



CONSUMER MARKET STUDY ON ENVIRONMENTAL CLAIMS FOR NON-FOOD PRODUCTS

Issue: July 2014



*Justice and
Consumers*

EUROPEAN COMMISSION

Directorate-General for Justice and Consumers

*European Commission
B-1049 Brussels*

Consumer market study on environmental claims for non-food products

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This report was produced under the Consumer Programme (2007-2013) in the frame of a specific contract with the Consumers, Health and Food Executive Agency (CHAFAEA) acting on behalf of the European Commission.

The study has been conducted by GfK Belgium, time.lex, Milieu Ltd, BIO IS and the Ecologic Institute with support of expert advisors of Brook Lyndhurst, Trucost and Heather Collie.

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Luxembourg: Publications Office of the European Union, 2014

ISBN 978-92-79-46209-2

doi: 10.2838/646530

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Comments or questions on this report are welcome:
JUST-GREENCLAIMS@ec.europa.eu

Abstract

One of the key tenets of the European Consumer Agenda is that consumers should be **empowered, assisted and encouraged to make sustainable purchasing choices**.

For the market for 'green' or environmentally-friendly products and services to function properly, business needs to ensure that environmental claims are **clear, accurate and reliable**. Only in these circumstances will consumers be able to make a truly informed choice.

Cases of **misleading and unsubstantiated environmental claims** have been reported. These undermine consumers' ability to contribute to green growth by means of their purchasing choices.

It is in this context that the Consumers, Health and Food Executive Agency¹ acting on behalf of European Commission (Directorate-General Health and Consumers)² has commissioned this **Consumer Market Study on environmental claims for non-food products**. This study seeks for a selection of EU countries and third countries to achieve the following:

- Provide **information on the presence and types of green claims in the non-food markets**, at the level of products;
- Examine the **level of compliance with EU legal requirements** for a selection of those claims;
- **Assess consumer understanding and behaviour vis-à-vis green claims on the market**;
- Analyse the enforcement and self-regulatory instruments available;
- Provide **policy recommendations** for future EU policy initiatives in this field.

¹ Consumers, Health, Agriculture and Food Executive Agency as from 17 December 2014.

² In the mandate of the new European Commission 2014-2019, the Consumers Directorate became part of the new "Directorate-General for Justice and Consumers" since 1 January 2015.

Glossary

For the needs of this study, the following definitions are provided:

- **Advisory claims:** claims that do not specifically relate to a product's environmental attributes but provide advice or instruct consumers on how to have a positive impact on the environment while consuming the product i.e. the Mobius Loop or the indication 'please recycle'.
- **Blue Angel label:** The Blue Angel is an environment-related label for products and services in the world. It is awarded to products and services which are particularly beneficial for the environment in a holistic approach and which also fulfil high health and safety standards. It consists of three basic elements:
 - The symbol of the United Nations Environmental Programme in the form of a blue ring with a laurel wreath and a blue figure with outstretched arms in the middle.
 - The surrounding text specifying the main environmental properties of the product carrying the label, e.g. because energy-saving or low-noise.
 - Indication of the product's central protection goal, e.g. "it saves resources". The product groups are currently classified into four different protection goals: "protects the climate", "protects the water", "protects the resources" and "protects the environment and the health".Blue angel is a public, voluntary, third party certified label.
- **Clear claims:** a claim is clear when there is no doubt for the average consumer:
 - that the claim covers the whole product or only one of its components (e.g.: recyclable packaging where the content is not recyclable or a part of the packaging if the packaging is only partially recyclable);
 - that the claim refers to a company (applying to all its products) or only to certain products;
 - about which stage of the lifecycle or the product characteristics the claim exactly covers.
- **Consumer attitudes:** refers to what consumers say/report they would take into account, not necessarily what they actually do take into account in practice.
- **Consumer behaviour:** refers to what consumers actually do take into account in practice.
- **Copy advice:** Advice on a proposed marketing action or advertising campaign provided by a public enforcement body or a self-regulatory body, usually on a non-binding basis, as to whether or not an advertising or marketing action is compliant with the applicable laws, regulations or code.
- **Ecolabel:** an ecolabel is a sign or logo that is intended to indicate an environmentally preferable product, service or company, based on defined standards or criteria.
- **Enforcement:** any system that controls and compels compliance with applicable rules and obligations, in a preventive stage or a post-marketing stage. Such a system may operate in a preventive stage, through prior compulsory approvals of intended marketing and advertising actions (pre-clearance or certification), or voluntary prior advice (copy control). Such a system may operate in a post-marketing stage, based on complaints of consumers, competitors or other third parties, or based on active investigation of the market by public authorities, organisations, or appointed bodies. See also under "public enforcement" and "private enforcement".

