

## Position Paper

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### **EU draft directive to combat misleading environmental advertising claims (Green Claims-Directive)**

COM(2023) 166 final

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#### **Background:**

On 22 March 2023, the EU Commission published the [draft directive](#) to combat misleading environmental advertising claims. The proposal is intended to protect consumers from greenwashing and misleading environmental claims ('green claims'). At the same time, genuinely committed retailers should be given a level and fair playing field to position themselves in the competition for sustainable products. The Commission defines an environmental claim as any voluntary statement or representation, including text, pictorial and symbolic representations, brand and company or product names, in the context of commercial communication, which suggests that a product has a positive or no negative impact on the environment or is less harmful to the environment than other products. To justify its proposal, the COM refers to a study it commissioned in 2020, according to which 53% of the environmental claims reviewed at the time were vague, misleading or unsubstantiated and 40% were unsubstantiated.

#### **Contents:**

The draft proposes extensive requirements for voluntary environmental claims, including

- Proof that the environmental impact is significant from a product life cycle perspective.
- The separation of reduction and compensation of greenhouse gas emissions and the provision of specific information on compensation.
- The consideration of negative environmental impacts that may arise as secondary effects as a result of the positive changes (e.g. higher CO2 emissions due to increased mechanisation as a result of not using pesticides).
- Information on whether the product has a significantly better environmental impact than current practice.

Information on the environmental impact would have to be provided in physical or digital form via appropriate links on the product. It remains unclear in the proposal where this information must be placed on the packaging. Requirements are also set for the information to be provided. The information to be provided must include at least the following points:

- Environmental aspects to which the claim relates.

- Relevant EU or international standards.
- Underlying studies or calculations used to assess the environmental impact (exceptions for trade secrets).
- Explanation of how improvements are specifically achieved.
- Certificate of compliance with the evidence of the claim and the contact information of the verifier.
- A summary of the listed information and assessments in at least one of the official languages of the Member State in a way that is understandable for consumers.

In addition, further requirements are made for comparative statements. The Commission also restricts the introduction of new certifications. New systems must be approved by the member states or the Commission and demonstrate added value compared to existing systems. Requirements are also set for the certification test centres.

### Position of Fair and Green e. V.:

As the organisation responsible for the FAIR'N GREEN sustainability certification, Fair and Green e. V. supports the EU Commission's aim of combating greenwashing and thus improving the overall credibility of environmental claims. Environmental claims without sufficient foundations thwart the efforts of science-based systems that bring about real, positive change and thus also affect the members of Fair and Green e. V. However, the Commission's proposal has a number of hurdles for implementation, which we explain below:

- **Race to the bottom:** Due to the planned directive, different national implementations are to be expected in the EU 27. There is a risk that the requirements for environmental claims and their justification and provision of information will not be formulated to the same high standard across all countries, meaning that competition for the lowest standard is to be expected. As a result, certifiers could apply for recognition in a country with particularly low requirements and be authorised throughout Europe. The Commission must ensure that a high standard is enforced across Europe in order to achieve the desired goal and not undermine the efforts of ambitious systems.
- **Proposal omits sustainability aspects:** The proposal only refers to environmental claims. It remains unclear how statements on sustainability will be dealt with. Although environmental aspects are part of sustainability, they also include social and economic aspects. Products that have a better environmental impact but a worse social impact are not covered by the current proposal, which jeopardises a fundamental shift towards holistically sustainable production.
- **Too much, confusing information:** The food and luxury food sector is characterised by various seals and mandatory information like no other. From December 2023, for example, information on nutritional values and ingredients will be mandatory on wine bottles. Together with the existing labels, this creates a confusing mass of information for consumers. A sensible combination of optional and mandatory information must be made possible here, for example via a context menu accessible via QR code with links to content information, justification of the environmental claims and further information on the seals. This is not currently provided for by law. For practical implementation, it is



essential to take a closer look at the individual sectors concerned and their characteristics.

**The next steps:**

In the legislative process, once the directive has been proposed by the EU Commission, the EU Parliament and then the EU Council have the opportunity to introduce amendments. Following the agreement and subsequent publication of the EU framework law, the member states have 18 months to pass national laws, which are to come into force six months later. This means that it is unlikely to come into force in Germany before the end of 2025.

The EU Commission's proposal to combat misleading, environmentally-related advertising claims is a first step in the right direction towards combating greenwashing and protecting well-founded initiatives in the area of sustainability and environmental protection. Ensuring a sufficiently well-founded assessment of the substantiation of environmental claims is essential for successfully achieving the objective, so that certification systems do not undercut each other in a competition of ever lower claims. Fair and Green e. V. appeals to the political decision-makers to work towards a practical, consistent design of the proposal and to take the above-mentioned points into account.

*- Fair and Green e. V. is committed to a holistically sustainable wine industry and brings together over 130 companies, including wineries, specialist retailers and value-added partners. -*