

EEB draft position: legislative proposal on substantiating green claims

The EEB welcomes the Commissions work towards a “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. For this reason, 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.

It should be noted that this position paper and our answers to the questionnaire make limited reference to the Organisation Environmental Footprint (OEF) as we have had limited involvement in this part of the initiative.

The EEB has the following remarks on the policy direction of this initiative.

1. Substantiation of Green Claims

The primary objective of this initiative should be to address proliferation of unsubstantiated green claims. There is a clear policy opportunity to do so by making use of the Product Environmental Footprint method, as it harmonises the rules for conducting an LCA study. We recommend that the European Commission establishes a legal framework requiring companies making claims related to the impacts covered by the PEF method to substantiate them using this methodology.

Ideally claims should only be made where Product Environmental Footprint Category Rules (PEFCRs) exist. In the absence of these rules a study using the PEF method may be used but with a more limited set of options for making a claim. It should be noted that in the case where a PEFCR does not exist there will not be a benchmark. For this reason, comparison between products will not be possible, and we suggest that the Commission permits a considerably more limited set of options for communicating results, e.g. listing the most relevant impact categories or performance on specific impact categories.

Overall, claims under the scope of the PEF method should only be permitted where they respect the following rules:

- They address impact categories covered by PEF relevant to the product group
- They represent better than average performance (above the benchmark)
- They must represent performance better than legal requirements
- They must not result in burden shifting or hidden impacts
- The PEF study should be disclosed, e.g. as part of the product passport initiative (see point 3)

Claims outside of the PEF impact categories should be addressed through the DG Justice Initiative Empowering the Consumer for the Green Transition.

2. Business to consumer communication

The communication of green claims should follow guidelines in order to reduce confusion or claims which mislead consumers. Guidelines on the specifics of communicating claims should be based on the standard ISO14021 but also determined based on the supporting work carried out in this initiative, the DG Justice initiative on Empowering the Consumer for the Green Transition, and the sectoral or product studies carried out in the context of the forthcoming Sustainable Products initiative. Blacklisting certain types of claims shall be considered such as “environmentally friendly” and “carbon neutral”.

We strongly discourage the Commission from developing a “PEF label” which can be applied in any product category. Rather, we urge the Commission to investigate on a case by case basis whether such a label is suitable when product groups or sectors are investigated as part of a preparatory study launched through the sustainable product policy initiative (i.e. in the expanded ecodesign directive) and only when a PEFCR is established. The existence of a PEFCR would absolutely be necessary for such a label because it would allow for comparison with a benchmark.

EU endorsed labelling on products can then be implemented (or not!) on a robust product specific basis, with the input of stakeholders, as is done for energy products in the context of the Ecodesign Consultation Forum. As proposed for the SPI, product groups should be prioritized according to their environmental impacts, i.e. electronics, batteries, textiles, furniture, construction, mobility, food, packaging, intermediary materials such as steel, cement and chemicals as well as plastics. Prioritisation of sectors could be defined on the basis of an update of the EXIOBASE or other input-output tables.

Though we see the value in creating an instrument which can guide consumers towards more sustainable products (as the energy label has done for energy using products), we see challenges in allowing such a label to be applied widely without more scrutiny. For example, building on our participation in the PEFCR for Apparel and Footwear we see possible limitations in how this PEFCR could be used for B2C communication, and permit comparison between products, given the granularity of scope and the broad definition of the product sub-categories. A preparatory study on the textile sector launched via the expanded ecodesign directive or the Textile Strategy should make an assessment under which conditions a unified textile label might be appropriate or not.

Once, and if, a product labelling scheme based on PEF is established on a product group through a preparatory study, this label would become mandatory. Apart from the labelling schemes already included in an short list of recognized schemes (including the EU ecolabel), other types of claims on this specific product group would be prohibited (or would need to be assessed on an ex-ante basis). The result of this process would be to gradually significantly reduce the number of environmental claims and diversity of labels on the European market.

