

EACA feedback on the Proposal for a Directive on substantiation and communication of explicit environmental claims

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EACA is the voice of Europe's communications agencies and associations, promoting the economic and social contribution of commercial communications to society. Our members comprise advertising, media, digital, branding and PR agencies as well as their national associations – together they represent more than 2,500 organisations from nearly 30 European countries that directly employ over 120,000 people.

We welcome the initiative of the Proposal to foster trustworthy advertising campaigns which highlight the environmental impact of products and traders. Shifting consumer practices are a key component to contributing to a more sustainable EU Single Market.

In this context, the advertising sector plays a significant role in enabling consumers to make unambiguous and educated choices about the environmental footprint of their purchases and thus to shift towards a more sustainable future.

As EACA, aware of the responsibility of advertisers and advertising agencies in particular, we are very supportive of enhancing the proposed framework environmental claims, and we are eager to engage in a constructive dialogue to contribute to this objective.

To this end, we want to raise comments on the following elements on the **Communication of Green Claims, in particular:**

- 1. On the scope of environmental Claims**
- 2. On the adaptation of communicating claims on different advertising mediums**
- 3. On the third-party verification of such claims**
- 4. On the promotion of environmental-friendly campaigns which are a marginal part of a trader's activity**

1. On the scope of environmental claims

The scope of the current definition on explicit environmental claims appears to be slightly unclear. Article 2 of the Proposal states that '*explicit environmental claim*' means an environmental claim that is in textual form or contained in an environmental label, which leads us to the following comments.

Besides the differences in scope in the Proposals between the Commission, the Parliament and the Council, the word ‘textual’ is not defined by the Commission Proposal, which raises questions as to the scope of explicit environmental claims. For instance, to what extent will visuals be included within the scope of the Proposal, knowing that visuals and text often go together in advertising? The UCPD Guidance provides information on the substantiation of environmental claims with regard to visuals, but it appears unclear whether visuals can be part of an explicit claim whenever they are used jointly with textual elements.

Another question related to the word ‘textual’. Do textual claims only relate to written claims or do they also incorporate audio claims and thus audio ads?

2. On the adaptation of the display of advertising on different mediums

With regard to article 5 point 6 of the Proposal, stating that: “*Information on the product or the trader that is the subject of the explicit environmental claim and on the substantiation shall be made available together with the claim in a physical form or in the form of a weblink, QR code or equivalent*”, we would welcome further guidance as to how this obligation will have to be put into practice depending on the advertising medium. For instance, will the same requirements of communication be required on OOH as on display advertising? Will platforms incorporate a transparency banner to flag environmental claims or will they be embedded in the relevant advertising? Different types of advertising may require relevant adaptations to ensure the efficiency of the communication of complementary information made available to the consumer.

3. On the third-party verification of such claims

Adhering to recognized labeling schemes at the European Union (EU) level appears to be the most efficient and optimal approach for satisfying substantiation requirements.

We would therefore welcome the possibility for traders to be able to rely on efficient compliance schemes to make substantiated environmental claims.

Our understanding is that aligning with an existing EU-recognized labeling scheme eliminates the need for traders to individually verify their claims, as compliance with the EU labelling scheme inherently substantiates the claim, provided they do also comply with other relevant consumer protection legislation such as the Unfair Commercial Practices Directive.

Adhering to recognized EU labelling schemes means businesses can align their practices with standardized criteria. This standardization simplifies the substantiation process, eliminating the need for businesses to be subject to the verification process provided in articles 8-10.

In essence, possessing an EU label signifies compliance and serves as verification for substantiation.

Provided that our understanding is correct, we would highly recommend that the EU Commission will develop further compliance models that will allow advertisers to proactively

comply with labelling schemes and thus not have to rely on a case by case assessment for each advertising individually.

4. On the promotion of environmental-friendly behaviour which are a marginal part of a trader's activity

We would like to raise the attention to the Commission regarding advertising practices which emphasise environmental-friendly behaviour thus creating a perception of addressing environmental issues linked to the promotion of a particular product without focusing on the components of this particular product. These campaigns, although not directly tied to the promotion of a particular product, inevitably lead consumers to associate them with the respective brands.

It is noteworthy that consumer perception of the environmental benefits derived from such campaigns often surpasses the marginal environmental impact, even if the latter is to be explicitly stated (art. 3 point 1(a)).

In essence, we are inquiring whether the Commission is taking this phenomenon into consideration, recognizing the potential disparity between consumer perception and the actual environmental impact of these campaigns.