- **Environmental claims:** according to the UCPD Guidance document³, environmental claims refer to the practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product or a service is environmentally friendly (i.e. it has a positive impact on the environment) or is less damaging to the environment than competing goods or services. This may be due to, for example, its composition, the way it has been manufactured or produced, the way it can be disposed of and the reduction in energy or pollution which can be expected from its use. When such claims are not true or cannot be verified this practice can be described as 'greenwashing'.
- **Environmental colour:** colours that are commonly associated with nature and the environment: within this study specifically green text, blue text, green background or blue background either on product packaging, websites or in advertising.
- **Environmental image:** image of a tree or a forest, leaves, water, animals, the sky, clouds, a mountain, another landscape with nature or any other types of image conveying on a 'green message'.
- **Environmental logo/label:** graphic mark or emblem used to convey environmental benefits of a product or service (can be third party certified or self-declared).
- **Environmental text:** text that describes environmental benefits of a product or service.
- **EU Ecolabel:** helps consumers to identify products and services that have a reduced environmental impact throughout their life cycle, from the extraction of raw material through to production, use and disposal. The EU Ecolabel is a public, voluntary, third party certified label.
- **Explicit claims:** claims represented by a logo or a text.
- **Greenwashing:** When environmental claims are not true or when this cannot be verified, this practice can be described as 'greenwashing'. This is the case e.g. when:
 - the claim contains false information
 - the claim falsely gives the impression or indirectly suggests that a product or service is environmentally friendly or is less damaging to the environment than competing goods or services
 - there is not sufficient scientific evidence to support the claim
 - the claim is vague
- **Green Dot:** The Green Dot is the license symbol of a European network of industry-funded systems for recycling the packaging materials of consumer goods. It was introduced even before the Packaging and Packaging Waste Directive 94/62/EC (PPWD) was adopted in 1994. It continues to exist also under the PPWD, which obliges Member States to ensure that systems are set up for return and collection and for reuse or recovery (including recycling) of packaging waste. The Green Dot on packaging means that the producer of the packaging is taking part in one of the existing compliance systems and has paid its participation fee. Alternatively a company can present their own plan for packaging recovery, separate from the

³Commission Staff Working Document, Guidance on the implementation/application of Directive 2005/29/EC on Unfair Commercial practices, Brussels, 3 December 2009 SEC(2009) 1666. See section 2.5 on misleading environmental claims. Available at: http://ec.europa.eu/justice/consumer-marketing/files/ucp_guidance_en.pdf

Green Dot. The use of the Green Dot logo on packaging is (semi-)mandatory in some countries⁴.

- **Implicit claims:** claims represented by a colour or an image, or the interplay between these.
- **Mandatory claims:** refers in this report to 'mandatory environment-related information'.
- **MDEC:** Multi-stakeholder Dialogue on Environmental Claims⁵.
- **Misleading claims:** claims that deceive or are likely to deceive the average consumer, even if the information contained therein is factually correct.
- **Mobius Loop:** is a voluntary label that indicates that the product packaging is recyclable; it is based on self-declaration only.
- **Nordic Swan:** is a Nordic public, voluntary, third party certified ecolabelling scheme that evaluates a product's impact on the environment throughout the whole life cycle. The label guarantees among other things that climate requirements are taken into account, and that CO2 emission (and other gasses) are limited - where it is most relevant.
- **Pre-clearance:** Examination of an advertisement or marketing action by a public enforcement body or a self-regulatory body, whether or not as a compulsory precondition of marketing, publication or transmission, which in case of approval will clear the advertiser and safeguard the marketer or advertiser against sanctions. Where it provides such safeguarding clearance, it is a specific form of the more general term 'copy advice' that includes non-binding opinions as well.
- **Private enforcement:** any enforcement by self-regulating organisations.
- **Public enforcement:** any enforcement system organized by public authorities, such as administrations and courts (court action). The mandatory EU-Energy label is an example of a publicly enforced label, for which the EU Member States do market surveillance based on random or risk-based checking.
- **Reliable claims:** backed-up by scientific evidence.
- **Self-declaration /self-declared claims:** environmental claims are either self-declared or third-party certified. Self-declared green claims are made by an organisation on the basis of text, a label or logo (often registered as a trademark) without involving external review by an independent third party. The level of control is much lower in comparison to third-party certified claims and therefore they contain a higher risk of providing consumers with incorrect information.
- **Self-regulatory organisations or SRO:** A non-governmental organisation created by stakeholders within a business sector, that has the power to create and enforce regulations within that business sector and regulates principles of conduct of business entities within the sector, and which is usually based on membership of such entities.
- **Third party certified labels:** Certification by independent controllers aimed at increasing consumers' trust. Environmental claims are either self-declared or third-party certified. Third-party certified claims employ third party attestation that certain characteristics or attributes of the product or its production method or system, laid down in specifications, have been observed/verified by an independent third party. Their scheme owner (managing organisation) can either be a private or public organisation.

⁴ For example, in France, Turkey, Spain, Portugal and Bulgaria. In France there are 2 options: businesses can collect and recycle the packaging themselves or pay an approved body which allows them to use the green dot.

⁵ 2013 MDEC report: http://ec.europa.eu/consumers/documents/consumer-summit-2013-mdec-report_en.pdf

- The EU Ecolabel is an example of a voluntary third-party certified label, for which the European Commission and the “EU Ecolabel competent bodies” of Member States is the managing organisation.
- **UCPD:** UCPD stands for the Directive 2005/29/EC on Unfair Commercial Practices. The UCPD was adopted in 2005 and entered into application in December 2007. It applies to all business-to-consumer commercial practices, including environmental claims. Several of its provisions can apply to green claims, such as Article 6 prohibiting misleading actions (in particular Art. 6(1) (a) and (b) on false or deceiving information in relation to the nature and the main characteristics of a product and Art. 6(2) (b) on non-compliance with commitments contained in codes of conduct) and No. 1, 2, 3 and 4 of Annex I (which gives a list of commercial practices prohibited in all circumstances).
- **UCPD Guidance document:** The Guidance on the application/implementation of the UCP Directive adopted in December 2009 clarifies some provisions of the Directive and how the Directive applies to specific sectors (e.g. section 2.5 of the Guidance focusing on environmental claims), in order to support the Member States in achieving a uniform application of the Directive.

