmentation of the internal market.

Tasks related to development of legislation at the EU level cannot be externalised.

Carbon removal:

Considering the current staff and financial constraints put on the Commission, DG CLIMA has exhausted its internal redeployment possibilities and optimised its resources as much as it could, hiring contractual agents and intramuros to fill in the lack in staff. Nevertheless, even with many of the (more technical, scientific) tasks outplaced to external contractors, adequate staffing is crucial to keep our ability to meet our obligations and implement the additional tasks put in this legislative proposal for a Regulation on carbon removal certification.

1.6. Duration and financial impact of the proposal/initiative

☐ limited duration

- ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

☒ unlimited duration

- Implementation with a start-up period from 2024 to 2027 (green claims), 2023 to 2027 (packaging and packaging waste), mid-2024 to end of 2025 (carbon removal)
- followed by full-scale operation.

1.7. Management mode(s) planned⁸⁶

☒ Direct management by the Commission

- ☒ by its departments, including by its staff in the Union delegations;
- ☐ by the executive agencies

☐ Shared management with the Member States

☒ Indirect management by entrusting budget implementation tasks to:

- ☐ third countries or the bodies they have designated;
- ☐ international organisations and their agencies (to be specified);
- ☐ the EIB and the European Investment Fund;
- ☒ bodies referred to in Articles 70 and 71 of the Financial Regulation;
- ☐ public law bodies;
- ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

⁸⁶

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The initiatives involve procurement, administrative arrangement with the JRC, increase of the contribution to the EEA and impact on the COM HR. Standard rules for this type of expenditure apply.

2.2. Management and control system(s)

2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

N/A – cf. above.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

N/A – cf. above.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

N/A – cf. above.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

N/A – cf. above.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. ⁸⁷	from EFTA countries ⁸⁸	from candidate countries ⁸⁹	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1	03 02 05 Single Market Programme — Producing and disseminating high quality statistics on Europe	Diff.	NO	NO	NO	NO
3	09 02 02 Circular Economy and quality of life	Diff.	YES	NO	/NO	NO
3	09 02 03 Climate change mitigation and adaptation	Diff.	YES	NO	/NO	NO
3	09 10 02 European Environment Agency	Diff.	YES	YES	NO	NO
7	20 01 02 01 – Remuneration and allowances	Non-diff.	NO	NO	NO	NO
7	20 02 01 01 Contract staff	Non-diff.	NO	NO	NO	NO
7	20 02 01 03 – National civil servants temporarily assigned to the institution	Non-diff.	NO	NO	NO	NO
7	20 02 06 01 - Mission and representation expenses	Non-diff.	NO	NO	NO	NO
7	20 02 06 02 – Meetings, expert groups	Non-	NO	NO	NO	NO

⁸⁷ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

⁸⁸ EFTA: European Free Trade Association.

⁸⁹ Candidate countries and, where applicable, potential candidates from the Western Balkans.

		diff.				
7	20 02 06 03 – Meetings of committees	Non-diff.	NO	NO	NO	NO

- New budget lines requested

N/A

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

Heading of multiannual financial framework			1	Single market, innovation and digital					
DG: ESTAT			2023	2024	2025	2026	2027 and beyond	TOTAL	
	O Operational appropriations								
	03 02 05 Single Market Programme — Producing and disseminating high quality statistics on Europe	Commitments	(1)	0.090	0.090	0.090	0.125	0.140	0.535
		Payments	(2)	0.090	0.090	0.090	0.125	0.140	0.535
TOTAL appropriations for DG ESTAT	Commitments	=(1)	0.090	0.090	0.090	0.125	0.140	0.535	
	Payments	=(2)	0.090	0.090	0.090	0.125	0.140	0.535	

In order to support the data collection in the area of packaging and packaging waste, service contracts for methodology and validation are needed, increasing in volume in 2026 and 2027 because of the new reporting obligation. The expected result of these actions is an increase in data quality which will not only benefit packaging and packaging waste and plastic carrier bags, but also the plastic own resource

