C/2025/1023

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Substantiation and communication of explicit environmental claims (Green Claims Directive)

European Parliament legislative resolution of 12 March 2024 on the proposal for a directive of the European Parliament and of the Council on substantiation and communication of explicit environmental claims (Green Claims Directive) (COM(2023)0166 – C9-0116/2023 – 2023/0085(COD))

(Ordinary legislative procedure: first reading)

(C/2025/1023)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2023)0166),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0116/2023),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee ([1]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the joint deliberations of the Committee on the Environment, Public Health and Food Safety and the Committee on the Internal Market and Co.nsumer Protection under Rule 58 of the Rules of Procedure,

— having regard to the opinion of the Committee on Agriculture and Rural Development,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety and the Committee on the Internal Market and Consumer Protection (A9-0056/2024),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 293, 18.8.2023, p. 86.

P9_TC1-COD(2023)0085

Position of the European Parliament adopted at first reading on 12 March 2024 with a view to the adoption of Directive (EU) 2024/… of the European Parliament and of the Council on substantiation and communication of explicit environmental claims (Green Claims Directive)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee

Having regard to the opinion of the Committee of the Regions ([1]),

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Claiming to be 'green' and sustainable has become a competitiveness factor, with green products registering greater growth than standard products ***as consumer interest grows***. If goods and services offered and purchased on the internal market are not as environmentally friendly as presented, this would mislead the consumers, hamper the green transition, and prevent the reduction of negative environmental impacts. The potential of green markets is not fully realised. Different requirements imposed by national legislation or private initiatives regulating environmental claims create a burden for companies in cross-border trade, as they need to comply with different requirements in each Member State. This affects their capacity to operate in and take advantage of the internal market. At the same time, market participants have difficulties with identifying reliable environmental claims and making optimal purchasing decisions on the internal market. With a proliferation of different labels and calculation methods on the market, it is difficult for consumers, businesses, investors and stakeholders to establish if claims are trustworthy. **[Am. 1]**

(2) If environmental claims are not reliable, comparable and verifiable, consumers and other market actors cannot fully leverage their purchasing decisions to reward better environmental performance. Similarly, the lack of reliable, comparable and verifiable information hinders incentives for optimising environmental performance, which would typically go hand in hand with efficiency gains and cost savings for companies along the supply chain as well. These consequences are exacerbated by the lack of a common reference across the internal market and the ensuing confusion.

(3) For users of environmental information (consumers, businesses, investors, public administrations, NGOs) included in environmental claims, the lack of reliability, comparability and verifiability leads to an issue of trust in environmental information and confusion in interpreting heterogeneous, contradictory messages. This is detrimental to consumers and other market actors, as they may choose a product or a business transaction over other alternatives based on misleading information.

(4) It is therefore necessary to harmonise further the regulation of environmental claims. Such harmonisation will strengthen the market for more sustainable products and traders by avoiding market fragmentation due to diverging national approaches. It will also set a benchmark that can drive the global transition to a just, climate-neutral, resource-efficient and circular economy ([2]).

([1]) OJ C,, p..

([2]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM/2020/98 final

(5) Detailed Union rules on substantiation of explicit environmental claims, applicable to companies operating on the Union market in business to consumer communication, will contribute to the green transition towards a circular, climate-neutral and clean economy in the Union***, that respects the planetary boundaries,*** by enabling consumers to take informed purchasing decisions, and will help create a level-playing field for market operators making such claims ***while promoting sustainable consumption***. **[Am. 2]**

(6) A regulatory framework for environmental claims is one of the actions proposed by the Commission to implement the European Green Deal ([3]), which recognises that reliable, comparable and verifiable information plays an important part in enabling buyers to make more sustainable decisions and reduces the risk of 'greenwashing', and includes commitments to step up regulatory and non-regulatory efforts to tackle false environmental claims. Together with other applicable Union regulatory frameworks, including the proposal for a Directive on empowering consumers for the green transition ([4]), amending Directive 2005/29/EC of the European Parliament and of the Council ([5]) that this proposal aims at complementing ***as lex specialis***, they establish a clear regime for environmental claims, including environmental labels. **[Am. 3]**

(7) This Directive is part of a set of interrelated initiatives to establish a strong and coherent product policy framework that will make environmentally sustainable products and business models the norm, and not the exception, and ***to ensure that a claim, which merely reflects common practice, cannot be communicated to customers as sustainable, in order*** to transform consumption patterns so that no waste is produced in the first place. The Directive is complemented, amongst others, by interventions on the circular design of products, on fostering new business models and setting minimum requirements to prevent that environmentally harmful products are placed on the EU market through the proposal for an Eco-design for Sustainable Products Regulation ([6]). **[Am. 4]**

(8) The specific needs of individual economic sectors should be recognised and this Directive should therefore apply to voluntary explicit environmental claims and environmental labelling schemes that are not regulated by any other Union act as regards their substantiation or communication, or verification. This Directive should therefore not apply to explicit environmental claims for which the Union legislation lays down specific rules, including on methodological frameworks, assessment or accounting rules related to measuring and calculating environmental impacts, environmental aspects or environmental performance of products or traders, or providing mandatory and non-mandatory information to consumers on the environmental performance of products and traders or sustainability information involving messages or representations that may be either mandatory or voluntary pursuant to the Union rules.

(9) Within the context of the European Green Deal, the Farm to Fork Strategy and the Biodiversity Strategy, and in accordance with the target of achieving 25 % of EU agricultural land under organic farming by 2030 and a significant increase in organic aquaculture and with the Action Plan on the Development of Organic Production (COM(2021) 141), organic farming and organic production need to be developed further. As regards Regulation (EU) 2018/848 of the European Parliament and of the Council ([7]), this Directive should not apply to environmental claims on organically certified products substantiated on the basis of that Regulation, related, for instance, to the use of pesticides, fertilisers and anti-microbials or, for instance, to positive impacts of organic farming on biodiversity, soil or water ([8]). It also has a positive impact on biodiversity, ***and a positive social impact as*** it creates jobs and attracts young farmers. Consumers recognise its value. In accordance with Regulation (EU) 2018/848, the terms 'bio' and 'eco' and their derivatives, whether alone or in combination, are only to be used in the Union for

([3]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Green Deal, COM/2019/640 final

([4]) Proposal for a Directive of the European Parliament and of the Council amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, COM(2022) 143 final

([5]) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive) (OJ L 149, 11.6.2005, p. 22).

([6]) Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC, COM(2022) 132 final

([7]) Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

([8]) https://agriculture.ec.europa.eu/system/files/2023-01/agri-market-brief-20-organic-farming-eu_en_1.pdf

products, their ingredients or feed materials that fall under the scope of that Regulation where they have been produced in accordance with Regulation (EU) 2018/848. For instance, in order to call the cotton 'eco', it has to be certified as organic, as it falls within the scope of Regulation (EU) 2018/848. On the contrary, if the dishwasher detergent is called 'eco', this does not fall within the scope of Regulation (EU) 2018/848, and is instead regulated by the provisions of Directive 2005/29/EC. **[Am. 5]**

(9a) Within the context of the European Green Deal, the EU Action Plan Towards Zero Pollution for Air, Water and Soil (COM 2021/400), the European Chemicals Strategy for Sustainability (COM/2020/667) and the European Union Strategic Approach to Pharmaceuticals in the Environment (COM/2019/128), the healthcare sector plays a relevant role in reducing environmental pressures. In that context, establishing a proper regulatory framework for using green claims relating to sustainability, biodegradability, circularity and origin of the product's components both for medicinal products, in accordance with Directive 2001/83/EC, and medical devices, in accordance with Regulation (EU) 2017/745, is crucial in order to encourage companies to contribute to environmental objectives and guarantee reliable communication to consumers. **[Am. 6]**

(10) In addition, this Directive shall not apply to sustainability information involving messages or representations that may be either mandatory or voluntary pursuant to the Union or national rules for financial services, such as rules relating to banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, investment firms, payment, portfolio management and investment advice, including the services listed in Annex I to Directive 2013/36 ([9]) of the European Parliament and of the Council, as well as settlement and clearing activities and advisory, intermediation and other auxiliary financial services, including standards or certification schemes relating to such financial services.

(11) Furthermore, this Directive should not apply to environmental information reported by undertakings that apply European sustainability reporting standards on a mandatory or voluntary basis in accordance with Directive 2013/34/EU ([10]) and sustainability information reported on a voluntary basis by undertakings defined in articles 3(1), 3(2) or 3(3) of this Directive where that information is reported in accordance with standards referred to in Articles 29b or 29c of Directive 2013/34/EU or in accordance with other international, European or national sustainability reporting standards or guidelines.

(12) Offers to purchase goods or receive services conditional on the fulfilment of environmental criteria defined by the seller or service provider or offers where consumers receive more favourable contractual terms or prices upon the fulfilment of such criteria, for example the so-called green loans, green home insurance or financial service products with similar rewards for environmental actions or behaviour should not be subject to the rules of this Directive.

(13) ~~In case future Union legislation lays down rules on environmental claims, environmental labels, or on the assessment or communication of environmental impacts, environmental aspects or environmental performance of certain products or traders in specific sectors, for example the announced 'Count Emissions EU', the forthcoming Commission proposal on a legislative framework for a Union sustainable food system, the Eco-design for Sustainable Products Regulation ([11]) or Regulation (EU) No 1007/2011 of the European Parliament and of the Council ([12]), those rules should be applied to the explicit environmental claims in question instead of the rules set out in this Directive.~~ **[Am. 7]**

([9]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

([10]) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

([11]) ~~COM(2022) 132 final~~

([12]) ~~Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council (OJ L 272, 18.10.2011, p. 1).~~

(14) The proposal for a Directive on empowering consumers for the green transition which amends Directive 2005/29/EC, sets out a number of specific requirements on environmental claims and prohibits generic environmental claims which are not based on recognised excellent environmental performance relevant to the claim. Examples of such generic environmental claims are '***environmentally friendly', '***eco-friendly~~', 'eco~~', 'green', 'nature's friend', 'ecological' ~~and~~***,*** 'environmentally correct'***, 'climate friendly', 'gentle on the environment', 'carbon friendly', 'energy efficient', 'biodegradable', 'biobased' or similar statements that suggest or create the impression of excellent environmental performance***. This Directive should complement the requirements set out in that proposal by addressing specific aspects and requirements for explicit environmental claims as regards their substantiation, communication and verification. The requirements set out in this Directive should apply to specific aspects of explicit environmental claims and will prevail over the requirements set out in Directive 2005/29/EC with regard to those aspects in case of conflict, pursuant to Article 3(4) of that Directive. **[Am. 8]**

(15) In order to ensure that consumers are provided with reliable, comparable and verifiable information which enables them to make more environmentally sustainable decisions and to reduce the risk of 'greenwashing, it is necessary to establish requirements for substantiation of explicit environmental claims. Such substantiation should take into account ***robust and independent*** internationally recognised ***and up-to-date*** scientific approaches to identifying and measuring environmental impacts, environmental aspects and environmental performance of products or traders, and it should result in reliable, transparent, comparable and verifiable information to the consumer. **[Am. 9]**

(16) The assessment made to substantiate explicit environmental claims needs to consider the life-cycle of the product or of the overall activities of the trader and should not omit any relevant environmental aspects or environmental impacts. The benefits claimed should not result in ~~an unjustified~~***a*** transfer of negative impacts to other stages of the life cycle of a product or trader, or to the creation or increase of other negative environmental impacts. **[Am. 10]**

(17) The assessment substantiating the explicit environmental claim should make it possible to identify the environmental impacts and environmental aspects for the product or trader that jointly contribute significantly to the overall environmental performance of the product or trader ('relevant environmental impacts' and 'relevant environmental aspects'). Indications for the relevance of the environmental impacts and environmental aspects can stem from assessments taking into account the life-cycle, including from the studies based on Environmental Footprint (EF) methods, provided that these are complete on the impacts relevant to the product category and do not omit any important environmental impacts. For example, in the Commission Recommendation on the use of Environmental Footprint methods ([13]) the most relevant impact categories identified should together contribute to at least 80 % of the single overall score. These indications for the relevance of the environmental impacts or environmental aspects can also result from the criteria set in various ecolabels type I, as for instance the EU Ecolabel, or in Union criteria for green public procurement, from requirements set by the Taxonomy Regulation ([14]), from product specific rules adopted under the Regulation …./…. of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products ([15]) or from other relevant Union rules.

