



## Protecting consumers against unfair commercial practices and greenwashing

February 13, 2023

Dear Members of the Council of the European Union,

Dear Members of the European Parliament,

As the climate crisis intensifies, the legislative processes at the European level are ongoing to update the Unfair Commercial Practices Directive (“UCPD”) and the Consumer Rights Directive (“CRD”) to better protect consumers against common greenwashing practices and equip them for a green economy. However, the current proposal - “[Empowering Consumers for the Green Transition](#)” - will not effectively end greenwashing. We call upon all EU policymakers to protect consumers and enable them to understand and embrace their role in Europe’s green transition. Action is urgently needed.

We continue to be alarmed by the rapid proliferation of misleading and false advertisements feeding consumers biased and incomplete information on the real climate and environmental impact of companies, products and services. In an [assessment](#) of green claims by national consumer protection authorities and the European Commission, a majority of claims were not backed by easily accessible evidence. Greenwashing has become a widespread scourge across the EU and, without adequate oversight, will impede the EU’s transition to a green economy.

A new [report](#) published today highlights the misleading nature of the net-zero and carbon neutrality targets of some of the world’s largest companies. Carbon neutrality claims, in particular, are extremely misleading. For the 12 companies assessed which are claiming that their activities or products are already carbon neutral today, these claims covered on average only 3% of the companies’ total emissions. While consumers will perceive these companies as “carbon neutral”, they are in reality failing to address the vast majority of their emissions in a significant way.

Other examples of such false or misleading claims abound. This includes a 2022 Carbon Market Watch and NewClimate Institute [report](#) analysing misleading climate targets from major companies, the false [claim](#) of a carbon-neutral Fifa World Cup, the false [claims](#) of carbon neutral fossil fuels, and the misleading voluntary [announcements](#) from European airlines. ClientEarth currently supports a greenwashing [lawsuit](#) against KLM, and a [lawsuit](#) against TotalEnergies for its allegedly misleading ‘net zero’ and gas advertising. It also works on similar cases in [Australia, the UK](#) and the [US](#). ECOS has published a [report](#) highlighting the ‘too good to be true’ green claims made by the plastics sector and the Institute for Agriculture and Trade Policy (“IATP”) did a similar [analysis](#) for the meat and dairy industry. Finally, the French environment agency [highlighted](#) that “net zero” is a corporate target which is too often misused. A high profile United Nations expert group has [stressed](#) that prevalent greenwashing based on net zero pledges will result in a failure to deliver urgent climate action, and it calls for regulations to establish a level playing field. According to the [UN Secretary-General](#): “We must have zero tolerance for net-zero greenwashing”.

Fortunately, with the legislative process to update EU consumer protection legislation under way, you have a unique opportunity to be part of the solution.

We therefore urge the following amendments to the Commission's proposed directive for Empowering Consumers for the Green Transition:

1. A ban on all claims of environment- or climate-related neutrality or compensation (claims such as: “carbon neutral”, “CO2 neutral”, “CO2 compensation”, “climate positive”, “plastic neutral”, etc.). Such claims are scientifically false, often rely on the use of junk carbon credits<sup>1</sup>, and give consumers the false sense that they and traders (companies) can continue to behave and consume in a “business as usual” manner, while not having any negative impact on the environment and the climate. The claims obstruct the progress of genuinely sustainable products and behaviours, from electrification of transport and home energy to train travel and energy saving. Draft European shareholder disclosure [standards](#), for example, prohibit “offsetting” for a company's emissions targets, and consumer protection must provide a consistent level of protection. Businesses must be clearly supported to make accurate claims about contributions to mitigation projects - just like other voluntary donations, these are contributions, but do not validly “offset” or “neutralise” the impact of high-carbon products, which we urgently need to limit or phase out.
2. Providing tighter restrictions on claims relating to future environmental performance, such as “net zero by 2050” claims. More specifically, environmental claims, especially climate-related claims, related to future performance should be prohibited when they are based on “offsetting”, “insetting”, or any other method that purports to “neutralise” or counterbalance emissions instead of reducing them. All future claims should be supported by clear and understandable supplementary information given by the trader (company) setting out clear, objective, science-based, and verifiable commitments and targets. Consumers are entitled to know whether traders are genuinely aligned with the green transition or not. Claims related to future environmental performance should also only be used at the trader (company) level and not on product level, otherwise such claims can mislead consumers.
3. Extending the explicit “anti-cherrypicking” provision to encompass claims about businesses as well as their products. “Cherrypicking” is emphasising one “sustainable” aspect of a product's composition or value chain or business to expressly or implicitly give the mistaken impression that the entire product or business is “sustainable”. As recognised in [existing](#) regulatory guidance, this is a particular problem with corporate reputational advertising promoting an entire business “brand”, which has the effect of maximising brand sympathy to sell highly polluting products. These kinds of claims mislead consumers and breach existing legal standards and should be explicitly prohibited.
4. A prohibition on environmental claims with the effect of promoting fossil fuels. The extraction, production and consumption of fossil fuels drive climate change. These activities

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<sup>1</sup> The Guardian (2023): [“Revealed: more than 90% of rainforest carbon offsets by largest provider are worthless. analysis shows”](#)

must be reduced radically to preserve a liveable planet and meet the commitments of the Paris Agreement. Portraying fossil fuels as environmentally friendly misleads consumers and breaches legal requirements. The need for clarity from such highly polluting industries is already recognised in the Commission's [guidance](#) and in [prohibitions](#) in [national law](#), but clear Union-wide 'ex ante' regulation is urgently necessary to address the significant enforcement gap and prevent fragmentation.

5. Strengthen the definition of certification schemes, ensuring that they are independent, open, and transparent; that the requirements to obtain their label reflect significant sustainability improvements; that they include strong monitoring of compliance, as well as an open and transparent complaint processing system, that can both lead to the withdrawal of a label in case of noncompliance. In addition, a pre-approval procedure for sustainability labels and sustainability information tools should be introduced, ideally at the EU level.
6. A prohibition on the use of accounting methodologies using a flexible (site or group level) mass balance approach with free allocation of credits when determining the composition of products (e.g. recycled or biobased content) for the purpose of making claims. Such claims mislead consumers as to the real composition of products, which might only have a residual amount of recycled or biobased content. When direct measurement is possible, claims must rely on direct measurement. This is in line with the [new EU policy framework on biobased, biodegradable and compostable plastics](#). If not, content can only be claimed according to the proportion that it represents compared to the whole production (proportional allocation).
7. A general prohibition of early obsolescence and practices preventing repair. This legislation must empower consumers to purchase the most sustainable products by banning the marketing of a product containing a feature (often a software feature) which foreseeably limits its lifetime. Similarly, inducing consumers to replace consumables earlier than is technically necessary, or preventing consumers from using second-hand or non-original manufacturer consumables and spare parts, should be banned. Consumers should be provided with all information necessary to enable repair, for example the availability of spare parts necessary for the repair of the product. It should also be prohibited to not inform consumers about other practices preventing repair by end-users or independent repairers, such as if the seller will refuse to perform a repair on a product that has previously been repaired by the user or a professional or using software to prevent third-party repair.

We expect the EU Institutions to rise to the challenge and set the right example on these essential issues so that consumers are truly protected against unfair market practices and a level playing field is created for companies and all market actors committed to the green transition.