Heading of multiannual financial framework	3	Natural resources and environment
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DG: ENV			2023	2024	2025	2026	2027 and beyond	TOTAL
O Operational appropriations								
09 02 02 Circular Economy and quality of life	Commitments	(1)	6,040	1,870	5,464	3,094	5,614	22,082
	Payments	(2)	6,040	1,870	5,464	3,094	5,614	22,082
TOTAL appropriations for DG ENV	Commitments	= (1)	6,040	1,870	5,464	3,094	5,614	22,082
	Payments	= (2)	6,040	1,870	5,464	3,094	5,614	22,082

Green claims:

The amount reported above will be needed to finance, for the green claims initiative:

- The acquisition of the core secondary EF datasets (owned by the EC) and the long-term user rights of the non-core datasets on ILCDN, the acquisition and development of possible data gaps, the development costs of an IT platform for the EF database as well as the maintenance of the database for the period 2026-2027 (EUR 10,095 million).
- The procurement of studies and surveys regarding the use of PEF/OEF studies by stakeholders, the analysis of the evolution of the EF profile results and the evaluation of the Directive on Green Claims (EUR 0,150 million)
- JRC will play a key role in supporting the Commission with some of the technical work required. The Administrative Arrangement is expected to represent a cost around EUR 1,700 millions
- The development and update of PEF/CRs/OEF/FSRs will be also an important expenditure. This budget line accounts for the development/update of 6 PEF/CRs/OEF/FSRs which costs are specified in section budgetary implications (EUR 6,827 million)

- Flanking measures to help SMEs to adapt to this directive, including the development of calculation tools based on PEFCRs/OEFSTRs (EUR 1,210 million)

Packaging and packaging waste:

DG ENV costs stem from procurement needs for data collection and analysis on recyclability of packaging types, establishing a methodology for recycled content in plastic packaging etc. (estimated 2.1 million EUR for the period 2023-2027).

DG: CLIMA				Y ear 2024	Y ear 2025	Y ear 2026	Y ear 2027	TOTAL
O Operational appropriations								
09 02 03	Commitments	(1)	3.000	2.000	-	-	5.000	
	Payments	(2)	1.000	2.000	2.000	-	5.000	
TOTAL appropriations for DG CLIMA	Commitments	=1	3.000	2.000			5.000	
	Payments	=2	1.000	2.000	2.000	-	5.000	

Article 5 of the proposed Regulation on carbon removal requires the Commission to develop detailed certification methodologies to ensure an harmonised implementation of the quality criteria, including correct quantification of the carbon removal benefit. To prepare these highly technical and complex methodologies, the Commission will need to be assisted by a number of technical assistance contracts for a total amount of 5 million over the 2024-2027 period.

Agency: EEA				2024	2025	2026	2027	TOTAL
Title I: Staff expenditure		Commitments	(1a)	0,276	0,680	0,694	0,707	2,357

	Payments	(2a)	0,276	0,680	0,694	0,707	2,357
Title 2: Infrastructure	Commitments	(1b)					
	Payments	(2b)					
Title 3: Operational expenditure	Commitments	(1c)	0,030	0,065	0,065	0,065	0,225
	Payments	(2c)	0,030	0,065	0,065	0,065	0,225
TOTAL appropriations for agency EEA	Commitments	=1a+1b+1c	0,306	0,745	0,759	0,772	2,582
	Payments	=2a+2b+2c	0,306	0,745	0,759	0,772	2,582

EEA costs include costs for 5 additional FTE (1 TA and 4 CA), as well as operational expenditure, for the purpose of:

- For the Green Claims initiative, the monitoring of the environmental claims put on the EU market following the implementation of the directive requires an involvement of the European Environmental Agency as per Article 20(4). The Agency will be tasked with a detailed analysis of information reported by the Member States as per Article 20(1) – (3) and publish reports every two years with the assessment of the evolution of green claims across the EU. This estimate includes most evidence for the biannual reports to be compiled by the Member States and reported to the European level via questionnaires. EEA will propose these questionnaires in agreement with DG ENV and enable them by means of a standard electronic tool. The information reported by the Member States will be a combination of statistics around claims in their national markets and qualitative description of the nature of false claims and corrective actions implemented. **1 TA and 1 CA** are estimated to be needed. The tasks of these staff will be of permanent nature to report from countries and produce the analytical report every two years as well as supporting tasks that are necessary in the background (administration, communication, IT development, business support, etc.)
- Additional EEA resources (**3 CA**) are required given the enlarged scope of the EU policy on carbon removals resulting from the proposed Regulation on the certification of carbon removals. New tasks include:
 - Support to prepare and develop a number of detailed certification methodologies for demonstrating compliance with EU quality criteria for carbon removals, as set out in article 8 of the proposed Regulation;
 - Data gathering on monitoring, reporting and verification for a number of carbon farming activities, related to wetland rewetting, crop management and afforestation/reforestation initiatives;
 - Support to ensure the linkages between registries of the certification schemes and the national GHG inventories.

O TOTAL operational appropriations			2023	2024	2025	2026	2027	TOTAL
	Commitments	(4)	6,130	5,266	8,299	3,978	6,526	30,199
	Payments	(5)	6,130	3,266	8,299	5,978	6,526	30,199
TOTAL appropriations under HEADING 1 to 3 of the multiannual financial framework	Commitments	=4	6,130	5,266	8,299	3,978	6,526	30,199
	Payments	=5	6,130	3,266	8,299	5,978	6,526	30,199

Heading of multiannual financial framework	7	'Administrative expenditure'
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This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the [Annex to the Legislative Financial Statement](#) (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

2023	2024	2025	2026	2027 and beyond	TOTAL
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DG: ENV								
☐ Human resources		1,203	1,291	1,291	1,376	1,376		6,537
☐ Other administrative expenditure		0,664	0,664	0,664	0,664	0,664		3,320
TOTAL DG ENV	Appropriations	1,867	1,955	1,955	2,040	2,040		9,857

Green Claims:

Current staff in DG ENV comprises 2 FTE officials (AD) dealing with policy-related matters and 2 FTE officials (AD) dealing with methodological issues. This staff will continue to be essential in the future and is expected to deal with the following tasks:

- Activities related to the green claim initiative such as policy coordination (use of EF methods in other policies), green claim initiative's work plan (including a partial coverage of development of further requirements related to specific claims), team coordination, monitoring, stakeholder relation. These activities need the resources of 2 FTE officials
- Further development of the EF methods: running expert groups, management of the pilot phase and transition phase PEFCRs/OEFSRs (including additional task of EC adoption in the future). These activities need the resources of 1 FTE official
- Managing secondary data: management of contracts, data checks, building database, etc. These activities need the resources of 1 FTE official.

In general LCA-related tasks (e.g. data development, following PEFCR/OEFSR work) requires specialised knowledge with scientific PhD-level education and years of experience in the field. Attracting such staff with contract agent conditions is not possible. Therefore, these tasks should be covered via official posts, which, if no specialised staff is available in-house, should be opened to temporary agent posts.

Therefore DG ENV requests additional staff (**3 AD and 1 EN**) as per the distribution of the positions below) who will:

- prepare delegated acts to regulate specific claims, e.g. on reparability, recyclability, durability;
- develop and manage the database relevant for this and other policies such as ESPR or taxonomy
- prepare approximately 6-7 delegated acts including the update of PEFCRs/OEFSRs or the development of new ones.

In addition, there are 2 expert groups involved in this policy and the budget should cover three meetings/year per each expert group.

Packaging and packaging waste:

3 AD posts are needed (existing staff) for the negotiation and general implementation of the regulation. and the different preparatory work and drafting of secondary legislation according to the deadlines proposed in the Packaging and Packaging Waste Regulation.

3 additional contractual staff (**1 SNE and 2 CAs**) are needed to perform the technical work, including:

- Continuous review on material availability to keep the recycled content targets in line with market developments;
- Preparation of the delegated acts on design for recycling criteria for certain packaging categories;
- Preparation of the delegated act on establishing methodology for calculation and verification of minimum recycled content in plastic packaging;
- Preparation of implementing act on establishing methodology for reporting and monitoring reuse and refill targets;

- Preparation of implementing acts on establishing methodology for calculation and verification of collection rates under DRS; establish implementing acts establishing formats to report to competent authorities and the Commission;
- Preparation of delegated acts on Establishing harmonized specifications for the labelling requirements and formats for consumer sorting, reusable packaging, recycled content, compostable and possibly a QR code.