(18) In line with Directive 2005/29/EC as amended by the proposal for a Directive on empowering consumers for the green transition, the trader should not present requirements imposed by law on products within a given product category as a distinctive feature of the trader's offer or advertise benefits for consumers that are considered as common practice in the relevant market. The information used to substantiate explicit environmental claims should therefore make it possible to identify the product's or trader's environmental performance in comparison to the common practice for products in the respective product group, such as food, or in the respective sector. This is necessary to underpin the assessment whether the explicit environmental claims can be made with regard to a given product or trader in line with the function of an environmental claim, which is to demonstrate that a product or trader has a positive impact or no impact on the environment, or that a product or a trader is less damaging to the environment than other products or traders. The common practice could be equivalent to the minimum legal requirements that are applicable to the specific environmental aspect or environmental performance, for example as regards product composition, mandatory recycled content or end-of-life treatment. However, in case ***the*** majority of

([13]) Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations, OJ L 471, 30.12.2021, p. 1.

([14]) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

([15]) […]

products within the product group***, or the*** ~~or~~ majority of traders within the sector perform better than those legal requirements, the minimum legal requirements should not be considered as common practice. ***Also, existing certification schemes and their trademarks, such as certification schemes using a chain of custody certification, which can be more susceptible to fraud or which cannot reliably guarantee the legality of the production for the certified products, should be fully verified under the requirements of this Directive to ensure that consumers are not misled.*** **[Am. 11]**

(19) It would be misleading to consumers if an explicit environmental claim pointed to the benefits in terms of environmental impacts or environmental aspects while omitting that the achievement of those benefits leads to negative trade-offs on other environmental impacts or environmental aspects. To this end the information used to substantiate explicit environmental claims should ensure that the interlinkages between the relevant environmental impacts and between environmental aspects and environmental impacts can be identified along with potential trade-offs. The assessment used to substantiate explicit environmental claims should identify if improvements on environmental impacts or environmental aspects lead to the kind of trade-offs that ~~significantly~~ worsen the performance as regards other environmental impacts or environmental aspects, for example if savings in water consumption lead to a notable increase in greenhouse gas emissions, or in the same environmental impact in another life-cycle stage of the product, for example CO2 savings in the stage of manufacturing leading to a notable increase of CO2 emissions in the use phase. For example, a claim on positive impacts from efficient use of resources in intensive agricultural practices may mislead consumers due to trade-offs linked to impacts on biodiversity, ecosystems or animal welfare. An environmental claim on ***green energy may mislead consumers if it is based on resources negatively impacting the local development and environment, or on*** textiles containing plastic polymer from recycled PET bottles may also mislead consumers as to the environmental benefit of that aspect if the use of this recycled polymer competes with the closed-loop recycling system for food contact materials which is considered more beneficial from the perspective of circularity. **[Am. 12]**

(20) In order for the environmental claim to be considered robust, it should reflect as accurately as possible the environmental performance of the specific product or trader. The information used to substantiate explicit environmental claims therefore needs to include primary, company-specific data for relevant aspects contributing significantly to the environmental performance of the product or trader referred to in the claim. It is necessary to strike the right balance between ensuring relevant and robust information for substantiating environmental claims and the efforts needed to gather primary information. The requirement to use primary information should be considered in the light of the influence the trader making the claim has over the respective process and of the availability of primary information. If the process is not run by the trader making the claim and primary information is not available, accurate secondary information should be able to be used even for processes that contribute significantly to the environmental performance of the product or trader. This is especially relevant to not disadvantage SMEs and to keep the efforts needed to acquire primary data at a proportionate level. Moreover, the relevant environmental aspects are different for each type of environmental claim. For instance, for claims on recycled or bio-based content, the composition of the product should be covered by primary data. For claims on being environmentally less polluting in a certain life cycle stage, information on emissions and environmental impacts related to that life cycle stage should include primary data as well. Both primary data and secondary data, i.e. average data, should show a high level of quality and accuracy.

(21) Climate-related claims have been shown to be particularly prone to being unclear and ambiguous and to mislead consumers. This relates notably to environmental claims that products or entities are 'climate neutral', 'carbon neutral', '100 % CO2 compensated', or will be 'net-zero' by a given year, or similar. Such statements are often based on 'offsetting' of greenhouse gas emissions through 'carbon credits' generated outside the company's value chain, for example from forestry or renewable energy projects. The methodologies underpinning offsets vary widely and are not always transparent, accurate, or consistent. This leads to significant risks of overestimations and double counting of avoided or reduced emissions, due to a lack of additionality, permanence, ambitious and dynamic crediting baselines that depart from business as usual, and accurate accounting. These factors result in offset credits of low environmental integrity and credibility that mislead consumers when they are relied upon in explicit environmental claims. Offsetting can also deter traders from emissions reductions in their own operations and value chains. In order to adequately contribute to global climate change mitigation targets, traders should prioritise effective reductions of emissions across their own operations and value chains instead of ~~relying on~~ offsets. Any resulting residual emissions will vary by sector-specific pathway in line with the global climate targets and will have to be addressed through removals enhancements. When offsets are used nonetheless, it is deemed appropriate to

address climate-related claims, including claims on future environmental performance, based on ~~offsets~~***carbon credits*** in a transparent manner. ~~Therefore, the substantiation of climate-related claims should consider any greenhouse gas emissions offsets used by the traders separately from the trader's or the product's greenhouse gas emissions. In addition, this information should also specify the share of total emissions that are addressed through offsetting, whether these offsets relate to emission reductions or removals enhancement, and the methodology applied. The climate-related claims that include the use of offsets have to be substantiated by methodologies that ensure the integrity and correct accounting of these offsets and thus reflect coherently and transparently the resulting impact on the climate.~~ **[Am. 13]**

(22) Traders are more and more interested in making environmental claims related to future environmental performance of a ~~product or~~ trader, including by joining initiatives that are promoting practices which could be conducive to a reduced environmental impact or to more circularity. These claims should be substantiated in line with the rules applicable to all explicit environmental claims. **[Am. 14]**

(23) The information used to substantiate explicit environmental claims should be ~~science~~ based ***on independent, peer-reviewed, widely recognised, robust and verifiable scientific evidence, i.e. on methods, approaches or studies that have been developed in line with best practices in terms of transparency and peer reviewed by the scientific community***, and any lack of consideration of certain environmental impacts or environmental aspects should be carefully considered. ***The methodologies need to be publicly accessible in order to ensure the transparency and integrity of assessments.*** **[Am. 15]**

(24) The EF methods can support the substantiation of explicit environmental claims on specific life-cycle environmental impacts that the methods cover, provided that these are complete on the impacts relevant to the product category and do not omit any important environmental impacts. The methods cover 16 environmental impacts, including climate change, and impacts related to water, air, soil, resources, land use and toxicity.

(25) The fact that a significant environmental impact of a product is not covered by any of the 16 impact categories of the EF methods should not justify the lack of consideration of such impacts. An economic actor making an explicit environmental claim on such product group should have an obligation of diligence to find evidence substantiating such claim. For instance, an economic actor making an explicit environmental claim about a fishery product as defined in Article 5 of Regulation (EU) No 1379/2013 of the European Parliament and of the Council ([16]) should have an obligation of diligence to find evidence substantiating the sustainability of the targeted fish stock. Stock assessments by the International Council for the Exploration of the Sea and similar stock assessment bodies can be used for that purpose.

(26) Furthermore, there is not yet a reliable methodology for the assessment of life-cycle environmental impacts related to the release of microplastics. However, in case such release contributes to significant environmental impacts that are not subject to a claim, the trader making the claim on another aspect should not be allowed to ignore it, but should take into account available information and update the assessment once widely recognised scientific evidence becomes available.

(27) Consumers can also be misled by explicit environmental claims that state or imply that a product or trader has less or more environmental impacts or a better or worse environmental performance than other products or traders ('comparative environmental claims'). Without prejudice to the application, where appropriate, of Directive 2006/114/EC of the European Parliament and of the Council ([17]), in order to allow the consumers access to reliable information, it is necessary to ensure that comparative environmental claims can be compared in an adequate manner. For instance, ***performance-based certification and process-based certification rely on different sets of indicators, such as setting specific thresholds that need to be met or ensuring that a certain procedure is in place.*** Choosing indicators on the same environmental aspects but using a different formula for quantification of such indicators makes comparisons impossible, and therefore there is a risk of misleading consumers. In case

([16]) Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

([17]) Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21).

traders make an environmental claim on climate change, where one considered only direct environmental impacts, whilst the other considered both direct and indirect environmental impacts, these results are not comparable. Also, a decision to make the comparison only at certain stages of a products life cycle can lead to misleading claims, if not made transparent. A comparative environmental claim needs to ensure that also for products with very different raw materials, uses and process chains, like bio-based plastics and fossil-based plastics, the most relevant stages of the life-cycle are taken into account for all products. For example, agriculture or forestry is relevant for bio-based plastics while raw oil extraction is relevant for fossil-based plastics and the question whether a relevant share of the product ends up in landfill is highly relevant to plastics that biodegrade well under landfill conditions but maybe less relevant for plastics that do not biodegrade under such conditions. **[Am. 16]**

(27a) It is important that traders do not make generic claims such as 'conscious', 'sustainable', and 'responsible', based exclusively on recognised excellent environmental performance, because such terms relate to other characteristics in addition to environmental characteristics, such as social characteristics. **[Am. 17]**

(28) When setting up the requirements for substantiation and communication of explicit environmental claims, including by delegated acts adopted by the Commission, the difficulties that traders may encounter in gathering information from actors throughout their value chain or on the product's overall life-cycle, especially for services or where there is insufficient scientific evidence, should be taken into account. This is important for example for services such as electronic communications services, for which it can be difficult to define the scope and system boundaries, e.g. where the life-cycle starts and where it finishes and even more where supply chains are complex and not stable, e.g. in cases where many equipment or components are manufactured by a multitude of enterprises outside the EU, and thus sustainability related information might not be easily accessible to EU traders concerned.

(29) For some sectors or for certain products or traders, significant environmental impacts or environmental aspects could be suspected but there might not yet be a recognised scientific method to fully assess those environmental impacts and environmental aspects. For such cases and while efforts are made to develop methods and gather evidence to enable the assessment of the respective environmental impact or environmental aspect for those sectors, traders or products, traders should be able to promote their sustainability efforts through publication of company sustainability reporting, factual reporting on the company's performance metrics and work to reduce energy consumption, including on their websites. This flexibility would maintain and promote the incentives of those sectors or traders to continue their efforts to develop common environmental assessments pursuant to this Directive while providing for the necessary time to complete such work.

(29a) It is important to acknowledge the challenges faced by micro, small and medium-sized enterprises in terms of resources and capabilities, especially in comparison to larger corporations. Therefore, it is essential for Member States, when implementing this Directive, to take all appropriate measures to help micro, small and medium-sized enterprises to comply with the requirements of this Directive. **[Am. 18]**

(30) While unfair commercial practices, including misleading environmental claims, are prohibited for all traders pursuant to Directive 2005/29/EC ([18]), an administrative burden linked to substantiation and verification of environmental claims on the smallest companies could be disproportionate and should be avoided. To this end, microenterprises should be exempted from the requirements on substantiation of Article 3 and 4 unless these enterprises wish to obtain a certificate of conformity of explicit environmental claims that will be recognised by the competent authorities across the Union.