3. Data availability, product passport and verification

Whenever a green claim is made using the PEF methodology the supporting study shall be disclosed, registered on a dedicated database for green claims and accessible through the product passport scheme. This is to support public confidence in environmental claims and also reduce the administrative burden for market surveillance authorities. An appropriate number of randomly selected claims should be verified on an annual “ex-post” basis.

If a company is not willing to make their PEF study publicly available, for example when concerned over intellectual property, a different verification process should take place. These claims should be assessed on ex-ante basis by national environmental protection authorities (we suggest by the same bodies responsible for Ecolabelling and/or EMAS). This system would be designed to encourage companies to disclose product

specific environmental information, and also further minimize the burden on public authorities to verify claims.

A public registry should record approval and non-approval of green claims, covering both those which cover PEF data which is voluntarily disclosed and randomly assessed, and those which are assessed ex-ante because the manufacturer refuses to disclose data. This should include the justification for the decision and the conditions for their use.

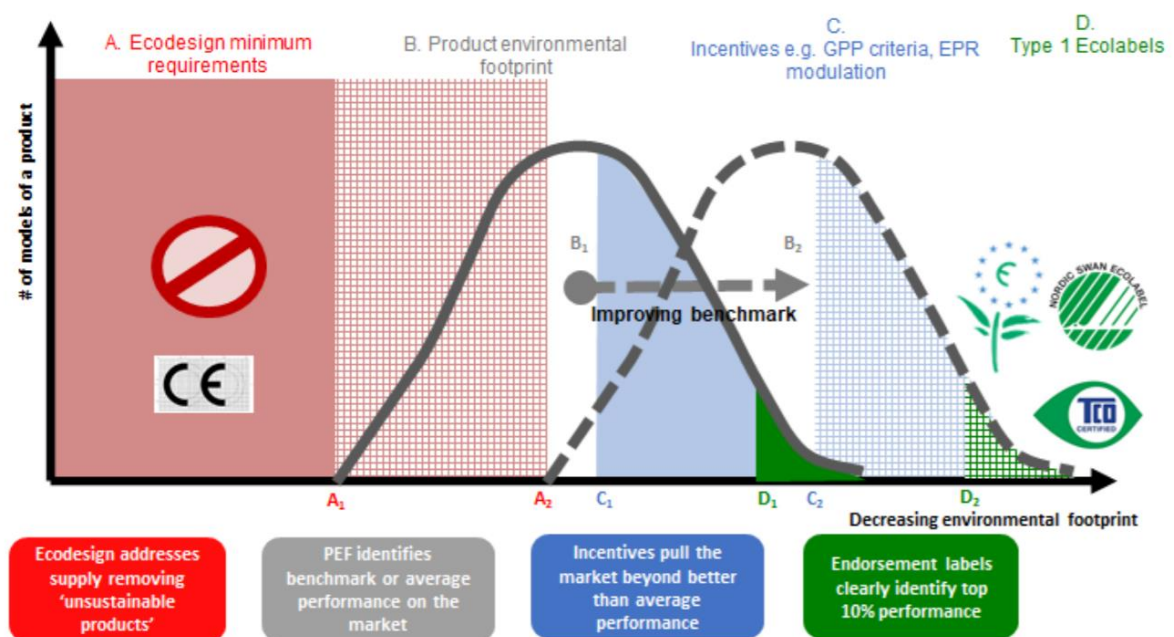
The European Commission's initiative to develop a product passport should become the vehicle for accessing PEF data which support green claims. We understand a product passport to mean a standardized format for collecting product specific environmental information. An interoperable information system would be established to access this standardised product data from on single public interface. PEF studies and data would be just one of the types of data accessible through this interface, alongside other existing EU product databases (e.g. SCIP and EPREL), as well as other relevant environmental information such as the bill of chemicals and materials, repairability, durability, and due diligence.