Picture glossary of a selection of environmental labels identified in this study

	AENOR		Green dot
	AISE		LDPE
	Blue Angel		Milieukeur
	BPAfree		Mobius loop
	Carbon trust		NF Environmental label
	Crossed out garbage can		Nordic Swan
	Ecoactions		OekoTex label
	EcoBubble technology		OK power
	Environmental Friendly products		Sphere
	EU Ecolabel		Tidyman
	EU Energylabel		VOC
	Fairtrade		Znak EKO
	FSC		95% natural origin

Executive summary

Context of the study

One of the key tenets of the European Consumer Agenda is that consumers should be empowered, assisted and encouraged to make sustainable purchasing choices. Evidence from the Eurobarometer survey [2011]⁶ has shown that the vast majority of Europeans considered environmental change to be an important issue, with the majority stating they are willing to pay more for environmentally friendly products or services.

However, despite citizens' stated good intentions and interest in purchasing green products, confidence in environmental claims is in decline with less than a third of consumers indicating in the same 2011 Eurobarometer survey that the environmental impact of a product had influenced their purchasing decision.

For consumers to make sustainable choices, they need to have clear and reliable information in order to be able to easily identify the 'right' product or service to purchase.

From the supply side, for the market for 'green' or environmentally friendly products and services to function properly, businesses must be able to ensure that environmental claims are clear, accurate, reliable and as far as possible comparable in order to ensure a "level playing field", thus preventing free-riding and greenwashing. Only in these circumstances, in view of the vast and ever-increasing array of products and services on the market, will consumers be able to compare products and services with one another and make a truly informed choice.

It is in this context that the Consumers, Health and Food Executive Agency acting on behalf of European Commission has commissioned this **Consumer Market Study on environmental claims for non-food products**.

Study objectives

The study aims to provide a thorough understanding of the current dynamics of green claims operating in key non-food markets. It should identify any problems with the use of green claims in the sense defined by the Unfair Commercial Practices Directive, i.e. when green claims potentially mislead consumers in their purchase decisions.

Ultimately, the findings of the study should help the European Commission to further support national enforcers to properly implement the requirements of the Unfair Commercial Practices Directive. This study should help the European Commission to further develop best practices and Guidance in this respect.

In view of the above, this study seeks to achieve the following:

- Provide information on the current state of play on the presence of green claims and the different types of claims made in the Single Market for non-food products, at the level of products (goods and services) and marketing strategies.
- Examine the level of compliance with EU legal requirements for a selection of those claims.
- Assess consumer understanding and behaviour vis-à-vis green claims on the market.

⁶ Special Eurobarometer 365 http://ec.europa.eu/environment/pdf/ebs_365_en.pdf

- Provide an analysis of the enforcement and self-regulatory instruments available.
- Provide policy recommendations for future EU policy initiatives in this field, based on a thorough understanding of the current dynamics of green claims.

Study Methodology

Data for this study has been collected via multiple channels:

- A literature review (of reports, publications, studies, guidelines) as well as a consultation with stakeholders to collect their opinions about environmental claims.
- A consumer survey and experiment conducted online to collect views and perceptions on green claims.
- A mystery shopping exercise in shops and online to identify and analyse green claims on selected products and services. In total 26⁷ non-food product/service categories were selected (Consumer electronics, household appliances, cleaning products, clothing and footwear, etc.). For each product category, 20 products were selected in-store with fixed intervals, except for passenger vehicles, hotels, airlines and electricity services. These last four categories were assessed by visiting vendors' websites. In total, 1.610 products were assessed and 86 websites visited.
- A database scan on the Ebiquity database to identify and study green claims in selected advertisements.
- An extract of European Ecolabels from Ecolabelindex.com which is the largest global directory of ecolabels, currently tracking 444 ecolabels in 197 countries, and 25 industry sectors.
- Desk research and interviews with relevant stakeholders or authorities to identify national guidelines on environmental claims and to analyse their compliance with the provisions of the UCPD and the UCPD Guidance document.
- Random selection of environmental claims of non-food products and specific analysis in relation to the provisions of the UCPD and their interpretation by the Commission Guidance document.
- Desk research and interviews to identify and assess the enforcement systems in key selected Member States and US.
- Multi-stakeholder dialogue (MDEC) workshops established in collaboration between the Directorate-Generals Health and Consumers (SANCO), Environment (ENV) and Justice (JUST) with the participation of 25-30 representatives from national and EU-level consumer organisations, environmental NGOs, EU-wide business associations, Member States' national authorities, self-regulatory bodies, and academics and European Consumer Summit of 18-19 March 2013, during which the MDEC report was presented⁸.

The following pages provide an overview of the main results of the study.

1. To what extent do products/services apply environmental claims?

"Environmental claims" or "green claims" are referred to in the Guidance document on the implementation/application of Directive 2005/29/EC on unfair commercial practices (the UCPD) as the practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product or a service is environmentally friendly (i.e. it has a positive impact on

⁷ Following product/service categories: windows, consumer investment products, hardwood floors and tyres were excluded from the exercise, due to their consumer specific process (customized product, proposal/offer phase preceding the purchase, etc.)

⁸ 2013 MDEC report: http://ec.europa.eu/consumers/documents/consumer-summit-2013-mdec-report_en.pdf

the environment) or is less damaging to the environment than competing goods or services.⁹

This may include claims indicating that a product is more environmentally friendly because of its composition, the way it has been manufactured or produced, the way it can be disposed of and the reduction in energy or pollution which can be expected from its use.

Presence of environmental claims on product packaging

Overall, the presence of **explicit** green claims (text or logo) is high: 70% of the products assessed¹⁰ have 1 or more environmental claims. The high proportion of explicit green claims is partially due to the EU mandatory information requirements on environmental performance (e.g. energy efficiency) among the studied products/services. When taking into consideration the voluntary explicit claims only, the proportion is still 51% on average for products assessed¹¹.

Implicit claims, in the form of environmental images or colours¹², account for 39% of the products assessed offline and 86% of the products/services assessed online. These implicit claims can be seen as *possible* green claims; the context they appeared in was not taken into account during the assessment. Consequently all blue or green colours or images such as a tree, the sun, etc. were by default considered as implicit claims.