(31) In order to meet both the needs of traders regarding dynamic marketing strategies and the needs of consumers regarding more detailed, and more accurate, environmental information, the Commission may adopt delegated acts to supplement the provisions on substantiation of explicit environmental claims by further specifying the criteria for such substantiation with regard to certain claims (e.g. climate-related claims, including claims ~~about offsets~~***based***

([18]) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive) (OJ L 149, 11.6.2005, p. 22) as amended.

on carbon credits on residual emissions of a trader**, **such as 'climate neutrality' ~~or similar~~***, and claims on*** recyclability and recycled content). The Commission should be empowered to further establish rules for measuring and calculating the environmental impacts, environmental aspects and environmental performance, by determining which activities, processes, materials, emissions or use of a product or trader contribute significantly or cannot contribute to the relevant environmental impacts and environmental aspects; by determining for which environmental aspects and environmental impacts primary information should be used; and by determining the criteria to assess the accuracy of primary and secondary information. While in most cases the Commission would consider the need for adopting these rules only after having the results of the monitoring of the evolution of environmental claims on the Union market, for some types of claims it may be necessary for the Commission to adopt supplementary rules before the results of this monitoring are available. For example, in case of climate-related claims it may be necessary to adopt such supplementary acts in order to operationalise the provisions on substantiation of claims based on ~~offsets~~***carbon credits used on residual emissions of a trader***. **[Am. 19]**

(32) The Commission Recommendation (EU) 2021/2279 contains guidance on how to measure the life cycle environmental performance of specific products or organisations and how to develop Product Environmental Footprint Category Rules (PEFCRs) and Organisation Environmental Footprint Sectorial Rules (OEFSRs) that allow comparison of products to a benchmark. Such category rules for specific products or traders can be used to support the substantiation of claims in line with the requirements of this Directive. Therefore, the Commission should be empowered to adopt delegated acts to establish product group or sector specific rules where this may have added value. However, ***for some product groups, the PEF method is not suitable for providing a holistic environmental assessment.*** In case the Product Environmental Footprint method does not yet cover an impact category, which is relevant for a product group, the adoption of PEFCR may take place only once these new relevant environmental impact categories have been added. For example, as regards marine fisheries, the PEFCR should for example reflect the fisheries-specific environmental impact categories, in particular the sustainability of the targeted stock. Concerning space, the PEFCR should reflect defence and space-specific environmental impact categories, including the orbital space use. As regards food and agricultural products, biodiversity and nature protection, as well as farming practices, including positive externalities of***,*** extensive farming and animal welfare, should, for example, also be integrated before the adoption of PEFCR could be considered. As regards textiles, the PEFCR should for example reflect the microplastics release, before the adoption of PEFCR could be considered. ***To further develop the current PEF method and address its limitations, it is important that the Commission regularly evaluates and updates the methods in order to reflect scientific progress. It is also important that the Commission enables the Consultation forum established under this Directive to contribute to the development of PEFCR and OEFCR.*** **[Am. 20]**

(32a) In order to ensure the integrity, impartiality and high quality of the substantiation of environmental claims, and to ensure that the requirements for the substantiation result in a better understanding of environmental impacts by consumers, it is important that those requirements for the substantiation of environmental claims are developed involving a balanced set of stakeholders, such as consumer organisations, environmental non-governmental organisations, operators of labelling schemes and competent bodies, in addition to industry representatives, including micro, small and medium-sized enterprises and craft industry representatives, trade unions, traders, retailers, importers. For this purpose, the Commission should establish a consultation forum, the role of which will be to provide opinions on whether existing rules and methods are suitable for substantiating specific environmental claims, and to be consulted on the preparation of the revision or the development of new delegated acts. **[Am. 21]**

(33) Since Directive 2005/29/EC already applies to misleading environmental claims, it enables the national courts and administrative authorities to stop and prohibit such claims. For example, in order to comply with Directive 2005/29/EC, environmental claims should relate only to aspects that are significant in terms of the product's or trader's environmental impact. Environmental claims ***and labelling schemes*** should also be clear and unambiguous regarding which aspects of the product or trader they refer to and should not omit or hide important information about the environmental performance of the product ~~or trader~~ that consumers need in order to make informed choices. The wording, imagery and overall product presentation, including the ***taglines,*** layout, choice of colours, images, pictures, sounds, symbols***, trademark*** or labels, ~~included in the environmental claim~~ should provide a truthful and accurate representation of the scale of the environmental benefit achieved, and should not overstate the environmental benefit achieved. ***Where applicable, information about the exact amount of a product's certified material content, a feature around which certain types of labelling schemes operate, should not be omitted, especially when the minimum certified content could be zero.*** **[Am. 22]**

(34) Where the explicit environmental claim concerns a final product and relevant environmental impacts or environmental aspects of such product occur at the use phase ***or at the end of life*** and consumers can influence such environmental impacts or environmental aspects via appropriate behaviour, such as, for example, correct waste sorting or impacts of use patterns on product's longevity, the claim should also include information explaining to consumers how their behaviour can positively contribute to the protection of the environment. **[Am. 23]**

(35) In order to facilitate consumers' choices of more sustainable products and to incentivise efforts of traders to lower their environmental impacts, when the claim communicated relates to future environmental performance, it should as a priority be based on improvements inside trader's own operations and value chains rather than relying on offsetting of greenhouse has emissions or other environmental impacts.

(36) Consumers should have easy access to the information on the product or the trader that is the subject of the explicit environmental claim***, including directly on the product or accompanying the product,*** and regarding information substantiating ~~that~~***the*** claim ***applicable to the product***. This information should also consider needs of older consumers. For that purpose, traders should either provide this information in a physical form or provide a weblink, QR code***, digital product passport*** or equivalent leading to a website where more detailed information on the substantiation of the explicit environmental claim is made available in at least one of the official languages of the Member State where the claim is made. In order to facilitate the enforcement of this Directive, the weblink, QR code or equivalent should also ensure easy access to the certificate of conformity regarding the substantiation of the explicit environmental claim and the contact information of the verifier who drew up that certificate. ***The underlying studies, assessments, methodologies or calculations should be made publicly available, unless the information is a trade secret in line with Article 2, paragraph 1 of Directive (EU) 2016/943.*** **[Am. 24]**

(37) In order to avoid potential disproportionate impacts on the microenterprises, ~~the~~***these*** smallest companies should be exempted from the requirements of Article 5 linked to information on the substantiation of explicit environmental claims unless these enterprises wish to obtain a certificate of conformity of explicit environmental claim that will be recognised by the competent authorities across the Union. **[Am. 25]**

(38) When the Commission adopts delegated acts to supplement the provisions on substantiation of explicit environmental claims it may be necessary to also supplement the provisions on communication of such claims. For example, in case specific life-cycle-based rules on substantiation of explicit environmental claims for certain products group or sector are established, it may be necessary to add supplementary rules on presentation of environmental impacts assessed based on these rules by requiring that three main environmental impacts are presented next to the aggregated indicator of overall environmental performance. To this end the Commission should be empowered to adopt delegated acts to supplement the provisions on communication of explicit environmental claims.

(39) Currently, more than 200 environmental labels are used on the Union market. They present important differences in how they operate as regards for example the transparency and comprehensiveness of the standards or methods used, the frequency of revisions, or the level of auditing or verification. These differences have an impact on how reliable the information communicated on the environmental labels is. While claims based on the EU Ecolabel or its national equivalents follow a solid scientific basis, have a transparent development of criteria, require testing and third-party verification and foresee regular monitoring, evidence suggests that many environmental labels currently on the EU market are misleading. In particular, many environmental labels lack sufficient verification procedures. Therefore, explicit environmental claims made on environmental labels should be based on a certification scheme.

(40) In cases where an environmental label involves a commercial communication to consumers that suggests or creates the impression that a product has a positive or no impact on the environment, or is less damaging to the environment than competing products without the label, that environmental label also constitutes an explicit environmental claim. The content of such environmental label is therefore subject to the requirements on substantiation and communication of explicit environmental claims.

(41) The environmental labels often aim at providing consumers with an aggregated scoring presenting a cumulative environmental impact of products or traders to allow for direct comparisons between products or traders. Such aggregated scoring however presents risks of misleading consumers as the aggregated indicator may dilute negative

environmental impacts of certain aspects of the product with more positive environmental impacts of other aspects of the product. In addition, when developed by different operators, such labels usually differ in terms of specific methodology underlying the aggregated score such as the environmental impacts considered or the weighting attributed to these environmental impacts. This may result in the same product receiving different score or rating depending on the scheme. This concern arises in relation to schemes established in the Union and in third countries. This is contributing to the fragmentation of the internal market, risks putting smaller companies at a disadvantage, and is likely to further mislead consumers and undermine their trust in environmental labels. In order to avoid this risk and ensure better harmonisation within the single market, the explicit environmental claims, including environmental labels, based on an aggregated score representing a cumulative environmental impact of products or traders should ~~not be deemed to be sufficiently substantiated, unless those aggregated scores stem from Union rules~~***meet requirements ensuring the reliability of the underlying environmental labelling schemes***, including ~~the delegated acts that the Commission is empowered to adopt under this Directive, resulting in Union-wide harmonised schemes for all products or per specific product group based on a single methodology to ensure coherence and comparability~~***with respect to their assessment methods and governance***. **[Am. 26]**

(42) In accordance with the proposal for a Directive on empowering consumers for the green transition, which amends Directive 2005/29/EC, displaying a sustainability label which is not based on a certification scheme or not established by public authorities constitutes an unfair commercial practice in all circumstances. This means that the 'self-certified' sustainability labels, where no third-party verification and regular monitoring takes place as regards compliance with the underlying requirements of the sustainability label are prohibited.

(43) In order to combat misleading explicit environmental claims communicated in the form of environmental labels and increase consumer trust in environmental labels***, including trademarks and logos of certification schemes***, this Directive should establish governance criteria that all environmental labelling schemes are to comply with, complementing thus the requirements set in the said proposal amending Directive 2005/29/EC. **[Am. 27]**

(44) ~~In order to avoid further proliferation of national or regional officially recognised EN ISO 14024 type I environmental labelling ('ecolabelling') schemes, and other environmental labelling schemes, and to ensure more harmonisation in the internal market, new national or regional environmental labelling schemes should be developed only under the Union law. Nevertheless, Member States can request the Commission to consider developing public labelling schemes at the Union level for product groups or sectors where such labels do not yet exist in Union law and where harmonisation would bring added value to achieve the sustainability and internal market objectives in an efficient manner.~~ **[Am. 28]**

(45) In order not to create unnecessary barriers to international trade and to ensure equal treatment with the public schemes established in the Union, the public authorities outside of the Union setting up new labelling schemes should be allowed to request approval from the Commission for use of the label on the Union market. This approval should be conditional on the scheme's contribution to reaching the objectives of this Directive and provided that the schemes demonstrate added value in terms of environmental ambition, coverage of environmental impacts, product group or sector and meet all the requirements of this Directive.

(46) Environmental labelling schemes established by private operators, if too many and overlapping in terms of scope, may create confusion in consumers or undermine their trust in environmental labels. Therefore, Member States should only allow ~~that~~***existing environmental labelling schemes to be depicted in business-to-consumer commercial practice after this Directive has entered into application and when such schemes are in compliance with the obligations set in this Directive, and should only allow*** new environmental labelling schemes ***to be*** ~~are~~ established by private operators provided that they offer ~~significant~~ added value ~~as compared to the existing national or regional schemes~~***, in compliance with this Directive,*** in terms of environmental ambition of the criteria to award the label, coverage of relevant environmental impacts, and completeness of the underlying assessment. Member States should set up a procedure for the approval of new environmental labelling schemes based on a certificate of conformity drawn up by the independent verifier***, and assess the claims made by existing environmental and sustainability labelling and certification schemes***. This should apply to schemes established in the Union and outside of the Union***, including existing schemes***. **[Am. 29]**

(47) In order to provide legal certainty and facilitate enforcement of the provisions on ~~new national and regional~~ officially recognised ~~environmental labelling schemes and new~~ private labelling schemes, the Commission should publish a list of such schemes that may either continue to apply on the Union market or enter the Union market. **[Am. 30]**

(48) In order to ensure a harmonised approach by the Member States to the assessment and approval of environmental labelling schemes developed by private operators~~,~~ and to establish an approval procedure by the Commission for proposed schemes established by public authorities outside of the Union, ~~implementing powers should be conferred on~~ the Commission ***is empowered*** to adopt ***delegated acts setting out*** common rules specifying detailed requirements for approval of such environmental labelling schemes, the format and content of supporting documents and rules of procedure to approve such schemes. ~~Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([19]).~~ **[Am. 31]**

(49) It is essential that explicit environmental claims ***and environmental labelling schemes*** reflect correctly the environmental performance and environmental impacts covered by the claim ***both directly on the product and accompanying the product***, and consider the latest scientific evidence. Member States should therefore ensure that the trader making the claim ~~reviews and updates~~ ***and environmental labelling schemes review and update*** the substantiation and communication of the claims at least every 5 years to ensure compliance with the requirements of this Directive**. [Am. 32]**

(49a) Article 13(1)e of the EU Tobacco Products Directive 2014/40/EU prohibits environmental claims on tobacco products and packaging, however it does not prohibit tobacco industry entities from making green claims about their activities as a whole, particularly through advertising campaigns on their environmental performance which could mislead consumers; therefore no environmental claims on tobacco industry activities should be allowed. **[Am. 33]**

(50) To ensure that explicit environmental claims are reliable, it is necessary that Member States set up procedure for verifying that the substantiation and communication of explicit environmental claims, including environmental labels, or the environmental labelling schemes, comply with the requirements set out in this Directive.