It should be noted that once product categories or sectors are addressed via the Sustainable Products Initiative mandatory information or labelling requirements may be established (see point 2).

4. Interactions with the Sustainable Product Policy initiative

As stated in the introduction, the overarching objective of the Sustainable Products Initiative, "to make sustainable goods, services and business models the norm" should be emphasized. This objective implies going beyond information tools and labelling for products, but also determining market entry requirements, e.g. via ecodesign. PEF, as the most comprehensive recognised approach to conducting an LCA available, could gradually be integrated into the methods of the EU's product policy framework – see figure 1.

Figure 1 – Key instruments in the Sustainable Products Initiative (illustrative only)



Eventually it may be suitable to set or inform minimum requirements (e.g. $A_1 \rightarrow A_2$) or the criteria for incentives (e.g. $C_1 \rightarrow C_2$) on the basis of PEF performance. It should be stressed however that PEF should not be used in isolation as a decision supporting tool and needs to be complemented by additional assessment methods. PEF is not an appropriate tool for example for defining the specific spare parts which should be made available to improve the reparability of a product.

PEFCRs and the existence of a regularly updated benchmark should also be able to inform monitoring on the overall performance and effectiveness of the EU's product policy framework (e.g. $B_1 \rightarrow B_2$).

5. Integration with the EU Ecolabel and other type 1 ISO labels

Care should be given to how this initiative can support existing credible labelling schemes. Overall, we urge the Commission to continue to support and develop the EU Ecolabel scheme in collaboration with other existing Type 1 schemes because of the life cycle approach which underpins their methods, the multi stakeholder process used to determine criteria, and the independence of the governing authorities.

Type 1 ISO Ecolabels have an additional advantage over PEF in that they can address impacts beyond the 16 impact categories of a PEF study. Ecolabels have a strong track record on addressing other relevant aspects such as substitution of hazardous substances, reduction of indoor air emissions, sustainable sourcing of raw materials or product circularity which should not be watered down through the inclusion of the PEF method. Further, the Ecolabel also addresses social sustainability aspects, such as due diligence for electronics, textiles and footwear, an important facet of product sustainability not covered by PEF.

That said, as above, PEF may eventually be integrated into the EU Ecolabel methodology – this would help to enhance the robustness of the life cycle element of its methods (e.g identification of hotspots, setting thresholds for key impacts, increased product information,...). Though if PEF is integrated it should still be complemented with other methods to determine criteria.

In line with the Circular Economy Action Plan, we suggest that the Commission test in a first phase how the PEF method can be integrated in the EU Ecolabel criteria development. This work should be undertaken in cooperation with other nationally or regionally officially recognised EN ISO 14024 type ecolabelling schemes such as the Blue Angel and the Nordic Swan Ecolabel. Before this process concludes with a robust approach for the integration of PEF within the EU Ecolabel and equivalent, reliable ISO type I ecolabels should be excluded from the scope of the green claims initiative. However, a white list of labels exempted from the green claims initiative should be developed.

We suggest that as part of this initiative the European Commission develops a clear strategy and roadmap on the following:

- How to integrate the PEF method into the EU Ecolabel criteria development process
- How to ensure that any B2C communication on PEF results does not mimic or confuse consumer with reference to EU Ecolabel.
- Ensure that any communication on overall performance of products as best-in-class requires for compliance with the EU Ecolabel criteria.
- Ensure that on any EU endorsed labelling initiative developed through the Sustainable Products Initiative is informed by the EU Ecolabel (which should represent best in class performance).

We strongly suggest that the Commission also develops a proposal on how to expand and further develop the EU Ecolabel scheme to further product groups, optimising resources through an integration of the EU Ecolabel within the Sustainable Product Initiative and increased cooperation with equivalent ISO Type 1 Ecolabels in the EU (e.g. use of criteria already developed by robust schemes in accordance with Article 11 of the Regulation and development of mutual recognition approach).