The **overall presence** – explicit and implicit, voluntary and mandatory – of **green claims** is **76%** among the products assessed offline.

The type of environmental claims

Most of the environmental claims found on the products examined take the form of a logo –45% incidence of voluntary logos¹³ on average across all markets. There are, however, exceptions: environmental textual claims are most often found for electricity services which were assessed through websites of electricity providers; environmental images (implicit claims) are most often found for passenger vehicles and hotels where the websites were assessed (instead of the 'product packaging' itself); and environmental colours (i.e. blue or green) are most often found on packaging of mobile phones, washing machine detergents and airlines, the latter being investigated through company websites.

⁹ The definition of the 2009 UCPD Guidance Document is the definition used for this study. This definition can to a large extent be linked to the ISO standards 14020, 14021, 14024, 14025 but is possibly slightly broader. The ISO definitions are more detailed and refer to 3 different types of environmental labels (ISO labels Type I, II and III):

ISO (standard 14024:1999) Type I: a voluntary, multiple-criteria based, third party program that awards a license that authorises the use of environmental labels on products indicating overall environmental preferability of a product within a particular product category based on life cycle considerations.

ISO (standard 14021:1999) Type II – self-declared environmental claims that is made, without independent third party certification, by manufacturers, importers, distributors, retailers or anyone else likely to benefit from such a claim.

ISO (standard 14025:2006) Type III - voluntary programmes that provide quantified environmental data of a product, under pre-set categories of parameters set by a qualified third party and based on life cycle assessment, and verified by that or another qualified third party

The ISO (14020:2000) series provides general principles for environmental labels.

For the purpose of this study, and based on the broad definition of the UCPD guidance, also implicit claims (such as images and colours) and mandatory information requirements on environmental aspects have been examined in the context of this study.

¹⁰ Via the offline mystery shopping exercise

¹¹ Via the offline mystery shopping exercise.

¹² Only green and blue colours are considered as colours representing an environmental implicit claim.

¹³ The Green Dot is considered as a semi-mandatory logo, and is excluded from the figure of 45%, given its "linkage" to the Packaging and Waste Directive 94/62/EC.

In terms of logos, the most common is the 'Green Dot' followed by the 'Mobius loop' and the 'EU energy label'. The 'Green Dot' logo is found on one in five products across the EU, but very large differences are found between product and service types. The assessment also highlighted that some products are sold without the mandatory information requirements such as the absence, in some cases, of the EU Energy label on light bulbs.

Blue and green colours are also frequently used on products or their websites, perhaps to try to convince consumers about the environmental benefits of the products for sale– 35% of all markets websites included 'environmental colours'. Green is mostly used for products whereas blue tends to be used in services such as electricity, airlines and hotels.

Around a third (34%) of products assessed by the mystery shopping contained environmental images. Passenger vehicles and hotels, where websites were assessed, make use of environmental images above other types of claims. For example, a 'tree' is the most common image for passenger vehicles and hotels¹⁴.

Multiple environmental claims

The results of the mystery shopping exercise show that multiple environmental claims are common practice. On average 2.8 claims are found per product/service¹⁵ assessed offline and far higher (7.5) when the product/service website was assessed. This big difference is mainly due to the more frequent presence of – multiple – implicit claims on websites. The highest numbers of environmental claims are found when it comes to airline websites (on average 12 claims), washing machine detergents (7), passenger vehicle websites (6), baby diapers (6), electricity service websites (6) and hotel websites (6).

Green claims in advertisements

More than 70% of all magazine advertisements for the product/service categories assessed contain at least one green claim in the form of logo, text, image or colour, which is slightly below the overall presence of green claims observed on product packaging (78%).

The proportion of explicit environmental claims in magazine advertisements is significantly lower than that of implicit claims (31% explicit versus 65% implicit green claims), whereas the opposite was observed for product packaging (67% explicit versus 46% implicit green claims¹⁶).

Explicit claims mainly come in the form of a text (28%) rather than a logo (9%). Words such as 'Energy', 'Environment', 'Environmental', 'Efficient', 'nature', 'natural', 'organic', 'recyclable', 'recycled', 'save energy'¹⁷ and 'CO2'¹⁸ are most commonly used among the advertisements assessed.

¹⁴ As noted higher on, the context the image appeared in is not taken into account in the assessment. These images should therefore be seen as possible implicit green claims.

¹⁵ This figure only takes into account of products/services containing at least 1 environmental claim.

¹⁶ The percentages relate to mandatory or voluntary environmental claims of offline or online assessed products/services. The share of explicit claims increases to 70% when only offline assessments are taking into account.

¹⁷ Also alternative 'save-formulations' were used: 'save water', 'save carbon', and several advertisements include 'save money' in addition to their environmental claim.

¹⁸ CO2 is several times used in combination with 'lower'. 'Lower' is used in combination with other words: lower fuel consumption, lower environmental impact, lower carbon content, etc.

Implicit claims, on the other hand, mainly take the form of colours (52%) rather than images (27%). A green background is possibly used to convey green messages (14%) and used more often in comparison to a blue background or a blue or green textual colour.

When looking at the average number of claims for all the advertisements containing at least one claim (implicit and/or explicit), most of the advertisements have multiple claims (64%) rather than only one claim (36%). The average number of green claims is 2.3 for advertisements containing environmental claims.

2. What is the consumer experience?

Awareness of certain environmental claims

Consumer awareness of environmental claims varies widely across the types of claims. The majority of consumers have seen the terms 'recyclable' (80%), 'organic' (77%), 'biodegradable' (77%), 'environmentally friendly' (69%) and 'sustainable' (61%).