(51) In order to allow the competent authorities to control more efficiently the implementation of the provisions of this Directive and to prevent as much as possible unsubstantiated explicit environmental claims, including environmental labels, from appearing on the market, verifiers complying with the harmonised requirements set up by the Directive should check that both the information used for the substantiation and communication of explicit environmental claims meet the requirements of this Directive. In order to avoid misleading consumers, the verification should ~~in any case~~ take place before the environmental claims are made public or environmental labels are displayed***. However, in order to avoid waste of products or packaging which have already been printed prior to the entry into force of this Directive, Member States may introduce a transitional period between the date of entry into force and the date of application of this Directive, during which time existing environmental claims submitted for verification can be used. Member States may prioritise the verification of claims made prior to the entry into force of this Directive***. The verifier can, if appropriate, indicate several ways of communicating the explicit environmental claim that comply with the requirements of this Directive to avoid the need for continuous re-certification in case the way of communication is slightly modified without affecting the compliance with the requirements of this Directive. To facilitate the traders compliance with the rules on substantiation and communication of explicit environmental claims, including the environmental labels, the verification should take into account the nature and content of the claim or the environmental label, including whether they appear to be unfair in the light of Directive 2005/29/EC. **[Am. 34]**

(52) In order to provide traders with legal certainty across the internal market as regards compliance of the explicit environmental claims with the requirements of this Directive, the certificate of conformity should be recognised by the competent authorities across the Union. Microenterprises ***as well as small enterprises that make use of the transitional phase*** should be allowed to request such certificate if they wish to certify their claims in line with the requirements of this Directive and benefit from the certificate's recognition across the Union. The certificate of conformity should however not prejudge the assessment of the environmental claim by the public authorities or courts which enforce Directive 2005/29/EC. **[Am. 35]**

([19]) ~~Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).~~

(53) In order to ensure uniform conditions for the provisions on verification of explicit environmental claims and environmental labelling schemes and to facilitate the enforcement of the provisions on verification of this Directive, implementing powers should be conferred on the Commission to adopt a common form for certificates of conformity and the technical means for issuing such certificates. ***This common form should facilitate the recognition of certificates of conformity by the competent authorities across the Union.*** Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([20]). **[Am. 36]**

(54) ***Micro,*** small and medium-sized enterprises ~~(SMEs)~~ should be able to benefit from the opportunities provided by the market for more sustainable products but they could face proportionately higher costs and difficulties with some of the requirements on substantiation and verification of explicit environmental claims. The Member States ***and the Commission*** should provide adequate information and raise awareness of the ways to comply with the requirements of this Directive, ensure targeted and specialised training, and provide specific assistance and support, including financial, to SMEs wishing to make explicit environmental claims on their products or as regards their activities. Member States actions should be taken in respect of applicable State aid rules. ***To ensure a level playing field for micro, small and medium-sized enterprises across the Union, Member States should engage in regular dialogue regarding support measures for micro, small and medium-sized enterprises that are in place on regional and national levels respectively. In addition, and to ensure micro, small and medium-sized enterprises do not face disproportionately higher costs and difficulties with respect to the requirements of this Directive, the Commission should consider some initiatives within the framework of financial programmes dedicated to micro, small and medium-sized enterprises, for cases where they wish to make explicit environmental claims with regard to their products or activities.*** **[Am. 37]**

(55) In order to ensure a level-playing field on the Union market, where claims about the environmental performance of a product or a trader are based on reliable, comparable and verifiable information, it is necessary to establish common rules on enforcement and compliance.

(56) In order to ensure that the objectives of this Directive are achieved and the requirements are enforced effectively, Member States should designate their own competent authorities responsible for the application and enforcement of this Directive. However, in view of the close complementarity of Articles 5 and 6 of this Directive with the provisions of Directive 2005/29/EC, Member States should also be allowed to designate for their enforcement the same competent authorities as those responsible for the enforcement of Directive 2005/29/EC. For the sake of consistency, when Member States make that choice, they should be able to rely on the means and powers of enforcement that they have established in accordance with Article 11 of Directive 2005/29/EC~~, in derogation from the rules on enforcement laid down in this Directive~~. In cases where there is more than one designated competent authority in their territory and to ensure effective exercise of the duties of the competent authorities, Member State should ensure a close cooperation between all designated competent authorities. **[Am. 38]**

(57) Without prejudice to the powers already conferred by Regulation (EU) 2017/2394 ([21]) to consumer protection authorities, competent authorities should have a minimum set of investigation and enforcement powers in order to ensure compliance with this Directive, to cooperate with each other more quickly and more efficiently, and to deter market actors from infringing this Directive. Those powers should be sufficient to tackle the enforcement challenges of e-commerce and the digital environment effectively and to prevent non-compliant market actors from exploiting gaps in the enforcement system by relocating to Member States whose competent authorities may be less equipped to tackle unlawful practices.

(58) Competent authorities should be able to use all facts and circumstances of the case as evidence for the purpose of their investigation.

(59) In order to prevent the occurrence of misleading and unsubstantiated explicit environmental claims on the Union market, competent authorities should carry out regular checks of explicit environmental claims made, and the environmental labelling schemes applied, to verify that the requirements laid down in this Directive are fulfilled.

([20]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

([21]) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).

(60) When competent authorities detect an infringement of requirements of this Directive they should carry out an evaluation and based on its results notify the trader about the infringement detected and require that corrective actions are taken by the trader. To minimise the misleading effect on consumers of the non-compliant explicit environmental claim or non-compliant environmental labelling scheme, the trader should be required by the competent authorities to take an effective and rapid action to remediate that infringement. The corrective action required should be proportionate to the infringement detected and its expected harmful effects on the consumers.

(61) Where an infringement is not restricted to their national territory, and the explicit environmental claim has been advanced between traders, competent authorities should inform the other Member States of the results of evaluation they have carried out and of any action that they have required the trader responsible to take.

(62) Competent authorities should also carry out checks of explicit environmental claims on the Union market when in possession of and based on relevant information, including substantiated concerns submitted by third parties. Third parties submitting a concern should be able to demonstrate a sufficient interest or maintain the impairment of a right.

(63) In order to ensure that traders are effectively dissuaded from non-compliance with the requirements of this Directive, Member States should lay down rules on penalties applicable to infringements of this Directive and ensure that those rules are implemented. The penalties provided for should be effective, proportionate and dissuasive. To facilitate a more consistent application of penalties, it is necessary to establish common non-exhaustive criteria for determining the types and levels of penalties to be imposed in case of infringements. That criteria should include, inter alia, the nature and gravity of the infringement as well as the economic benefits derived from the infringement in order to ensure that those responsible are deprived of those benefits.

(64) When setting penalties and measures for infringements, the Member States should foresee that, based on the gravity of the infringement, the level of fines should effectively deprive the non-compliant trader from the economic benefit derived from using the misleading or unsubstantiated explicit environmental claim or non-compliant environmental labelling scheme, including in cases of repeated infringements. The measures for infringements foreseen by the Member States should therefore also include confiscation of the relevant product from the trader or revenues gained from the transactions affected by this infringement or a temporary exclusions or prohibitions from placing products or making available services on the Union market. The gravity of the infringement should be the leading criterion for the measures taken by the enforcement authorities. The maximum amount of fines should be dissuasive and set at least at the level of 4 % of the trader's total annual turnover in the Member State or Member States concerned in case of widespread infringements with a Union dimension that are subject to coordinated investigation and enforcement measures in accordance with Regulation (EU) 2017/2394 ([22]).

(65) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations***, including with the consultation forum,*** during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([23]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. **[Am. 39]**

(66) In order to assess the performance of the legislation against the objectives that it pursues, the Commission should carry out an evaluation of this Directive and present a report on the main findings to the European Parliament and the Council. In order to inform an evaluation of this Directive, Member States should regularly collect information on the application of this Directive and provide it to the Commission on an annual basis.

([22]) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).

([23]) OJ L 123, 12.5.2016, p. 1.

(67) Where based on the results of the monitoring and evaluation of this Directive the Commission finds it appropriate to propose a review of this Directive, the feasibility and appropriateness of further provisions on mandating the use of common method for substantiation of explicit environmental claims, ~~the extension of prohibition of environmental claims for products containing hazardous substances except where their use is considered essential for the society,~~ or further harmonisation as regards requirements on the substantiation of specific environmental claims on environmental aspects or environmental impacts should also be considered. **[Am. 40]**

(68) The use of the most harmful substances should ultimately be phased-out in the Union to avoid and prevent significant harm to human health and the environment, in particular their use in consumer products***. The Commission should provide a report on the use of explicit environmental claims on products containing harmful substances and evaluate for which products or product groups the use of explicit environmental claims is misleading. Since the use of such claims can encourage consumption of those products that contain substances harmful to the environment or human health, the Commission should have the power to adopt delegated acts to introduce restrictions or prohibitions on the use of such explicit environmental claims. In its report, the Commission could also evaluate whether it would be appropriate that certain EU Ecolabel criteria set under Regulation (EC) No 66/2010 concerning the use of substances or preparations/mixtures be used for the potential restrictions or prohibitions on the use of explicit environmental claims under this Directive***. Regulation (EC) No 1272/2008 of the European Parliament and of the Council ([24]) prohibits the labelling of mixtures and substances that contain hazardous chemicals as 'non-toxic', 'non-harmful', 'non-polluting', 'ecological' or any other statements indicating that the substance or mixture is not hazardous or statements that are inconsistent with the classification of that substance or mixture. Member States are required to ensure that such obligation is fulfilled. As committed in the Chemicals Strategy for Sustainability the Commission will define criteria for essential uses to guide its application across relevant Union legislation.. **[Am. 41]**

(69) Since the objectives of this Directive, namely to improve the functioning of the internal market for economic actors operating in the internal market and consumers relying on environmental claims, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(70) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ([25]), Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(71) The Annex to Regulation (EU) 1024/2012 of the European Parliament and of the Council ([26]) should be amended to include a reference to this Directive so as to facilitate the administrative cooperation between the competent authorities through the Internal Market Information System.

(72) The Annex to Regulation (EU) 2017/2394 of the European Parliament and of the Council ([27]) should be amended to include a reference to this Directive so as to facilitate cross-border cooperation on enforcement of this Directive.

(73) Annex I of Directive (EU) 2020/1828 of the European Parliament and of the Council ([28]) should be amended to include a reference to this Directive so as to ensure that the collective interests of consumers laid down in this Directive are protected,

([24]) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

([25]) OJ C 369, 17.12.2011, p. 14.

([26]) Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1).

([27]) OJ L 345, 27.12.2017, p. 1

([28]) Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope **[Am. 42]**

-1. The purpose of this Directive is to provide for a high level of consumer and environmental protection, while contributing to the functioning of the internal market, by approximating the laws, regulations and administrative provisions of the Member States related to environmental claims made on or with reference to products made available on the market or to traders making products available on the market. **[Am. 43]**

1. This Directive applies to explicit environmental claims made by traders about products ***placed on the market or put into service, including through online platforms*** or traders ***and environmental labelling schemes*** in business-to-consumer commercial practices. **[Am. 44]**

2. This Directive does not apply to environmental labelling schemes or to explicit environmental claims regulated by or substantiated by rules established in:

(a) Regulation (EC) No 66/2010 of the European Parliament and of the Council ([29]),

(b) Regulation (EU) 2018/848 of the European Parliament and of the Council ([30]),

(c) Regulation (EU) 2017/1369 of the European Parliament and of the Council ([31]);

(d) Directive 2009/125/EC of the European Parliament and of the Council ([32]),

(e) Regulation (EU) No 305/2011 of the European Parliament and of the Council ([33])

(f) Regulation (EC) No 765/2008 of the European Parliament and of the Council ([34]);

(g) Regulation (EC) No 1221/2009 of the European Parliament and of the Council ([35]);

(h) Directive 1999/94/EC of the European Parliament and of the Council ([36]);

(i) ~~Regulation (EU) No 305/2011 of the European Parliament and of the Council~~ ([37])~~;~~ **[Am. 45]**

(j) Directive 2006/66/EC of the European Parliament and of the Council ([38]);

(k) ~~Directive 94/62/EC of the European Parliament and of the Council~~ ([39])~~;~~ **[Am. 46]**

([29]) Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

([30]) Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

([31]) Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1).

