



Cracking down on greenwashing





Cracking down on greenwashing

The new EU Green Claims Directive will put paid to greenwashing. Shane O'Reilly explains how.



The Green Claims Directive will require companies to substantiate, communicate, and verify their environmental claims using robust, science-based methods. It sets out clear criteria to ensure such claims are reliable, comparable, and verifiable – right across the EU.

In June 2024, the Council of the EU adopted its stance on the Green Claims Directive. This agreement marks a significant step towards combating greenwashing in Europe and will serve as the guide for negotiations on the Directive with the European Parliament next¹. So what impact will it really have and how can you ensure your organisation complies?

¹ Council of the EU: Press release.
² European Commission: Green Claims.
³ KPMG Ireland: Next Gen Retail Vol. 6.

Time for transparency and accountability

In recent years, companies have faced increased consumer and regulatory pressure to become more sustainable. In response to this pressure, an increasing number of brands have made exaggerated, misleading, or unsubstantiated claims to be green, typically by labelling products 'green' 'sustainable' or 'eco'. Indeed, a study conducted by the European Commission in 2020 found that 53 per cent of the environmental claims examined for products and services in the European Union (EU) were 'vague to misleading', and that 40 per cent simply didn't stand up².

The pressure to go green is increasingly evident in Ireland. Greenwashing is currently overseen by the Advertising Standards Authority for Ireland (ASAI) and the Competition and Consumer Protection Commission (CCPC). Recent cases have included sanctions ranging from Budweiser for claims about using 100% electricity to pushback on a petrol lawnmower's environmental friendliness claims. These regulatory bodies actively work to ensure companies do not mislead consumers with false or exaggerated environmental claims. By holding companies accountable, the ASAI and CCPC aim to promote transparency and trust in the marketplace, encouraging businesses to adopt genuinely sustainable practices. The forthcoming Green Claims Directive from the European Union is set to further bolster these efforts. The pressure is also reflected by consumer sentiment in Ireland. A recent KPMG survey revealed that Irish consumers have high expectations with regards to sustainability and environmental responsibility³. Over two-thirds (67 per cent) now expect brands to make sustainable and circular products more accessible and affordable, and to offer incentives or discounts to customers for choosing eco-friendly or circular economy products. Additionally, nearly 6 in 10 (59 per cent) feel brands should provide more information about their sustainability efforts, and indeed, go beyond being sustainable and take responsibility for reversing environmental damage.

Given the importance of green products to customers, it makes sense that certain companies are tempted to embellish how sustainable they are. The Green Claims Directive is therefore crucial to avoid misleading customer and reward brands who are actually operating sustainably.



What will it do?

The Green Claims Directive aims to enhance transparency and ensure that products advertised as environmentally friendly truly meet certain standards. It will therefore allow consumers to make informed purchasing decisions based on clear and understandable information. It should also boost the competitiveness of market participants who strive to make their products and services more eco-friendly. By doing so, the Directive should help support the transformation of the economy and society in accordance with the EU Green Deal's objectives. It will also play a role in modernising European consumer law and complementing existing EU regulations related to both consumer protection and environmental standards.

Scope and application

The scope of the Directive will target explicit environmental claims, whether written or oral, as well as environmental labels that companies use voluntarily to market their product's greenness. It will apply to both existing and future public and private environmental labelling schemes.

Companies will be required to provide clear criteria and the latest scientific evidence to substantiate their claims and labels. These environmental claims and labels should be easy to understand and specifically reference the environmental characteristics they cover, such as durability, recyclability, or biodiversity.

The Directive will maintain the principle of ex-ante verification, requiring third-party independent experts to verify any green claim before it is published. However, it introduces a simplified procedure for certain types of claims, allowing eligible companies to complete a technical document to prove compliance before making the claim public. The good news for smaller businesses is that microenterprises will have an additional 14 months to comply with the rules.

European Council Ministers have acknowledged the value of existing regional and national public labelling schemes and agreed that schemes regulated by EU or national law could be exempt from third-party verification if they meet EU standards. For example, EN ISO 14024 Type 1 ecolabeling schemes, if officially

acknowledged in any member state and compliant with the new rules. Recognition by one member state will be valid across the entire EU market.