Looking at awareness of European logos, consumers recognize most often the Mobius Loop (89%) and the Green Dot (75%) but are less aware of the Fairtrade logo (50%) or the EU Ecolabel (36%).

Country differences are quite marked when looking at consumers' awareness of environmental claims. The only exception is the Mobius Loop, which was recognised by more than 80% of consumers in all countries examined. Local ecolabels are well known, such as the Nordic Swan, which was recognised by the vast majority of Danish consumers¹⁹, whilst the Blue Angel was recognised by over 90% of German consumers and the "environmental friendly label²⁰" by 78% of Croats.

Across the 11 countries surveyed, 29% of consumers can be categorised as having a 'high level of awareness of environmental claims'; 43% have a 'medium level of awareness' and 28% have a 'low level of awareness'.

Awareness levels differ across countries. For example, half of consumers in the UK have a high level of awareness, while in Czech Republic only 9% fall into this category.

Certain socio-demographic factors also significantly impact on awareness levels – notably age, education and income. In terms of age, generally the younger the consumer, the higher the awareness levels. Those aged above 50 are characterised by having the lowest awareness levels. Consumers with the highest levels of education, in terms of number of years studied, show higher levels of awareness. Finally, those who have higher income levels are more aware of environmental logos than those with lower incomes.

Attitudes towards environmental claims

Almost two thirds **(61%) of consumers state that they find it difficult to understand which products are truly environmentally friendly**. This is especially true for more than 7 in 10 consumers in Germany, compared to 5 in 10 in Poland and Denmark.

¹⁹ Not assessed in Norway

²⁰ The original Croatian term in the label is: "prijatelj okoliša".

For a majority (59%) of consumers in the countries surveyed, the wide range of environmental claims prevents them from being able to make good purchase decisions.

Not only do consumers find it difficult to make their way through the large number of environmental claims, but they also think that these claims are often unclear. This is the case for more than 60% of Italians and Germans.

In addition, for more than a quarter of consumers in the examined countries, it is not easy to assess whether an environmental claim is correct or not. Despite this, a large proportion of consumers does not seem to look for evidence that proves whether or not environmental claims are correct. More than 50% of respondents say they have never done this. Those who have checked the correctness of a claim (54%) have looked for information on the internet (57% of those who have checked). The outcome of these checks usually reveals that the claim is correct (59% of those who have checked).

Understanding of environmental claims

Consumers were presented with different logos and a list of possible definitions (correct and incorrect definitions were presented) of these logos. For each of them, respondents were asked to choose the definitions they thought appropriate.

Results show that, of those aware of the EU Ecolabel (i.e. 36%), over two thirds have a partial understanding of the logo, i.e. are able to associate the logo with some correct definitions but also give incorrect answers. Less than a third has no understanding at all, i.e. they associate the logo with only incorrect definitions. Only half (49%) of European consumers, who have seen the EU Ecolabel before, are aware that the EU Ecolabel demonstrates that a product is amongst the most environmentally friendly in its category. Furthermore, although awareness of these logos is high, the understanding of the 'Green Dot' logo and the 'Mobius Loop' is much lower than the EU Ecolabel.

Consumers appear generally unable to understand the meaning of environmental logos, and make no distinction between non-certified (self-declarations) and third party certified labels.

Trust in environmental claims

Mistrust in environmental information displayed on products and in advertisements is relatively common. 44% of consumers say they do not trust this type of information

However, consumers' trust in claims varies greatly depending on the specific environmental claim assessed.

A label such as the **Mobius Loop is perceived by consumers to be very reliable:** 87% are aware of the label, 54% have partial understanding of the label and 1% has full understanding of the label, though 77% trust this label. Results for the Green Dot and the EU Ecolabel are similar: 75% are aware of the Green Dot, which drops drastically to 36% with a partial understanding and 2% with a full understanding; however, there is a relatively high level of trust in the green dot (72%). The EU Ecolabel on the other hand has a somewhat more limited awareness (36%), 70% partial understanding and less than 1% full understanding but 65% trust the EU Ecolabel. Trust is lower for the textual claims 'Sustainable' and 'Carbon-neutral' (54% and 50% for trust respectively).

Trust however needs to be seen in relation to a product/brand. Consumers do not tend to verify a claim if it comes from what in their opinion is a trustworthy brand/manufacture. Furthermore, there is evidence that consumers are not interested in knowing more, as long as they are reassured that they can trust the system (Verbeke and Ward, 2006). Consumers trust that regulations and controls are adequate and carried out by competent authorities. This implicit trust makes consumers vulnerable to misleading claims. Consequently prevention of misleading claims is very important.

Impact of environmental claims on consumer purchases

Almost 60% of consumers prefer to buy a product with an environmental label. Indeed, half look for environmental information on the packaging when purchasing a product.

However, preferences for products or services with environmental claims depend on the type of products. Consumers most often check for this information when buying washing machines and light bulbs. Yet consumers are less observant of environmental claims when they stay in a hotel or purchase a flight. There are several possible explanations for this. For example, the difference in consumer preference for environmental information could be based on whether the purchase is a product (e.g. a washing machine) or a service (e.g. hotel stay or booking a flight online). When buying a product in-store, a consumer is physically faced with the product and more likely to check the product's technical and physical features, whereas purchasing a service is less "tangible". Moreover, products and services with the benefit of a (energy) cost saving, even in the long term, are more attractive.

However, the fact that consumers say they look for this information while buying does not mean that they will buy environmentally friendly products and 32% of consumers stated they could not afford to purchase environmentally friendly products/services.

Behavioural experiments further tested which environmental claims were most heeded for certain purchases. It was found that when buying a washing machine, consumers pay most attention to the 'energy efficiency class', followed by the textual claim for the machine such as 'automatic energy and water saving'.

