

THE EUROPEAN UNION MOVES FORWARD ON EMPOWERING EUROPEAN CONSUMERS FOR THE GREEN TRANSITION

“Wash, rinse, repeat.” A brilliant market strategy – its success based not only on changing perceptions, but changing behavior. The result – consumers bought twice as much shampoo than they actually needed. That was then, this is now: today, there is a growing understanding from a sustainability standpoint of the importance of transitioning to a [circular economy](#), a model of production and consumption designed to extend the life cycle of products, whether by sharing, reusing, refurbishing, recycling or otherwise.

Speaking of branding: as part of ongoing EU legislative efforts to facilitate the transition to net-zero in Europe by 2050, as contemplated by the EU [Circular Economy Action Plan](#) and [European Green Deal](#), on September 19, the European Parliament [announced](#) that it and the Council of the European Union had reached provisional agreement on new rules to ban misleading advertisements and to provide consumers with more useful information. The new rules are to be set out in a Directive on Empowering Consumers for the Green Transition through Better Protection Against Unfair Practices and Better Information.¹

The proposed Directive is intended to curb consumer product greenwashing, early obsolescence practices and non-transparent sustainability labels. Specifically, this effort is aimed at:

- providing information on the existence and length of a producer’s commercial guarantee of durability for all types of goods, or the absence of such guarantee in case of energy-using goods;
- providing information on the availability of free software updates for all goods with digital elements, digital content and digital services;
- providing information on the reparability of products, through a reparability score or other relevant repair information, where available, for all types of goods;
- 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 cannot advertise benefits for consumers that are considered as a common practice in the relevant market;
- ensuring that a trader can only compare products, including through a sustainability information tool, if it provides information about the method of the comparison, the products and suppliers covered, and the measures to keep information up to date;
- banning sustainability labels that are not based on a certification scheme or not established by public authorities;
- banning 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

¹ The legislation would amend the Unfair Commercial Practices Directive (2005/29/EC) and the Consumer Rights Directive (2011/83/EU). The initial European Commission [proposal](#) was issued in March 2022, and the Council [announced](#) in May 2023 that it had adopted its [negotiating mandate](#) on the proposal.

recognised eco-labelling schemes in the member states, or other applicable EU laws, as relevant to the claim;

- banning the making of environmental claims about an entire product, when it actually concerns only a certain aspect of the product;
- banning presenting requirements imposed by law on all products within the relevant product category on the EU market as a distinctive feature of the trader’s offer; and
- banning certain practices related to the early obsolescence of goods.

The proposed Directive, based on [Parliament’s](#) and the [Council's](#) September 19th press releases, likely proscribes:

- generic environmental claims, such as “environmentally friendly,” “natural,” “green,” “biodegradable,” “climate neutral” or “eco,” without proof of recognised excellent environmental performance relevant to the claim;
- claims based on emissions offsetting schemes that a product has neutral, reduced or positive impact on the environment;
- sustainability labels not based on approved certification schemes or established by public authorities;
- durability claims in terms of usage time or intensity under normal conditions, if not proven;
- practices that would prompt consumers to replace consumables earlier than strictly necessary; and
- presenting goods as repairable, when they are not.

The key changes made to the proposed Directive are that it now increases the transparency and monitoring of claims related to future environmental performance, it now includes unfair claims based on GHG emissions offsetting and it now improves the credibility of sustainability labels by defining key elements of the certification scheme on which the labels must be based.

The provisional deal needs to be formally endorsed and approved by the European Parliament and the Council. A vote in Parliament is expected in November. Member states are expected to have up to 24 months to transpose the Directive into national law and six additional months to apply the provisions. (See [Legislative Schedule](#).)

Concluding Thoughts

The European Union promised a whole-of-society response to the climate crisis, and each new legislative initiative confirms that it is on track to modify thought processes as well as behavior in the transition to net-zero. The labelling initiative fits perfectly within this paradigm.

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Mark S. Bergman
[7Pillars Global Insights, LLC](#)
Washington, D.C.
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