

# ARTICLE

## GREEN CLAIMS DIRECTIVE: AGREEMENT IN PARLIAMENT

European Law | 17/04/24 | Marc Mossé David Zygas



On March 12th, 2024, the European Parliament adopted, in plenary session, its position on the green claims directive (the "Directive" or "Green Claims Directive").<sup>[1]</sup> The Commission had made its proposal on March 22nd, 2023.<sup>[2]</sup> In essence, the Directive aims at protecting citizens against misleading advertising (and specifically greenwashing) and as such supplements the directive empowering consumers to act in favor of the ecological transition.<sup>[3]</sup>

The key element of the Directive is that **companies need to prove their environmental marketing claims before being able to advertise** for products claimed to be "biodegradable", "less polluting" or having a "bio-based content" for example. Products marketed online will also be concerned by these obligations.

The information used to substantiate these green claims must be based on **independent and verifiable scientific evidence** having regard to Union or international standards. A link can be made here between Green Claims and the climate and biodiversity reporting obligations contained in the European Sustainability Reporting Standards (issued in application of the CSRD).

Member States will have to appoint **verifiers tasked with pre-approving the use of such claims**, with the assessment to be made within a period of 30 days, except for simpler products and claims for which verification will be faster.

**Green claims based on carbon offsetting will remain banned.** Companies will, however, be able to mention carbon offsetting and removal schemes in their ads if they only use these schemes for residual emissions only and have already reduced their emissions as much as possible. In any event, the carbon credits will have to be certified and reliable.

In terms of sanctions, companies that infringe the rules can be **temporarily excluded from public procurement procedures** or fined at least **4% of their annual turnover**.

The Parliament proposes that the Directive apply **30 months** after the date of its entry into force. SMEs will have an **additional year** to come into compliance (i.e., 42 months), while micro enterprises are not covered by the Directive.

The dossier will be followed by the new Parliament after the European elections on June 6th-9th, 2024. For its part, the Council of the European Union still needs to adopt its position before the trilogues can begin.

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[1] <https://www.europarl.europa.eu/news/en/press-room/20240308IPR19001/parliament-wants-to-improve-consumer-protection-against-misleading-claims>

[2] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0166>

[3] <https://www.august-debouzy.com/fr/blog/1999-provisional-agreement-on-the-directive-to-empower-consumers-for-the-green-transition>

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