The claim 'renewable energy' is the most important consideration when making an electricity purchase; for buying shampoos, the claims 'natural' and 'biodegradable' have the greatest impact on decisions.

In relation to this, the advertisement scan allowed the allocation of certain claims to general themes. The most frequently applied themes were:

- efficiency – energy or fuel efficiency – 35%;
- materials – material or resource efficiency, renewable resources – 33%;
- organic/recycle – recyclable, recycled content, recycling symbols – 23%;
- carbon/climate – climate-related claims, greenhouse gases, carbon, CO₂, carbon footprinting – 20%.

However, it should be noted that the large majority of the claims found in advertisements could not be accorded to a particular theme and simply pass on a general message such as "environmentally friendly product", "green", etc.

3. EU legal framework and national guidelines

Directive 2005/29/EC on unfair commercial practices (the UCPD)²¹ is the main general body of EU legislation regulating misleading advertising and other unfair practices harming consumers' economic interests. It applies to all business-to-consumer commercial practices including those involving environmental claims.

Under its Article 5, commercial practices that are contrary to the requirements of professional diligence and are likely to materially distort the economic behaviour of the average consumer with regard to the product are unfair. The Directive prohibits unfair practices and defines two main categories of unfair practice, those that are misleading (either by action or omission) and those that are aggressive.

According to Article 6 on misleading actions, a commercial practice shall be regarded as misleading if:

- it contains false information and is therefore untruthful or deceives, in any way, including overall presentation, or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more elements such as the existence or nature of the product and the main characteristics of the product (e.g. its benefits, risks, composition, fitness for purpose, geographical origin, the results to be expected from its use, the results and material features of tests or checks carried out on the product);
- in either case causes or is likely to cause the average consumer to take a transactional decision that she/he would not have taken otherwise.

Annex I to the Directive contains a list of 31 practices, which shall in all circumstances be regarded as unfair. Several of its provisions may be particularly relevant to environmental claims:

- displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation (No 2);
- claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation (No 4);
- claiming to be a signatory of a code of conduct when the trader is not (No 1);
- claiming that a code of conduct has an endorsement from a public or other body which it does not have (No 3).

The Guidance document on the implementation and application of the UCPD²² (the UCPD Guidance document) adopted in 2009 provides clarification on the application of the Directive to environmental claims.

The application of the provisions of the UCPD to environmental claims is summarised by the 2009 Guidance document **in two main principles:**

- (a) based on the Directive's general clause, traders must, above all, present their green claims in a specific, accurate and unambiguous manner;
- (b) traders must have scientific evidence to support their claims and be ready to provide it in an understandable way in the case that the claim is challenged.

²¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:EN:PDF>

²² Commission Staff Working Document guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices, Brussels, 3 December 2009 SEC(2009) 1666

When clarifying how the Directive applies to environmental claims, the UCPD Guidance document also refers to the following elements that have been used in this study as criteria to assess compliance of environmental claims:

- **Objective misleading practice**

The environmental claim is misleading because it contains false information and is therefore untruthful.

- **Subjective misleading practice**

The environmental claim is misleading because it deceives or is likely to deceive the average consumer, even if the information contained therein is factually correct.

- **Scientific evidence to be verified by competent authorities**

Any environmental claims must be made on the basis of evidence that can be verified by the competent authorities. Under Article 12 of UCPD traders should be able to furnish evidence as to the accuracy of factual claims in relation to a commercial practice.

- **Clarity and accuracy of the claims**

The environmental claim should be mentioned in a way that will be clear for the average consumer

- **Reference to relevant prohibited practices of Annex I.**

These five criteria (objective misleading practice, subjective misleading practice, scientific evidence, clarity and accuracy of claims, prohibited practice under Annex I) provide a definition of what is a responsible use of green claims, which can drive consumer preferences and hence contribute to the development of a more sustainable economy, in line with the objectives of the European Consumer Agenda and the Europe 2020 Strategy.

Inventory of national guidelines

Countries can develop their own national guidelines in addition to the UCPD. This study includes the analysis of guidelines identified in EU Member States, Iceland and Norway and the Guidelines developed by the US Federal Trade Commission²³ and the Consolidated International Chamber of Commerce Code of Advertising and Marketing Communication Practice²⁴.

Two types of guidelines were identified:

- **General guidelines or Codes of conduct**, which are established and developed by national competent authorities or self-regulatory bodies. For traders, they constitute a useful tool for implementing and applying requirements related to environmental claims as they indicate general conditions for use of green claims, as well as relevant recommendations and examples of best practices. Moreover, they also provide consumers with an explanation on environmental claims in order to improve understanding and to support their purchasing choices. General Guidelines may cover claims in all forms of communication, advertising and marketing or in specific communication supports, such as broadcast or non-broadcast advertising.

²³ Available November 2013 at: <http://www.ftc.gov/os/2012/10/greenguides.pdf>

²⁴ Available November 2013 at: [http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2011/Advertising-and-Marketing-Communication-Practice-\(Consolidated-ICC-Code\)/](http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2011/Advertising-and-Marketing-Communication-Practice-(Consolidated-ICC-Code)/)

- **Sectorial guidelines or Codes of Conduct**, which are developed by business or sectorial associations in different forms and under different names (such as best practices, codes of conduct, guidance, etc.). They provide traders with essential information on how the commercial and marketing laws as well as standards apply to environmental claims specific to the sectors or products in which they are active.

No general guidelines have been identified in Austria, Bulgaria, Cyprus, Germany, Greece, Latvia, Lithuania, Slovakia and Malta. No sectorial guidelines have been identified in Austria, Bulgaria, Czech Republic, Cyprus, Greece, Hungary, Ireland, Luxembourg, Latvia, Lithuania, Malta, Slovakia and Spain.