([32]) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast) (OJ L 285, 31.10.2009, p. 10).

([33]) Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

([34]) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

([35]) Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

([36]) Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO2 emissions in respect of the marketing of new passenger cars (OJ L 12, 18.1.2000, p. 16).

([37]) ~~Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).~~

([38]) Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.9.2006, p. 1).

([39]) ~~Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).~~

(l) Regulation (EU) 2020/852 of the European Parliament and of the Council ([40])

(m) Regulation (EU) … /… of the European Parliament and of the Council ([41]);

(n) Directive 2012/27/EU of the European Parliament and of the Council ([42]);

(o) Directive 2013/34/EU of the European Parliament and of the Council ([43])***, Regulation (EU) 2019/2088 of the European Parliament and of the Council*** ([44]) and other Union, national or international rules, standards or guidelines for financial services, financial instruments, and financial products; **[Am. 47]**

(oa) Regulation (EU) No 1007/2011 of the European Parliament and of the Council ([45])***;*** **[Am. 48]**

(p) ~~other existing or future Union rules setting out the conditions under which certain explicit environmental claims about certain products or traders may be or are to be made or Union rules laying down requirements on the assessment or communication of environmental impacts, environmental aspects or environmental performance of certain products or traders or conditions for environmental labelling schemes.~~ **[Am. 49]**

2a. The Commission is empowered to adopt delegated acts in accordance with Article 18 to amend the list referred to in paragraph 2 to delete or add new or revised legislation where they provide a level of requirements that can be considered equivalent to those provided by this Directive. The requirements that shall be required to be equivalent include:

(a) the level of disclosure of information;

(b) the requirements on third-party verification prior to the claim being put on the market;

(c) the level of enforcement. **[Am. 50]**

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

(1) 'environmental claim' means environmental claim as defined in Article 2, point (o), of Directive 2005/29/EC;

(2) 'explicit environmental claim' means an environmental claim that is in textual form or contained in an environmental label;

(3) 'trader' means trader as defined in Article 2, point (b), of Directive 2005/29/EC;

(4) 'product' means product as defined in Article 2, point (c), of Directive 2005/29/EC;

(5) 'consumer' means consumer as defined in Article 2, point (a), of Directive 2005/29/EC;

(6) 'business-to-consumer commercial practices' means business-to-consumer commercial practices as defined in Article 2, point (d), of Directive 2005/29/EC;

(7) 'sustainability label' means sustainability label as defined in Article 2, point (r), of Directive 2005/29/EC;

(8) 'environmental label' means a sustainability label covering ~~only or predominantly~~***one or more*** environmental aspects of a product, a process or a trader; **[Am. 51]**

([40]) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

([41]) Regulation (EU) … /… of the European Parliament and of the Council establishing a Union certification framework for carbon removals (OJ L …).

([42]) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

([43]) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

([44]) ***Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector***

([45]) ***Regulation (EU) No 1007/2011 of the European Parliament and of the Council on textile fibre names and related labelling and marketing of the fibre composition of textile products***

(9) 'product group' means a set of products that serve similar purposes or are similar in terms of use or have similar functional properties;

(10) 'certification scheme' means a certification scheme as defined in Article 2, point (s), of Directive 2005/29/EC;

(11) 'verification' means the conformity assessment process carried out by a verifier to verify whether the substantiation and communication of the explicit environmental claims are in compliance with the requirements set out in this Directive or whether environmental labelling schemes comply with this Directive;

(12) 'value chain' means all activities and processes that are part of the life cycle of a product or activity of a trader, including remanufacturing***, reuse, recycling and end-of-life***; **[Am. 52]**

(13) 'life cycle' means the consecutive and interlinked stages of a product's life, consisting of raw material acquisition or generation from natural resources, pre-processing, manufacturing, storage, distribution, installation, use, maintenance, repair, upgrading, refurbishment as well as re-use, and end-of-life;

(14) 'primary information' means information that is directly measured or collected by the trader from one or more facilities that are representative for the activities of the trader;

(15) 'secondary information' means information that is based on other sources than primary information including ***peer-reviewed*** literature studies, engineering studies and patents. **[Am. 53]**

(16) 'public' means one or more natural or legal persons and their associations, traders or groups;

(17) 'environmental performance' means the performance of a certain product or product group or trader or sector related to the environmental aspects or environmental impacts of that product or product group or the activities of that trader or sector;

(18) 'environmental aspect' means an element of a trader's or sector's activities or of products or product groups that interact or can interact with the environment.

(19) 'environmental impact' means any ***measurable*** change to the environment, whether positive or negative, that wholly or partially results from a trader's or sector's activities or from a product or product group during its life cycle. **[Am. 54]**

(19a) 'environmental labelling scheme' means a certification scheme which certifies that a product, a process or a trader complies with the requirements for an environmental label. **[Am. 55]**

Article 3

Substantiation of explicit environmental claims

1. Member States shall ensure that traders carry out an assessment to substantiate explicit environmental claims. This assessment shall:

(a) specify if the claim is related to the whole product, part of a product***, part of a life-cycle of a product,*** or certain aspects of a product, or to all activities of a trader or a certain part or aspect of these activities, as relevant to the claim; **[Am. 56]**

(b) rely on ***independent, peer-reviewed,*** widely recognised***, robust and verifiable*** scientific evidence, use accurate information and take into account relevant ***Union or*** international standards; **[Am. 57]**

(c) demonstrate that environmental impacts, environmental aspects or environmental performance that are subject to the claim are significant from a life-cycle perspective;

(d) where a claim is made on environmental performance, take into account all environmental aspects or environmental impacts which are significant to assessing the environmental performance***, including from a life-cycle perspective***; **[Am. 58]**

(e) demonstrate that the claim is not equivalent to requirements imposed by law on products within the product group, or traders within the sector;

(f) provide information whether the product or trader which is subject to the claim performs significantly better regarding environmental impacts, environmental aspects or environmental performance which is subject to the claim than what is common practice for products in the relevant product group or traders in the relevant sector;

(g) identify whether improving environmental impacts, environmental aspects or environmental performance subject to the claim leads to ~~significant harm~~***negative trade-offs*** in relation to ***the environment and to specific*** environmental impacts***, including*** on climate change~~,~~ resource consumption and circularity, sustainable use and protection of water and marine resources, pollution, biodiversity, animal welfare and ecosystems; **[Am. 59]**

(h) separate any ~~greenhouse gas emissions offsets~~***carbon credits*** used from greenhouse gas emissions as additional environmental information, specify whether those ~~offsets~~***credits*** relate to emission reductions or removals~~, and describe how the offsets relied upon are of high integrity and accounted for correctly to reflect the claimed impact on climate~~; **[Ams. 156 and 167]**

(ha) for use of carbon credits in accordance with paragraph 3b, indicate the share of residual emissions expressed as a share of base-year emissions, the share of biogenic and fossil emissions within these residual emissions and the quantity and type of activity (permanent carbon removal, carbon storage in products, carbon farming sequestration, or soil emission reductions, as defined in [Regulation (EU)…/… establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products]) underlying the credits used, providing evidence that the credits have been appropriately retired from the registry of the certification scheme, in order to avoid double counting; **[Ams. 157 and 168]**

(i) include primary information ~~available to the trader~~ for environmental impacts, environmental aspects or environmental performance, which are subject to the claim ***that is accessible or obtainable by the trader, including through possession, research or procurement***; **[Am. 62]**

(j) include ***as a supplement to primary information,*** relevant secondary information for environmental impacts, environmental aspects, or environmental performance which is representative of the specific value chain of the product or the trader on which a claim is made, in cases where no primary information is available***, accompanied with a justification of why secondary information has been used***. **[Am. 63]**

(ja) for use of carbon credits for contribution claims, ensure no financial contribution is used to claim an improved climate or environmental impact of the product or trader, and separate any financial contributions from the climate or environmental impact of the product or trader as additional environmental information. **[Am. 64]**

2. Where it is demonstrated that significant environmental impacts that are not subject to the claim exist but there is no widely recognised scientific evidence to perform the assessment referred to in point (c) of paragraph 1, the trader making the claim on another aspect shall take account of available information and, if necessary, update the assessment in accordance with paragraph 1 once widely recognised scientific evidence is available.

3. The requirements set out in paragraphs 1 and 2 shall not apply to traders that are microenterprises within the meaning of Commission Recommendation 2003/361/EC ([46]) unless they request the verification with the aim of receiving the certificate of conformity in accordance with Article 10.

3a. Environmental claims on neutral, reduced or positive environmental impact for a product based on the use of carbon credits shall be prohibited, in line with Directive 2005/29/EC as amended by Directive (EU)…/… of the European Parliament and of the Council [Empowering Consumers for the Green Transition]. **[Ams. 159 and 169]**

3b. Compensation claims based on the use of carbon credits may only be made in respect of the residual emissions of a trader in accordance with the delegated act set out in Article 3(4a). For claims on future environmental performance based on the use of carbon credits, the trader shall comply with the relevant rules set out in Delegated Regulation (EU) 2023/2772. The carbon credits used must be certified units issued in accordance with [Regulation of the European Parliament and of the Council establishing a Union certification framework for carbon removals], or other units in accordance with paragraph 3c. Where the use of units is for compensation of fossil emissions, the claim shall be substantiated by permanent removals as defined in [Regulation (EU)…/… of the European Parliament and of the Council establishing a Union certification framework for carbon removals]. **[Ams. 160 and 170]**

([46]) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, ~~
~~small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

3c. Certified units other than those issued in accordance with [Regulation establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products] may be used in duly justified cases where those schemes are recognised by the Commission as part of the list of compliant schemes corresponding to at least equivalent requirements to those provided by [Regulation (EU)…/… establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products], in particular with regard to monitoring, reporting, verification and liability requirements, and ensuring no double counting. The Commission is empowered to adopt delegated acts in accordance with Article 18 to list recognised carbon credit schemes that are considered to comply with such equivalent requirements. **[Ams. 161 and 171]**

3d. By..[18 months after the entry into force of this Directive], the Commission shall provide a report on the use of explicit environmental claims on products or product groups containing substances or preparations/mixtures meeting the criteria for classification as toxic, hazardous to the environment, carcinogenic, mutagenic or toxic for reproduction (CMR), causing endocrine disruption to human health or the environment, persistent, bioaccumulative and toxic (PBT), very persistent, very bioaccumulative (vPvB), persistent, mobile and toxic (PMT), or very persistent, very mobile (vPvM) properties as defined in Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, and substances referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency. That report shall evaluate for which products or product groups the use of explicit environmental claims is misleading and assess the need for restrictions or prohibitions on the use of explicit environmental claims for these products or product groups in view of preventing misleading claims and contributing to the protection of human health and the environment.