In addition, there are numerous expert groups/subgroups involved in this policy – the meeting costs of these groups have to be accounted for. Finally, a few missions for EC staff per year are foreseen (site visits mainly).

DG: CLIMA		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
O Human resources		0.785	1.099	1.099	1.099	4.082
O Other administrative expenditure		0,070	0,070	0,070	0,070	0,280
TOTAL DG CLIMA	Appropriations	0,855	1,169	1,169	1,169	4,362

In the field of carbon removal, 1 AST and 6 AD posts are needed for the following tasks:

The AST post will support the management the relevant Expert Group and the Regulatory Committee.

The AD posts:

- Support the management the relevant Expert Group and the Regulatory Committee (foe the AST post).
- Prepare a number of delegated act setting out detailed certification methodologies for demonstrating compliance with the EU quality criteria for carbon removals.

- Prepare a number of implementing acts to set out rules for the certification of carbon removal activities, for the governance of certification schemes and for the set up and management of public registries of carbon removals.
- Carry out assessment of certification schemes applying for Commission recognition and prepare the related Commission Decisions.
- Prepare policy proposals in the areas of carbon removals for the period after 2030.

In addition, funding is necessary for running the new expert groups on carbon removals and the regulatory committee.

This proposal represents a major stepping stone for the promotion of carbon removals at scale, and therefore it will require considerable outreach activities, both in terms of committee meetings to adopt secondary legislation and workshops with experts, stakeholders and representatives of Member States. In order to prepare for the implementation of the new initiative, the following actions and costs are necessary:

Missions:

- In order to facilitate the implementation of the Regulation by carbon removal operators and certification schemes, it is suggested to organise a number of workshops, adapted for the needs of different types of carbon removal activities. While some of the workshops can be organised virtually, in view of the important new elements introduced by the new Regulation and awareness raising among industry, farmers, regulators and other stakeholders, it is advised to organise a number of missions.

Average of fifteen missions of Commission staff are foreseen annually for the period of mid-2024 to 2027. 25 missions x 800 EUR = 20,000 EUR

Therefore a total of € 20 000 per year is envisaged for missions for years mid-2024 to 2027 (25 x € 800 – average amount for a one-day mission inside the EU).

Committees: In order to implement the proposal, it is necessary to prepare a number of delegated and implementing acts related to this initiative, including :

- Consultation of the NEW expert group on at least 3 delegated acts establishing a number of detailed certification methodologies, respectively on permanent storage, carbon storage products and carbon removals (Art 5 of the regulation proposal)
- Adoption by the Committee on Climate Change of at least 3 implementing acts establishing detailed technical rules, respectively on carbon removal certification and operation of certification schemes, content and format of certificates, public registries

Therefore a total of:

- € 10 000 per year is envisaged for the running of the regulatory Committee on climate change, for the period of mid-2024 to 2027 (€2,000 x five meetings per year – average costs)
- €40 000 per year is envisaged for the running of the new Expert Group on carbon removals, for the period of mid-2024 to 2027 (€4,000 x 10 meetings per year – average costs)

DG: ESTAT			2023	2024	2025	2026	2027 and beyond	TOTAL
☐ Human resources			0,157	0,157	0,242	0,242	0,242	1,040
☐ Other administrative expenditure								
TOTAL DG ESTAT		Appropriations	0,157	0,157	0,242	0,242	0,242	1,040

ESTAT currently devotes half AD post for validation and methodological guidance of packaging and packaging waste and lightweight carrier plastic bags. In order to address the many challenges related to packaging and packaging waste and consumption of lightweight carrier plastic bags, quality statistics based on exhaustive and comparable measures across countries are needed. For example, measuring reusable packaging in open loop systems poses several technical challenges. For the purpose of development of better methodological guidance and technical support and follow-up with Member States, an additional half AD is needed from 2023.

For the development and set up of the methodology for the additional reporting obligation on recyclability for 2028, a CA position is needed from 2025 onwards.