Overall, the following was observed:

- Advertising associations/agencies, both for broadcasting and non-broadcasting advertisements, are very proactive in the development of recommendations on environmental claims.
- General guidelines on all types of environmental claims prepared by public authorities are published in Denmark, Czech Republic, Finland, Iceland, France, Norway and the UK. In most cases these guidelines are elaborated in partnership with the business actors and consumer associations.
- General guidelines on all types of environmental claims prepared by private self-regulatory bodies are adopted in Spain (Autocontrol) and Portugal (da Sair da Casca) and Italy (Assolombarda, business organisations of companies established in the region Lombardy).
- Sectorial guidelines or codes of conduct identified are developed either by trade associations or public authorities in order to support traders operating in certain industrial sectors. The highest number of general and sectorial guidelines was identified in the UK where trade associations and national authorities work closely together.

Assessment of national Guidelines on environmental claims in relation to the current legal framework: UCPD and its Guidance document

The national guidelines were evaluated against the UCPD and its Guidance document to determine to what extent they are consistent with the provisions of the Directive and the principles of the Guidance²⁵.

a) Objective misleading practice

A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful (Art 6 of UCPD). All guidelines prescribe that any environmental claim should be presented in a truthful manner and not be based on false information (e.g. the characteristics of products and their environmental benefits). The following general principles and recommendations related to objective misleading were found in the guidelines:

- Most guidelines set recommendations on the use of specific terms in environmental claims.
- Most guidelines provide definitions of environmental benefits or characteristics that can be used in environmental claims in order to avoid confusion from traders and advertisers.
- Some guidelines indicate that messages should be re-assessed and possibly updated if necessary in view of technological development, comparable products or other circumstances that may affect the accuracy of the message.

²⁵Note that the UCPD does not set any obligation on Member States to develop environmental claims guidelines.

- Concerning comparative claims, several guidelines stress that the environmental benefit of a product should be significant when compared to similar products on the market.

b) Subjective misleading practice

A commercial practice shall be regarded as misleading if it in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct (Art 6 of UCPD). The following recommendations and general principles to avoid or detect subjective misleading practices were found in the guidelines:

- Environmental claims should not overstate environmental benefits of products/service.
- Vague and general claims should be avoided.
- Environmental benefits under certain conditions of use must be clearly explained.
- A direct link should exist between the environmental benefits of products and the claim.
- Environmental claims should not abuse consumers' concern about the environment.
- Visual or audio presentation of the claim must not mislead consumers.
- The use of vocabulary must not mislead consumers (e.g. scientific terms);
- Labels should not be misused.
- Inclusion of recommendations to avoid subjective misleading practices for specific claims such as offset claims, "free from x" claims, etc.
- Claims should be assessed against the overall impression they are likely to convey to consumers.

c) Scientific evidence

Article 12 requires Member States to enable the courts or administrative authorities to require the trader to furnish evidence as to the accuracy of factual claims in relation to a commercial practice. The Guidance document on the application of the UCPD highlights that traders must have scientific evidence to support their claims and be ready to provide it in an understandable way if the claim is challenged.

The national guidelines identified mention that environmental claims must be able to be supported by relevant evidence or data acquired through recognized methods or sufficiently robust processes that can be reproduced. In some cases, guidelines state that claims must be supported by evidence that would be generally accepted, objective, sufficient and verifiable. Some refer to recognised scientific studies or to adequate approval from a public authority.

The provision of scientific evidence also touches upon the discussion regarding "to whom" such information should be made available. Providing scientific evidence is difficult in terms of privacy and commercial sensitivity. As required by the UCPD the authority assessing the claims should receive full access. However, consumers (and competitors) preferably also receive a decent explanation allowing them to make a sustainable decision.

d) Clarity and accuracy of the claims

The Guidance document on the application of the UCPD²⁶ considers that under the Directive's general clause, traders must, above all, present their green claims in a specific, accurate and unambiguous manner.

²⁶ Commission Staff Working Document guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices, Brussels, 3 December 2009 SEC(2009) 1666

All guidelines identified mention that claims should be clear and accurate. This is a condition to avoid misleading consumers as set out in the previous sections (objective and subjective misleading practices). Several guidelines set out rules on how specific claims should be worded or presented to be clear and accurate. Almost all guidelines identified mention that the scope or boundaries to which the claim applies must be clear. They stress that claims must be clear on whether they apply to an entire product or certain features thereof or whether they apply to the entire product's life cycle or to one stage of this life cycle (e.g. disposal).

e) Reference to Annex I of prohibited practices in UCPD

Annex I of the UCPD prohibits the misuse of signs or marks. It prohibits commercial practices where the trader:

- Claims to be a signatory to a code of conduct when the trader is not.
- Displays a trust mark, quality mark or equivalent without having obtained the necessary authorisation.
- Claims that a code of conduct has an endorsement from a public or other body which it does not have.
- Claims that he (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation.

Few guidelines refer explicitly to the Annex I prohibited practices in the UCPD, though generally guidelines prohibit practices that are equivalent to the ones in Annex I to the UCPD. They prohibit the use of signs or symbols that may falsely induce a belief of official approval.

The presence of clear guidelines covering all criteria applicable to environmental claims according to the UCPD and its Guidance contribute to preventing misleading claims. Clear guidelines promote consumers' protection with regard to environmental claims and prevent breaches of consumers' economic interests. Most Guidance documents or codes of conduct include enforcement measures or systems applied by public authorities or the self-regulatory bodies (e.g. Spain, UK, US, Norway). Those systems are close to current commercial practices and they generally have systems established to adapt the guidance rules quickly accordingly.