Where the report concludes that the use of explicit environmental claims in a product or product group containing substances or preparations/mixtures referred to in sub-paragraph 1 is misleading, the Commission is empowered to adopt delegated acts in accordance with Article 18 to supplement the requirements for substantiation of explicit environmental claims by introducing restrictions or prohibitions on the use of explicit environmental claims for this product or product group. **[Am. 68]**

4. When the regular monitoring of the evolution of ***explicit*** environmental claims referred to in Article 20 reveals differences in the application of the requirements laid down in paragraph 1 for specific claims and such differences ~~create obstacles for~~***may have an adverse impact on*** the functioning of the internal market, or where the Commission identifies that the absence of requirements for specific claims ~~leads~~***may lead*** to widespread misleading of consumers, the Commission ~~may~~***shall*** adopt delegated acts in accordance with Article 18 to supplement the requirements for substantiation of explicit environmental claims laid downin paragraph 1 by: **[Am. 69]**

(-a) determining the relevant environmental impacts that shall be covered by the substantiation; **[Am. 70]**

(a) determining the rules for assessing the environmental aspects, environmental impacts and environmental performance, including by determining the activities, processes, materials, emissions or use of a product, which contribute significantly or cannot contribute to the relevant environmental impacts, environmental aspects or environmental performance;

(b) determining for which environmental aspects or environmental impacts primary information shall be provided and determining criteria based on which the accuracy of the primary information and secondary information can be assessed; or

(c) establishing specific life-cycle-based rules on substantiation of explicit environmental claims for certain product groups and sectors***, including where appropriate on the basis of the Product Environmental Footprint Category Rules and Organisation Environmental Footprint Sectorial Rules where those rules cover all environmental impacts or aspects relevant for the product category or trader***. **[Am. 71]**

4a. To supplement the provisions on the use of certified units for residual emissions of a trader, the Commission shall adopt by [12 months from the date of entry into force of this Directive] a delegated act in accordance with Article 18 to establish a method for defining residual emissions, based on an emission reduction pathway compatible with limiting global warming to 1.5°C taking into account technological feasibility and in consultation with the European Scientific Advisory Board on Climate Change. **[Ams. 162/rev and 172]**

4b. By... [1 year from the date of entry into force of this Directive], the Commission shall identify the most common explicit environmental claims made on the Union market and publish a working plan listing the claims that the Commission intends to supplement with the delegated act referred to in paragraph 4. That working plan shall be updated at least every 3 years. **[Am. 72]**

4c. By... [1 year from the date of entry into force of this Directive], the Commission shall adopt guidelines to facilitate the interpretation of Article 3(1) point (b). **[Am. 73]**

5. When specifying further the requirements for substantiation of explicit environmental claims in accordance with previous paragraph, the Commission shall take into account scientific or other available technical information, including relevant international standards, and where relevant consider the following:

(a) the specificities of the sectors and products that require a specific methodological approach;

(aa) existing Product Environmental Footprint Category Rules and Organisation Environmental Footprint Sectorial Rules; **[Am. 74]**

(b) the potential contribution of specific product groups or sectors to achieving Union climate and environmental objectives;

(c) any relevant information derived from Union legislation;

(d) ease of access to information and data for the assessment and use of this information and data by ***micro enterprises and*** small and medium-sized enterprises ('SMEs'). **[Am. 75]**

5a. Where there is no recognised scientific method or insufficient evidence to assess environmental impacts and aspects, the exclusion of these impacts shall be transparent and efforts shall be made to develop methods and accumulate evidence to enable the assessment of the respective impact. Until the method meeting the requirements set out in the first paragraph is developed, claims referring to such environmental impacts shall not be made. **[Am. 76]**

Article 4

Substantiation of comparative explicit environmental claims

1. The substantiation of explicit environmental claims that state or imply that a product or trader has less environmental impacts or a better environmental performance than other products or traders ('comparative environmental claims') shall, in addition to the requirements set out in Article 3, comply with the following requirements:

(a) the information ~~and data~~***, data and methods*** used for assessing the environmental impacts, environmental aspects or environmental performance of the products or traders against which the comparison is made, are equivalent to the information ~~and data~~***, data and methods*** used for assessing the environmental impacts, environmental aspects or environmental performance of the product or trader which is subject to the claim; **[Am. 77]**

(b) the data used for assessing the environmental impacts, environmental aspects or environmental performance of the products or traders is generated or sourced in an equivalent manner as the data used for assessing the environmental impacts, environmental aspects or environmental performance of the products or traders against which the comparison is made;

(c) the coverage of the stages along the value chain is equivalent for the products and traders compared and ensures that the most significant stages are taken into account for all products and traders;

(d) the coverage of environmental impacts, environmental aspects or environmental performances is equivalent for the products and traders compared and ensures that the most significant environmental impacts, environmental aspects or environmental performances are taken into account for all products and traders;

(e) assumptions used for the comparison are set in an equivalent manner for the products and traders compared.

2. Where a comparative environmental claim relates to an improvement in terms of environmental impacts, environmental aspects or environmental performance of a product that is subject to the claim compared to environmental impacts, environmental aspects or environmental performance of another product from the same trader, from a competing trader that is no longer active on the market or from a trader that no longer sells to consumers, the substantiation of the claim shall explain how that improvement affects other relevant environmental impacts, environmental aspects or environmental performance of the product subject to the claim and shall clearly state the baseline year for the comparison.

3. The requirements laid down in this Article shall not apply to traders that are microenterprises within the meaning of Commission Recommendation 2003/361/EC ([47]) unless they request the verification with the aim of receiving the certificate of conformity in accordance with Article 10.

Article 5

Communication of explicit environmental claims

1. Member States shall ensure that a trader is required to communicate an explicit environmental claim in accordance with the requirements set out in this Article.

2. Explicit environmental claims may only cover environmental impacts, environmental aspects or environmental performance that are substantiated in accordance with the requirements laid down in Articles 3, 4 and 5 and that are identified as significant for the product or trader concerned in accordance with Article 3 paragraph (1) point (c) or (d).

3. Where the explicit environmental claim is related to a final product, and the use ***or end-of-life*** phase is among the most relevant life-cycle stages of that product, the claim shall include information on how the consumer should use ***or dispose of*** the product in order to achieve the expected environmental performance of that product. That information shall be made ***clearly visible and*** available together with the claim. **[Am. 78]**

4. Where the explicit environmental claim is related to future environmental performance of a ~~product or~~***trader, the*** trader ~~it~~ shall ~~include a time-bound commitment for improvements inside own operations and value chains.~~**:**

(a) include a time-bound, science-based and measurable commitment for improvements inside own operations and value chains,

(b) include an implementation plan containing measurable and verifiable interim targets and other relevant elements necessary to support implementation, such as allocation of resources, a monitoring plan and a reporting plan based on reporting and verifications at regular intervals,

(c) make publicly available the information referred to in points (a) and (b), including the results of reporting. **[Am. 79]**

5. Explicit environmental claims on the cumulative environmental impacts of a product or trader based on an aggregated indicator of environmental impacts can be made only ***when they are based on environmental labels compliant with Article 7. Where such claims are made,*** ~~on~~ the ~~basis of~~ rules ***used*** to calculate ~~such~~***the*** aggregated indicator ~~that are established in the Union law~~***shall be communicated to the consumers***. **[Am. 80]**

6. Information on the product or the trader that is the subject of the explicit environmental claim and on the substantiation shall be made ***publicly*** available together with the claim in a physical form or in the form of a weblink, QR code***, digital product passport*** or equivalent. **[Am. 81]**

That information shall include at least the following:

(a) environmental aspects, environmental impacts or environmental performance covered by the claim;

(b) the relevant Union or the relevant international standards, where appropriate;

(c) the underlying studies***, methods*** or calculations***, including the assessment referred to in Article 3,*** used to assess, measure and monitor the environmental impacts, environmental aspects or environmental performance covered by the claim, without omitting the results of such studies or calculations and, explanations of their scope, assumptions and limitations, unless the information is a trade secret in line with Article 2 paragraph 1 of Directive (EU) 2016/943 ([48]); **[Am. 82]**

(d) a brief explanation how the improvements that are subject to the claim are achieved;

([47]) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, ~~
~~small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

([48]) Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

(e) the certificate of conformity referred to in Article 10 regarding the substantiation of the claim and the contact information of the verifier that drew up the certificate of conformity;

(ea) a description of the type of monitoring and evaluation system that the environmental labelling scheme has in place to ensure regular assessments of performance and impacts are carried out; **[Am. 83]**

(f) for climate-related explicit environmental claims that ~~rely on greenhouse gas emission offsets~~***use carbon credits***, information ***referred to in Article 3(1)(h), (ha) and (ja)*** ~~to which extent they rely on offsets and whether these relate to emissions reductions or removals~~; **[Am. 84]**

(fa) environmental claims by highly-polluting industries shall be made in relative terms to allow consumers to understand the product's overall negative impact on the environment; **[Am. 85]**

(g) a summary of the assessment including the elements listed in this paragraph that is clear and understandable to the consumers targeted by the claim and that is provided in at least one of the official languages of the Member State where the claim is made.

7. The requirements set out in paragraphs 2, 3 and 6 shall not apply to traders that are microenterprises within the meaning of Commission Recommendation 2003/361/EC unless they request the verification with the aim of receiving the certificate of conformity in accordance with Article 10.

8. ~~Where the substantiation of certain environmental impacts, environmental aspects or environmental performance is subject to the rules established in delegated acts referred to in Article 3, paragraph 4(a) and paragraph 4(c),~~ The Commission may adopt delegated acts in accordance with Article 18 to supplement the requirements for communication of explicit environmental claims set out in Article 5 by specifying further the information that can be or shall be communicated regarding such environmental impacts, environmental aspects or environmental performance, so as to make sure that the consumers are not misled***, in particular where the substantiation of certain environmental impacts, environmental aspects or environmental performance is subject to the rules established in delegated acts referred to in Article 3, paragraph 4(a) and paragraph 4(c)***. **[Am. 86]**

Article 6

Communication of comparative environmental claims

Comparative environmental claims shall not relate to an improvement of the environmental impacts, environmental aspects or environmental performance of the product that is the subject of the claim compared to the environmental impacts, environmental aspects or environmental performance of another product from the same trader or from a competing trader that is no longer active on the market or from a trader that no longer sells to consumers, unless they are based on evidence proving that the improvement is significant and achieved in the last five years.

Article 7

Environmental labels

1. Member States shall ensure that environmental labels fulfil the requirements set out in Articles 3 to 6 and are subject to verification in accordance with Article 10.

1a. If an environmental label demonstrates recognised excellent environmental performance as defined in ECGT Article 2(s) or is developed by recognised consumer organisations and when their method is based on the use of scientific and reproducible assessment methods, the label shall only be subject to verification according to Article 10(2), but not the requirements and related testing for each individual product or service group covered by the label. **[Am. 87]**

2. Only environmental labels ***complying with the requirements of the first paragraph and*** awarded under environmental labelling schemes ~~established under Union law~~***that are based on scientific, independent and reproducible assessment methods and a lifecycle approach*** may present a rating or score of a product or trader based on an aggregated indicator of environmental impacts of a product or ***a*** trader. **[Am. 88]**

Article 8

Requirements for environmental labelling schemes

~~1. Environmental labelling scheme means a certification scheme which certifies that a product, a process or a trader complies with the requirements for an environmental label.~~ **[Am. 89]**

2. The environmental labelling schemes shall comply with the following requirements:

(a) information about the ownership and the decision-making bodies of the environmental labelling scheme is transparent, accessible***,*** free of charge, easy to understand and sufficiently detailed ***and available online or on a durable medium***; **[Am. 90]**

(aa) the decision-making bodies of the environmental labelling scheme are free of conflicts of interest and independent from traders using the label; **[Am. 91]**

(b) information about the objectives of the environmental labelling scheme and the requirements and procedures to monitor compliance of the environmental labelling scheme are transparent, accessible free of charge, easy to understand and sufficiently detailed;

(c) the conditions for joining the environmental labelling schemes are proportionate to the size and turnover of the companies in order not to exclude ***micro,*** small and medium enterprises***, including by setting reasonable and non-discriminatory fees***; **[Am. 92]**

(d) the requirements for the environmental labelling scheme have been developed by experts that can ensure their scientific robustness and have been submitted for ***transparent*** consultation to a heterogeneous group of stakeholders ***or the stakeholders' representatives that have***~~that has~~ reviewed them and ensured their relevance from a societal perspective***. The stakeholders shall be free of any conflicts of interest, including by being independent from the owner of the environmental labelling scheme, and include, as a minimum, relevant experts***; **[Am. 93]**

(e) the environmental labelling scheme has a complaint and dispute resolution mechanism in place;

(f) the environmental labelling scheme sets out ***transparent*** procedures for dealing with non-compliance and foresees the withdrawal or suspension of the environmental label in case of ~~persistent and flagrant~~ non-compliance with the requirements of the scheme. **[Am. 94]**

(fa) the environmental labelling scheme has a robust monitoring and evaluation system to regularly review its objectives, strategies, performance and impacts, based on the latest best practices, scientific data and evidence, and where relevant, to update its requirements in line with the findings. **[Am. 95]**

~~3. From [OP: Please insert the date = the date of transposition of this Directive] no new national or regional environmental labelling schemes shall be established by public authorities of the Member States. However, national or regional environmental labelling schemes established prior to that date may continue to award the environmental labels on the Union market, provided they meet the requirements of this Directive.~~ **[Am. 96]**

~~From the date referred to in the first subparagraph, environmental labelling schemes may only be established under Union law.~~ **[Am. 97]**

4. From [OP: Please insert the date = the date of transposition of this Directive] any new environmental labelling schemes established by public authorities ***of the Member States or*** in third countries awarding environmental labels to be used on the Union market, shall be subject to approval***, without undue delay,*** by the Commission prior to entering the Union market with the aim of ensuring that these labels provide added value in terms of their environmental ambition including notably their coverage of environmental impacts, environmental aspects or environmental performance, or of a certain product group or sector, as compared to the existing Union, national or regional schemes ~~referred to in paragraph 3~~, and meet the requirements of this Directive. Environmental labelling schemes established by public authorities ***of the Member State or*** in third countries prior to that date may continue to award the environmental labels which are to be used on the Union market, provided they meet the requirements of this Directive. **[Am. 98]**

5. Member States shall ensure that environmental labelling schemes established by private operators after [OP: Please insert the date = the date of transposition of this Directive] are only approved if those schemes provide added value in terms of their environmental ambition, including ~~notably~~ their extent of coverage of environmental impacts, environmental aspects or environmental performance, or of a certain product group or sector and their ability to support the green transition of SMEs, ~~as compared to the existing Union, national or regional schemes referred to in paragraph 3,~~ and meet the requirements of this Directive. ***Environmental labelling schemes established by private operators prior to that date may continue to award environmental labels, which are to be used on the Union market, provided they meet the requirements of this Directive.*** **[Am. 99]**

This procedure for approval of new environmental labelling schemes shall apply to schemes established by private operators in the Union and in third countries.

