

EEB draft feedback: inception report substantiating green claims

The EEB welcomes the inception impact assessment for the initiative “Legislative proposal on substantiating green claims”. The EEB actively participates in the Product Environmental Footprint (PEF), its Technical Advisory Board (TAB), as well as the pilot and transition phase projects. The EEB supports the need for standard methodologies to assess the impact on the environment of products on the European market.

While we support the need for reliable, comparable and verifiable information on products, information provision alone will not achieve the Circular Economy Action Plan Objective “to make sustainable goods, services and business models the norm”. First and foremost, this objective will be achieved by denying unsustainable, inefficient, toxic, wasteful, and polluting products, as well as those whose producers fail to carry out due diligence, access to the EU market. Therefore, the most powerful application of PEF will be to support existing and new instruments (e.g. ecodesign, EU Ecolabel, and the construction products regulation) defined in the forthcoming sustainable products initiative in identifying which products are unsustainable.

Any green claims should be science-based, clearly certify only above average performance and be more ambitious than legislative requirements in the EU.

With respect to the substantiation of green claims the EEB has the following remarks on the policy options:

- From the policy options presented we most strongly favour Policy Option 3 - this must include essential additional criteria:
 - Companies would only be allowed to communicate claims about distinct green properties of their products that differentiate them from their competitors
 - Any claim must address impact categories relevant to the product group and represent a performance better than average (above the benchmark)
 - Any green claim must address performance throughout the entire supply chain, or otherwise clearly specify the stage of supply chain it is addressing (e.g. sustainable viscose vs. responsible sourcing of wood)
 - A claim must not hide impacts or result in burden shifting (i.e. the product must perform at least better than the market average identified as benchmark in the respective PEF CR).
 - If manufacturers want to communicate an overall superior, best in class environmental profile to their customers or consumers, an ISO Type 1 multi-criteria verified Ecolabel represents the most credible comprehensive claim. Green claims backed by ISO Type 1 labels should not require further verification of good environmental performance.
 - The benchmark must be systematically updated to encourage continuous improvements in the market and reflect regulatory developments. There also needs to be transparency on the performance of different products, companies and their supply chains via comprehensive and regular monitoring reports.
- When a product is not covered by a Type 1 Ecolabel, PEF will become the default methodology for carrying out an EPD. And the concept of environmental/green claims should be clearly defined (i.e. with respect to ISO 14025).
- A transparent and open pre-approval process such as the one applied by EFSA for health claims on food should be considered.
- When a green claim is made, the PEF study and any additional evidence should be made available to relevant actors including consumers and market surveillance authorities. This could be enabled through registration of the green claim in a dedicated database accompanied by the submission of

the PEF study and any further evidence. This could be further linked to the development of the product passport.

- An enforcement process should be set up. A European designated agency and/or national market surveillance authorities should annually assess a random sample of green claims.
- The monitoring and verifying of green claims should be independent through third-party monitoring and verification, to avoid conflict of interests, and transparent about how the company is mitigating the risks linked to their product.
- Companies making green claims should establish grievance procedures, including at their production sites, so that stakeholder and right holders can report concerns without fear of recrimination. Further, protocols should allow for redress for workers, impacted individuals and communities.¹
- The application of PEF should also be used to enhance other existing and new product policy instruments (e.g. in updating the MEErP or Ecolabel methods). However careful attention should be given to the limitations of the 16 impact categories in assessing certain impacts (e.g. toxicity, biodiversity, marine litter etc.), as such PEF should not necessarily be the exclusive approach to determine market access, notably where the PEF methodology is weak.
- The development of this initiative should enhance the uptake of, rather than compete with, the EU Ecolabel and other Type 1 ISO ecolabels (e.g. Nordic Swan). In general, the objective of this work should be to curb the proliferation of unsubstantiated green claims and to reduce the number of labels on the market NOT to create a new one.
- We discourage the Commission from defining a common EU format (e.g. an EU label/logo). This would risk creating further confusion with existing relevant schemes. Also, products risk being labelled as green while they have impacts not addressed by PEF (e.g. a cosmetic product containing microplastics or a jacket containing chemicals such as PFAS)
- We do not support communicating on the overall green profile of products based on PEF. Any such communication should complement PEF with relevant aspects not addressed by the method (e.g. substitution of substances of concern, sustainable sourcing of raw materials, etc). However, this would unnecessarily duplicate the EU Ecolabel scheme.
- Instead of creating two parallel legislative frameworks for green claims, the development of this initiative should be closely integrated with the DG Justice initiative “Empowering the Consumer for the Green Transition” - notably in establishing a list of permitted environmental labels and regulating green claims.
- Some “qualitative” environmental claims may not require validation via PEF – a good example is organic food. Nevertheless, these types of claims must be clearly defined and verified through the “empowering the consumer for the green transition” initiative.
- Blacklisting confusing or misleading green claims may be necessary – examples to explore include “climate friendly”, “climate neutral, and the “green dot” (for non-recyclable items).

¹ <https://www.msi-integrity.org/not-fit-for-purpose/key-insights/>