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	2,024	2,967	3,366	3,451	3,451	15,259
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EUR million (to three decimal places)						
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework						
	2023		2024		2025	
	2026		2027 and beyond		TOTAL	
Commitments	8,154	8,233	11,665	7,429	9,977	45,458
Payments	8,154	6,233	11,665	9,429	9,977	45,458

3.2.2. Estimated output funded with operational appropriations

Commitment appropriations in EUR million (to three decimal places)														
Indicate objectives and outputs			Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS													
	Type 90	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ⁹¹ ...														
- Output														
- Output														
- Output														
Subtotal for specific objective No 1														

⁹⁰ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

⁹¹ As described in point 1.4.2. 'Specific objective(s)...'

[illegible]

3.2.3. Estimated impact on the EEA and COM administrative appropriations

3.2.3.1. Estimated impact on EEA's human resources

☐ The proposal/initiative does not require the use of appropriations of an administrative nature

☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	2024	2025	2026	2027	TOTAL
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Temporary agents (AD Grades)	0,105	0,215	0,219	0,223	0,763
Temporary agents (AST grades)					
Contract staff	0,171	0,465	0,474	0,484	1,595
Seconded National Experts					

TOTAL	0,276	0,680	0,694	0,707	2,357
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Staff requirements (FTE):

	2024	2025	2026	2027	TOTAL
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Temporary agents (AD Grades)	1	1	1	1	
Temporary agents (AST grades)					
Contract staff	3	4	4	4	
Seconded National Experts					

TOTAL	4	5	5	5	
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3.2.3.2. Estimated requirements on administrative appropriations in the Commission

3.2.3.3. Summary of estimated impact on administrative appropriations

☐ The proposal/initiative does not require the use of appropriations of an administrative nature

☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	2023	2024	2025	2026	2027 and beyond	TOTAL
--	------	------	------	------	-----------------	-------

HEADING 7 of the multiannual financial framework						
Human resources	1,360	2,233	2,632	2,717	2,717	11,659
Other administrative expenditure	0,664	0,734	0,734	0,734	0,734	3,600
Subtotal HEADING 7 of the multiannual financial framework	2,024	2,967	3,366	3,451	3,451	15,259

Outside HEADING 7 ⁹² of the multiannual financial framework	N/A	N/A	N/A	N/A	N/A	N/A
Human resources						
Other expenditure of an administrative nature						
Subtotal outside HEADING 7 of the multiannual financial framework	N/A	N/A	N/A	N/A	N/A	N/A

TOTAL	2,024	2,967	3,366	3,451	3,451	15,259
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

⁹² Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.4. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☒ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	2023	2024	2025	2026	2027 and beyond
20 01 02 01 (Headquarters and Commission's Representation Offices)	7	12	14	14	14
20 01 02 03 (Delegations)					
01 01 01 01 (Indirect research)					
01 01 01 11 (Direct research)					
Other budget lines (specify)					
20 02 01 (AC, END, INT from the 'global envelope')	3	4	5	6	6
20 02 03 (AC, AL, END, INT and JPD in the delegations)					
XX 01 xx yy zz 93	- at Headquarters				
	- in Delegations				
01 01 01 02 (AC, END, INT - Indirect research)					
01 01 01 12 (AC, END, INT - Direct research)					
Other budget lines (specify)					
TOTAL	10	16	19	20	20

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Cf. explanation provided for H7 in section 3.2.1.
External staff	Cf. explanation provided for H7 in section 3.2.1.

⁹³

Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

- ☒ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

The LIFE envelope (budget lines 09.02.02 and 09.02.03) will be used to offset the increase of the EEA subsidy.

- ☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.
- ☐ requires a revision of the MFF.

3.2.5. *Third-party contributions*

The proposal/initiative:

- ☒ does not provide for co-financing by third parties
- ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year N ⁹⁴	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

⁹⁴ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.3. Estimated impact on revenue

- ☒ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☐ on other revenue
 - please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ⁹⁵					
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)	
Article							

For assigned revenue, specify the budget expenditure line(s) affected.

[...]

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[...]

⁹⁵

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.