The Directive sets new standards for substantiating climate-related claims, including those involving carbon credits. Companies will need to provide details about the type and quantity of carbon credits and whether they are permanent or temporary. The Directive will distinguish between contribution claims, where carbon credits are used for climate action, and offset claims, where carbon credits balance emissions. For offset claims, companies will need to show a net-zero target, progress towards decarbonisation, and the percentage of emissions.

The Green Claims Directive aligns seamlessly with the Corporate Sustainability Reporting Directive (CSRD) by ensuring that environmental claims are pre-verified and accurate. The increased scrutiny and availability of data from the CSRD, which will be subject to assurance, will greatly assist corporates with the credibility of their claims. By mandating rigorous data collection and verification processes, the CSRD ensures that the information companies disclose is accurate and reliable. This integrated approach of combining regulatory reporting requirements with ex-ante verification of environmental claims not only enhances transparency but also fosters greater accountability and trust among stakeholders.



Potential penalties

As part of the Directive, Member States will be required to set up competent authorities for monitoring purposes. These authorities must regularly check the accuracy of environmental claims and ecolabels. To facilitate this, they are granted extensive rights, including the ability to request disclosure of and access to documents, data, and information, the authority to instruct corrective measures, impose penalties, and publish violations. Beware - the principle of “naming and shaming” is also included in the Directive, but that’s not all.

Additional penalties for violations include a maximum fine of at least four per cent of your company’s annual turnover in the concerned Member State (or States). The exact amount will be determined based on factors such as the economic benefits derived from the offence and will be increased for repeated offences. The stringent penalties will also include the absorption of profits made from the products in question and could lead to your exclusion from public tenders and support services for up to a year.

What’s next?

Companies need to prepare for a new landscape, where they will be required to provide verifiable evidence for their claims. They will require systems in place to ensure transparency by making information accessible to consumers. They will need to comply with the Directive to avoid significant fines and potential consumer class actions. This will impact marketing strategies, requiring more accurate and nuanced claims, ultimately enhancing brand reputation and consumer trust. While there are exemptions for micro-enterprises, most businesses will need to adhere to these new rules, creating a level playing field and benefiting genuinely sustainable businesses.

It remains to be seen how test schemes and definitions of terms will be organised. In the meantime, companies need to prepare for a world where the reliability of their voluntary environmental claims will be critically evaluated and take appropriate measures to ensure the accuracy and verifiability of any environmental claim they make and the sooner the better. That’s because the Directive aligns with the broader goals of the European Green Deal and the CSRD, designed to transform the EU into a climate-neutral economy by 2050 and requiring detailed ESG disclosures from businesses.

The message is clear. If you can’t stand over environmental claims, don’t make them.

Get in touch

KPMG Sustainable Futures is a dedicated cross-functional team of experts who help corporates and public sector clients respond to the ESG agenda, including decarbonisation and integrated climate and nature transition plan strategies.

Whether your organisation is just beginning its sustainability journey, reporting on its progress, or financing new initiatives, we have the knowledge and the people to support you.

If you have any queries related to the Green Claims Directive, need assistance with your sustainability assurance, or seek guidance on EU regulatory requirements, please contact our team below. We'd be delighted to hear from you.



Russell Smyth

Partner
Head of Sustainable Futures
KPMG in Ireland

e: russell.smyth@kpmg.ie



Lorraine McCann

Managing Director
Sustainable Futures
KPMG in Ireland

e: lorraine.mccann@kpmg.ie



Shane O'Reilly

Managing Director
Sustainable Futures
KPMG in Ireland

e: shane.oreilly@kpmg.ie



Sarah Moran

Director
Sustainable Futures
KPMG in Ireland

e: sarah.moran@kpmg.ie



© 2024 KPMG, an Irish partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are registered trademarks of KPMG International Limited ("KPMG International"), a private English company limited by guarantee.

If you've received this communication directly from KPMG, it is because we hold your name and company details for the purpose of keeping you informed on a range of business issues and the services we provide. If you would like us to delete this information from our records and would prefer not to receive any further updates from us please contact unsubscribe@kpmg.ie.

Produced by: KPMG's Creative Services. Publication Date: October 2024.