Member States shall notify the Commission when new private schemes are approved.

6. In order to receive the approvals referred to in paragraphs 4 and 5, the operators of new environmental labelling schemes shall provide supporting documents setting out the following:

(a) the rationale underlying the development of the scheme

(aa) a description of how the requirements set out in this Directive are met; **[Am. 100]**

(b) the proposed scope of the scheme,

(c) the evidence the scheme will provide added value as set out in in paragraph 4 for environmental labelling schemes established by public authorities ~~in third countries~~, or in paragraph 5 for environmental labelling schemes established by private operators; **[Am. 101]**

(d) a proposal for draft criteria and the methodology used to develop and award the environmental label and the expected impacts on the market;

(e) a detailed description of the ownership and the decision-making bodies of the environmental labelling scheme.

The documents referred to in the first subparagraph shall be ***made publicly available and*** submitted to the Commission in case of schemes referred to in paragraph 4 or to the Member States' authorities in case of schemes referred to in paragraph 5, together with the certificate of conformity for environmental labelling schemes drawn up in accordance with Article 10. **[Am. 102]**

7. The Commission shall publish and keep-up-to date a list of ~~officially recognised~~***environmental labelling schemes that comply with this Directive and*** environmental labels ***as laid down in Regulation (EC) No 66/2010,*** that are allowed to be used on the Union market after [OP: Please insert the date = the date of transposition of this Directive] pursuant to paragraphs 3, 4 and 5***, including the information provided in accordance with paragraph 6***. ***This list shall be available to the public free of charge and be presented in an understandable manner.*** **[Am. 103]**

8. In order to ensure a uniform application across the Union, the Commission shall ***by... [12 months from the date of entry into force of this Directive]*** adopt ~~implementing acts~~ ***delegated acts in accordance with Article 18*** to: **[Am. 104]**

(a) provide detailed requirements for approval ***and review*** of environmental labelling schemes pursuant to the criteria referred to in paragraphs 4 and 5; **[Am. 105]**

(b) specify further the format and content of supporting documents referred to in paragraph 6;

(c) provide detailed rules on the procedure for the approval referred to in paragraph 4.

~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19.~~ **[Am. 106]**

Article 9

Review of the substantiation of explicit environmental claims

Member States shall ensure that the information used for substantiation of explicit environmental claims is reviewed and updated by traders when there are circumstances that may ~~affect~~***change*** the accuracy of a claim, and no later than 5 years from the date when the information referred to in Article 5(6) is provided. In the review, the trader shall revise the used underlying information to ensure that the requirements of Articles 3 and 4 are fully complied with. **[Am. 107]**

The trader shall not be obliged to review the substantiation nor reapply for certification in case of spelling mistakes or other cosmetic changes in the text of the claim if it does not affect the substance and accuracy of the claim. **[Am. 108]**

The updated explicit environmental claim shall be subject to verification in accordance with Article 10.

Article 10

Verification and certification of the substantiation and communication of environmental claims and environmental labelling schemes

1. Member States shall set up procedures for verifying the substantiation and communication of explicit environmental claims against the requirements set out in Articles 3 to 7. ***The Commission shall regularly review those procedures.*** **[Am. 109]**

2. Member States shall set up procedures for verifying the compliance of environmental labelling schemes with the requirements set out in Article 8. ***The Commission shall regularly review those procedures.*** **[Am. 110]**

3. The verification and certification requirements shall apply to traders that are microenterprises within the meaning of Commission Recommendation 2003/361/EC only if they so request.

3a. When setting up the procedures referred to in paragraphs 1 and 2, Member States shall ensure that the cost of verification and certification shall take into account the complexity of the substantiation of the claim, and the size and turnover of traders requesting verification and certification with a particular regard to micro, small and medium-sized enterprises. **[Am. 111]**

3b. The verification requirements shall not apply to traders displaying an environmental label verified in accordance with this Article when making an explicit environmental claim regarding environmental aspects, impacts and environmental performance certified by that label.

The information required in Article 5(6) shall be that of the environmental labelling scheme. **[Am. 112]**

4. The verification shall be undertaken by a verifier fulfilling the requirements set out in Article 11, in accordance with the procedures referred to in paragraphs 1 and 2, before the environmental claim is made public or the environmental label is displayed by a trader.

4a. The verification of explicit environmental claims and environmental labelling schemes shall be completed within 30 days. The verifier may decide to extend the period for verification for more than 30 days in duly justified cases. Verifiers shall provide an estimation of the period of the verification procedure to the trader on the date when the request for verification has been submitted. **[Am. 113]**

5. For the purposes of the verification the verifier shall take into account the nature and content of the explicit environmental claim or the environmental label.

6. Upon completion of the verification, the verifier shall draw up, where appropriate, a certificate of conformity certifying that the explicit environmental claim or the environmental label complies with the requirements set out in this Directive.

7. The certificate of conformity shall be recognised by the competent authorities responsible for the application and enforcement of this Directive. Member States shall notify the list of certificates of conformity via the Internal Market Information System established by Regulation (EU) No 1024/2012. ***Once a certificate of conformity is delivered and notified, the labelling scheme or the environmental claim can be used within the Union, insofar as that the scheme or the claim is communicated in a language that can be understood by consumers in the Member States where the product or service is marketed. The certificates of conformity shall be made publicly available in a searchable database clearly identifying the trader, the type of claim, the assessment method and the sector.*** **[Am. 114]**

8. The certificate of conformity shall not prejudge the assessment of the environmental claim by national authorities or courts in accordance with Directive 2005/29/EC.

9. ***By... [12 months from the date of entry into force of this Directive],*** the Commission shall adopt implementing acts to set out details regarding the form of the certificate of conformity referred to in paragraph 5 and the technical means for issuing such certificate of conformity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19. **[Am. 115]**

9a. Member States may prioritise the verification of existing environmental claims made before the entry into force of this Directive. **[Am. 116]**

Article 11

Verifier

1. The verifier shall be a third-party conformity assessment body accredited in accordance with Regulation (EC) No 765/2008 ([49]).

2. The accreditation shall, in particular, include the evaluation of compliance with the requirements in paragraph 3.

3. The verifier shall comply with the following requirements:

(a) the verifier shall be independent of the product bearing, or the trader associated to, the environmental claim;

(b) the verifier, its top-level management and the personnel responsible for carrying out the verification tasks shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to the verification activities;

(c) the verifier and its personnel shall carry out the verification activities with the highest degree of professional integrity and the requisite technical competence and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their verification activities,

(d) the verifier shall have the expertise, equipment and infrastructure required to perform the verification activities in relation to which it has been accredited;

(e) the verifier shall have ***adequate resources, in particular technical capabilities and*** a sufficient number of suitably qualified and experienced personnel***, with experience in life-cycle assessments, where necessary,*** responsible for carrying out the verification tasks; **[Am. 117]**

(f) the personnel of a verifier shall observe professional secrecy ***and act in compliance with applicable Union law on the protection of trade secrets, in particular Directive (EU) 2016/943,*** with regard to all information obtained in carrying out the verification tasks; ***where the verifier does not receive the prerequisite information for verification due to the protection of trade secrets, the verifier shall not issue a certificate of conformity;*** **[Am. 118]**

(g) where a verifier subcontracts specific tasks connected with verification or has recourse to a subsidiary, it shall take full responsibility for the tasks performed by subcontractors or subsidiaries and shall assess and monitor the qualifications of the subcontractor or the subsidiary and the work carried out by them. ***Requirements of paragraph 3, points (a) to (f), shall apply also to subcontractors and subsidiaries.*** **[Am. 119]**

(ga) the verifier shall have a complaint and dispute resolution mechanism in place; **[Am. 120]**

(gb) the verifier who grants the certificate of conformity shall be responsible for the accuracy of the assessment of the claim which is being certified and be held accountable if an investigation finds that it has been negligent in its assessment. This accountability applies, however, only insofar as the trader did not engage in misleading commercial practices as underlined in Annex 1 of Directive 2005/29/EC. **[Am. 121]**

3a. Accredited verifiers established in one Member State in accordance with Regulation (EC) No 765/2008 may perform verification activities in any other Member State under the same conditions as accredited verifiers established in that Member State. **[Am. 122]**

Article 12

Micro, small and medium sized enterprises **[Am. 123]**

Member States***, in cooperation with the Commission,*** shall take appropriate measures to help ***micro,*** small and medium sized enterprises ***to*** apply the requirements set out in this Directive. Those measures shall at least include guidelines ~~or similar mechanisms to raise awareness of ways~~***with specific examples and procedures*** to comply with the requirements on explicit environmental claims. ~~In addition,~~ Without prejudice to applicable state aid rules, such measures ~~may~~***to be taken by the Member States shall*** include ***one or more of the following***: **[Am. 124]**

(a) financial support;

(aa) other mechanisms to raise awareness of ways to comply with the requirements on explicit environmental claims; **[Am. 125]**

([49]) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

(b) access to finance;

(c) specialised management and staff training;

(d) ***tailor-made*** organisational and technical assistance. **[Am. 126]**

(da) specialised management and staff training. **[Am. 127]**

In the context of Union programmes from which micro, small and medium-sized enterprises can benefit, the Commission shall take into account and promote initiatives which can facilitate the compliance of micro, small and medium-sized enterprises with the requirements set out in this Directive. **[Am. 128]**

Member States shall designate single points of contact for microenterprises and small and medium-sized enterprises from where they can request information on complying with the requirements on explicit environmental claims and on the available support referred to in the previous subparagraph. **[Am. 129]**

Article 12a

Simplified verification system

1. By... [18 months after the entry into force], the Commission shall establish, by means of a delegated act, a simplified verification system that allows traders to benefit from a simplified procedure, that may include a presumption of conformity, for certain environmental claims. In that simplified verification system, the Commission shall, where appropriate:

(a) prioritise environmental claims that do not require the conduct of a full life-cycle analysis or the use of complex methods, due to the nature of the claim;

(b) facilitate a faster approval of the most common environmental claims, in accordance with the list outlined in Article 3, paragraph 4a;

(c) facilitate the approval of environmental claims that are based on and conform to standards or methods, such as for life-cycle analysis, that have been officially recognised by the Commission, in accordance with paragraph 2 of this Article;

(d) allow for certification of environmental claims and environmental labels based on product specific and sectoral category rules developed pursuant to Article 3(4)(c) and 5(8), where such rules already foresee third-party verification.

2. In accordance with paragraph 1, the Commission shall develop a database of those recognised standards and methods that may benefit from a simplified procedure, which shall be regularly reviewed and updated. **[Am. 130]**

Article 13

Designation of competent authorities and coordination mechanism

1. Member States shall designate one or more competent authorities as responsible for the application and enforcement of this Directive.

2. For the purpose of the enforcement of Articles 5 and 6, Member States may designate the national authorities or courts responsible for the enforcement of Directive 2005/29/EC. ~~In that case,~~ Member States ~~may derogate from Articles 14 to 17 of~~***shall ensure that consumers whose economic interests are harmed by non-compliance with*** this Directive ***have access to proportionate and effective remedies***~~and apply the enforcement rules adopted~~ in accordance with ~~Articles 11 to 13~~***Article 11a*** of Directive 2005/29/EC. **[Am. 131]**

3. Where there is more than one competent authority in their territory, Member States shall ensure that the respective duties of those authorities are clearly defined and that appropriate communication and coordination mechanisms are established.

4. Member States shall notify the Commission and other Member States without delay of the identity of the competent authorities in their Member State and the areas of competence of those authorities.

Article 14

Powers of the competent authorities

1. Member States shall confer on their competent authorities the powers of inspection and enforcement necessary to ensure compliance with this Directive.

2. The powers conferred on competent authorities under paragraph 1 shall include at least the following:

(a) the power of access to any relevant documents, data or information related to an infringement of this Directive, in any form or format and irrespective of their storage medium, or the place where they are stored, and the power to take or obtain copies thereof;

(b) the power to require any natural or legal person to provide any relevant information, data or documents, in any form or format and irrespective of their storage medium or the place where they are stored, for the purposes of establishing whether an infringement of this Directive has occurred or is occurring and the details of such infringement;

(c) the power to start investigations or proceedings on their own initiative to bring about the cessation or prohibition of infringements of this Directive;

(d) the power to require traders to adopt adequate and effective remedies and take appropriate action to bring an infringement of this Directive to an end;

(e) the power to adopt, where appropriate, injunctive relief with regard to infringements of this Directive;

(f) the power to impose penalties for infringements of this Directive in accordance with Article 17.

3. Competent authorities may use any information, document, finding, statement or intelligence as evidence for the purpose of their investigations, irrespective of the format in which or medium on which they are stored.

Article 15

Compliance monitoring measures

1. Competent authorities of the Member States designated in accordance with Article 13 shall undertake regular checks of the explicit environmental claims made and the environmental labelling schemes applied, on the Union market. The reports detailing the result of those checks shall be made available to the public online.

2. Where the competent authorities of a Member State detect an infringement of an obligation set out in this Directive, they shall carry out an evaluation covering all relevant requirements laid down in this Directive.

3. Where, further to the evaluation referred to in the first subparagraph, the competent authorities find that the substantiation and communication of the explicit environmental claim or the environmental labelling scheme does not comply with the requirements laid down in this Directive, they shall notify the trader making the claim about the non-compliance ***prior to publishing the report referred to in Article 15(1)*** and require that trader to take all appropriate corrective action within 30 days to bring the explicit environmental claim or the environmental labelling scheme into compliance with this Directive or ***within 30 days,*** to cease the use of and references to the non-compliant explicit environmental claim. Such action shall be as effective and rapid as possible, while complying with the principle of proportionality and the right to be heard.

The competent authorities may decide upon a duly justified request from the trader, in exceptional cases, to grant the trader one extension to the original 30 days, during which the trader will be required to take all appropriate corrective action. **[Am. 132]**

3a. Where the competent authorities of a Member State establish that an explicit environmental claim or an environmental labelling scheme does not comply with the requirements laid down in this Directive, it shall require the trader to disclose, without undue delay, if the explicit environmental claim or the environmental labelling scheme has been communicated in another Member State. Where this is the case, the competent authorities who established the non-compliance shall notify without undue delay the competent authorities of the other Member States where the claim or label have been communicated of the result of the evaluation pursuant to Article 15(3). **[Am. 133]**

3b. Where the competent authorities of a Member State establish that verifiers have repeatedly issued certificates of conformity for explicit environmental claims that do not comply with the requirements laid down in this Directive, the verifier's accreditation shall be withdrawn without undue delay. **[Am. 134]**

Article 16

Complaint-handling and access to justice

1. Natural or legal persons or organisations regarded under Union or national law as having a ~~legitimate~~***sufficient*** interest shall be entitled to submit substantiated complaints to competent authorities when they deem, on the basis of objective circumstances, that ~~a trader~~***one or more traders or verifiers*** is failing to comply with the provisions of this Directive. **[Am. 135]**

2. For the purposes of the first subparagraph, non-governmental entities or organisations promoting human health, environmental or consumer protection and meeting any requirements under national law shall be deemed to have sufficient interest.

3. Competent authorities shall ***without undue delay*** assess the substantiated complaint referred to in paragraph 1 and, where necessary, take the necessary steps, including inspections and hearings of the person or organisation ***and traders or verifiers concerned***, with a view to ~~verify~~***detecting non-compliance with the provisions of this Directive and verifying*** those complaints. If confirmed~~,~~ the competent authorities shall take the necessary actions in accordance with Article 15. **[Am. 136]**

4. Competent authorities shall, as soon as possible and in any case ***within 30 days from receiving the substantiated concern and*** in accordance with the relevant provisions of national law, inform the person or organisation referred to in paragraph 1 that submitted the complaint of its decision to accede to or refuse the request for action put forward in the complaint and shall provide the reasons for it ***and a description of the further steps and measures it will take. Competent authorities shall allow for additional information to be provided by the person who has submitted the concern.*** **[Am. 137]**

5. Member States shall ensure that a person or organisation referred to in paragraph 1 submitting a substantiated complaint shall have access to a court or other independent and impartial public body competent to review the procedural and substantive legality of the decisions, acts or failure to act of the competent authority under this Directive, without prejudice to any provisions of national law which require that administrative review procedures be exhausted prior to recourse to judicial proceedings. Those judicial review procedures shall be fair, equitable, timely and free of charge or not prohibitively expensive, and shall provide adequate and effective remedies, including injunctive relief where necessary.

6. Member States shall ensure that practical information is made available to the public ***free of charge in an easily accessible and understandable manner*** on access to the administrative and judicial review procedures referred to in this Article. **[Am. 138]**

Article 17

Penalties

1. Without prejudice to the obligations of Member States under Directive 2008/99/EC40 ([50]), Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

([50]) Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

2. When determining the type and level of penalties to be imposed in case of infringements, the competent authorities of the Member States shall give due regard to the following:

(a) the nature, gravity, extent and duration of the infringement;

(b) the intentional or negligent character of the infringement and any action taken by the trader to mitigate or remedy the damage suffered by consumers, where applicable;

(c) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;

(d) the economic benefits derived from the infringement by those responsible;

(e) any previous infringements by the natural or legal person held responsible;

(f) any other aggravating or mitigating factor applicable to the circumstances of the case;

(g) penalties imposed on the trader for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by Regulation (EU) 2017/2394, where applicable.

3. Member States shall provide that penalties and measures for infringements of this Directive shall include:

(a) fines which effectively deprive those responsible of the economic benefits derived from their infringements, and increasing the level of such fines for repeated infringements;

(b) confiscation of revenues gained by the trader from a transaction with the relevant products concerned;

(c) temporary exclusion for a maximum period of 12 months from public procurement processes and from access to public funding, including tendering procedures, grants and concessions.

For the purposes of point (a), Member States shall ensure that when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394 ([51]), the maximum amount of such fines being at least at 4 % of the trader's annual turnover in the Member State or Member States concerned.

Article 18

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts as referred to in Article 3(4) and Article 5(8) shall be conferred on the Commission for a period of five years from [OP please insert the date = the date of transposition of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 3(4) and Article 5(8) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. A delegated act adopted pursuant to Article 3(4) and Article 5(8) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

([51]) OJ L 345, 27.12.2017, p. 1.

Article 18a

Consultation forum

The Commission shall establish a green claims consultation forum (the Forum) involving balanced participation of Member States' representatives and all relevant interested parties, such as industry representatives, including micro, small and medium-sized enterprises and craft industry representatives, trade unions, traders, retailers, importers, academic researchers, environmental protection groups and consumer organisations. The Commission shall consult the forum on the following:

(i) the establishment of the working plans referred to in Article 3(4a);

(ii) the development of delegated acts;

(iii) update to the requirements for the substantiation and communication of environmental claims;

(iv) any evaluation of the requirements for the substantiation and communication of environmental claims;

(v) any evaluation of the effectiveness of the existing requirements for the substantiation and communication of environmental claims. **[Am. 139]**

Article 19

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

Article 20

Monitoring

1. Member States shall regularly monitor the application of this Directive based on:

(a) an overview of the types of explicit environmental claims and of environmental labelling schemes which have been subject to substantiated complaints in accordance with Article 16;

(b) an overview of explicit environmental claims and of environmental labelling schemes with regard to which competent authorities have required the trader to take corrective action, in accordance with Article 15, or have imposed penalties in accordance with Article 17.

2. The information referred to in paragraph 1 shall specify the explicit environmental claim or environmental labelling scheme, the nature of the alleged infringement, the nature and duration of the corrective action and, if applicable, the penalty imposed.

3. Member States shall provide the information referred to in paragraph 1 to the Commission on an annual basis.

3a. National competent authorities shall actively collaborate and regularly exchange best practices regarding the implementation of this Directive. **[Am. 140]**

4. Based on the information collected pursuant to paragraph 3 and the information made available by the Member States pursuant to Article 15(1), and, if necessary, additional consultations with competent authorities, the European Environmental Agency shall publish, every two years, a report containing an assessment of the evolution of explicit environmental claims and environmental labelling schemes in each Member State and for the Union as a whole. The report shall enable a differentiation according to the size of the trader making the claim and according to the quality of the substantiation.

Article 21

Evaluation and review

1. By [OP please insert the date = 5 years after the date of transposition of this Directive], the Commission shall carry out an evaluation of this Directive in light of the objectives that it pursues and present a report on the main findings to the European Parliament and the Council.

2. The report referred to in paragraph 1 shall assess whether this Directive has achieved its objective, in particular with regard to:

(a) ensuring that explicit environmental claims made about the environmental performance of a product or trader are based on reliable, comparable and verifiable information;

(b) ensuring that environment labelling schemes are based on certification schemes and meet the relevant requirements set out in Article 8;

(c) ensuring that new private environmental labelling schemes concerning products or traders already covered by existing schemes are approved by the Member States only if they provide added value as compared to the existing schemes;

(d) setting out the rules for communicating explicit environmental claims on the Union market, and avoiding duplication of costs when communicating such claims;

(da) ensuring that traders effectively prioritise emission reductions in their own operations and value chains, by assessing the adequacy of the provisions related to the use of carbon credits; **[Am. 141]**

(e) strengthening the functioning of the internal market.

(ea) facilitating transition towards toxic free environment. **[Am. 142]**

3. Where the Commission finds it appropriate, the report referred to in paragraph 1 shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Directive, including considering further provisions on:

(a) unlocking opportunities for the circular, bio and green economy by assessing the appropriateness and feasibility of mandating the use of common, and where relevant life-cycle based, method for substantiation of environmental claims;

(b) ~~facilitating transition towards toxic free environment by considering introducing a prohibition of environmental claims for products containing hazardous substances except where their use is considered essential for the society in line with the criteria to be developed by the Commission;~~ **[Am. 143]**

(ba) further strengthening consumer protection and the functioning of the internal market by considering extending the requirements on substantiation of explicit environmental claims to micro enterprises; **[Am. 144]**

(c) further harmonisation as regards requirements on the substantiation of specific environmental claims on environmental aspects or impacts such as durability, reusability, reparability, recyclability, recycled content, use of natural content, including fibers, environmental performance or sustainability, bio-based elements, biodegradability, biodiversity, waste prevention and reduction.

Article 22

Amendment to Regulation (EU) 1024/2012

In the Annex to Regulation (EU) 1024/2012, the following point is added:

'X. [OP: Please insert the next consecutive number] Directive (EU) … of the European Parliament and of the Council of … on substantiation and communication of explicit environmental claims (OJ L …, date, page: Articles 13(3) and 15).'

Article 23

Amendments to Regulation (EU) 2017/2394

In the Annex to Regulation (EU) 2017/2394, the following point is added:

'X. [OP: Please insert the next consecutive number] Directive (EU) … of the European Parliament and of the Council of … on substantiation and communication of explicit environmental claims (OJ L …, date, page).'

Article 24

Amendment to Directive (EU) 2020/1828

In Annex I to Directive (EU) 2020/1828, the following point is added:

'(X) [OP: Please insert the next consecutive number] Directive (EU) … of the European Parliament and of the Council of … on substantiation and communication of explicit environmental claims (OJ L …, date, page).'

Article 25

Transposition

1. Member States shall adopt and publish by [OP please insert the date = 18 months after the date of entry into force of this Directive] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately communicate the text of those measures to the Commission.

They shall apply those measures from [OP please insert the date = ~~24~~***30*** months after the date of entry into force of this Directive]. **[Am. 173]**

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

This Directive shall apply to small enterprises within the meaning of Commission Recommendation 2003/361/EC by 42 months after its entry into force. **[Am. 145]**

1a. Member States may introduce a transitional period, between the date of entry into force and the date of application of this Directive, during which existing environmental claims submitted for verification can be used. **[Am. 146]**

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 26

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 27

Addressees

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*