4. Analysis of enforcement systems

In order to ban misleading environmental claims, consumers as well as consumer organisations and even competitive businesses should be able to file a complaint. The research shows that most countries have public enforcement systems for unfair commercial practices that do not often target explicitly environmental claims. The lack of resources on enforcement on the one hand and (consumer) attitudes towards environmental claims and products in some countries on the other hand, may act as a disincentive to prioritise enforcement actions in this field. Most countries have a twofold enforcement system in place: a public enforcement with administrative and court action on the one hand and the existence of self-regulatory systems managed by self-regulatory organisations (SRO) on the other. Both types of enforcement systems should aim to ensure that environmental claims are truthful and that they effectively help consumers make truly sustainable choices. In some countries, like Germany, the Netherlands or Spain, infringements of the rules regarding environmental claims are subjected to a SRO system in the first instance, in order to obtain a solution through persuasion, negotiation or even internal sanctions. In case recommendations of the

SRO are not complied with, public enforcement should come into play as a further sanctioning mechanism.

The study did not find that countries that build enforcement on public authority action rather than self-regulatory action offer less balanced protection or vice versa. Although it is difficult to prove, there is likely a link between good guidance and proactive preventive action and the number of complaints. Furthermore, a system of voluntary prior assessments of intended marketing actions has its merits. Overall, the output of official enforcement cases against infringements is rather limited. In certain countries where good preventive actions have been undertaken, the number of complaints has declined.

Public bodies could focus more on active surveillance of the market (e.g. focus on specific sectors or typical problems) to prevent or identify misleading claims; and on active search and sanctioning of infringements to give a clear signal that misleading claims should 'not be done'. Currently however some inspectors have a limited knowledge about how to interpret the UCPD for environmental claims. A dialogue between the enforcement authorities and business sector organisations may facilitate mutual understanding of current tendencies in the market and may lead to well-focused actions. Many advertising organisations have already incorporated environmental claims in their guidelines.

Whereas in most countries there is a dualistic enforcement system, the possible synergy between public enforcement authorities and self-regulatory organisations seems in general rather unexploited. Self-regulatory enforcement seems highly effective in practice, as there is a high level of compliance with recommendations and some SRO systems may apply practical remedies. In some cases a harder sanctioning system is needed, which must be provided by the public enforcement system. In such cases the 'switch' between the SRO system and the public enforcement system could be better developed (e.g. the courts may provide a quick and efficient injunction system (albeit providing merely preliminary sanctions) based on a priori respect for the SRO's decision with a limited judicial review and without the need for long-lasting legal proceedings). The public enforcement organisations could, on the other hand, make better use of specialised knowledge of self-regulatory and sectorial organisations.

Sectorial enforcement seems rather underdeveloped and may be stimulated along with stimulation of sectorial practical guidance, focusing on the typical language and typical tendencies within the business sectors. The study found that certain sectors are more prone to complaints than others, and this could be more effectively taken into consideration.

5. Analysis of random sample of environmental claims

A sample of about 50 claims were analysed against the UCPD and the Guidance document to determine whether consumers are provided with clear, accurate and reliable information in relation to environmental claims in non-food products. Some claims, in the form of logos, have also been analysed in relation to the standards set by the EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs²⁷. Although this is used as a model for food products, it includes requirements that could be considered as relevant for all (including non-food)

²⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0005:0011:en:PDF>

labelling/certification schemes, i.e. requirements regarding public participation, clarity, transparency, inspections with third-party attestation, etc.

Furthermore, other pieces of EU legislation²⁸ have been taken into account which interact with the UCPD in order to define whether an environmental claim is misleading for consumers or not.

Overall, the assessment pointed to **certain problems in compliance with the five criteria derived from the UCPD and its Guidance document:**

- The analysed **claims are often too general and vague** and use terms that refer to general environmental considerations without specifying the concrete environmental benefit of the product.
- The **scientific evidence of environmental claims is difficult to assess** because often the technical information justifying the environmental benefits of the product is not readily available, or is difficult to understand by an average consumer, or cannot be verified without actual testing. Furthermore, the UCPD Guidance document does not specifically require a certain type of evidence, nor does it require a certain level or quantity of technical or scientific information that would be required to fulfil the requirements of the UCPD. Particularly it is not clear whether the substantiation of claims is a requirement that must be fulfilled vis à vis the consumer or the enforcement authorities.
- Certain environmental claims do not relate to environmental characteristics of the product that they (should) relate to. **Some of the encountered claims refer to the membership of an association to which companies pay a contribution that grants them the right to use a logo on all their products.** Such a logo does not refer to an environmental benefit that would be related to the relevant product, but simply to a financial contribution. Such types of claims may generate confusion for the consumer and loss of trust in environmental claims, and they may have a negative impact on consumer trust in real certified labelling systems that actually do signify the existence of product characteristics with an environmental benefit.
- In general, **no major problems have been identified in relation to the unauthorised use of logos**, however one issue identified was the use of certain logos resembling public institutions logos.
- Further development of the UCPD Guidance document is needed to **clarify the criteria for compliance with the UCPD** principles in the area of environmental claims.

The analysis undertaken for the **assessment of logos against the voluntary food labelling guidelines** shows that the **recommendations are generally well respected by certification schemes but to a lesser extent by self-declaration systems.** As no major differences seem to be perceptible by consumers between these two types of schemes, this can be a source of uninformed or misleading decisions.

- Some shortcomings have also been identified in relation to the certification schemes. For example, certain certification schemes examined had **no or limited information on the supervisory structure, the process for the development of the scheme requirements or the certification or inspection procedures.** This makes it difficult for consumers verifying the true value of a logo to determine whether a product has gone through a substantial third party certification or not.
- **Certification schemes are generally based on the certification of compliance with the scheme requirements carried out by independent accredited**

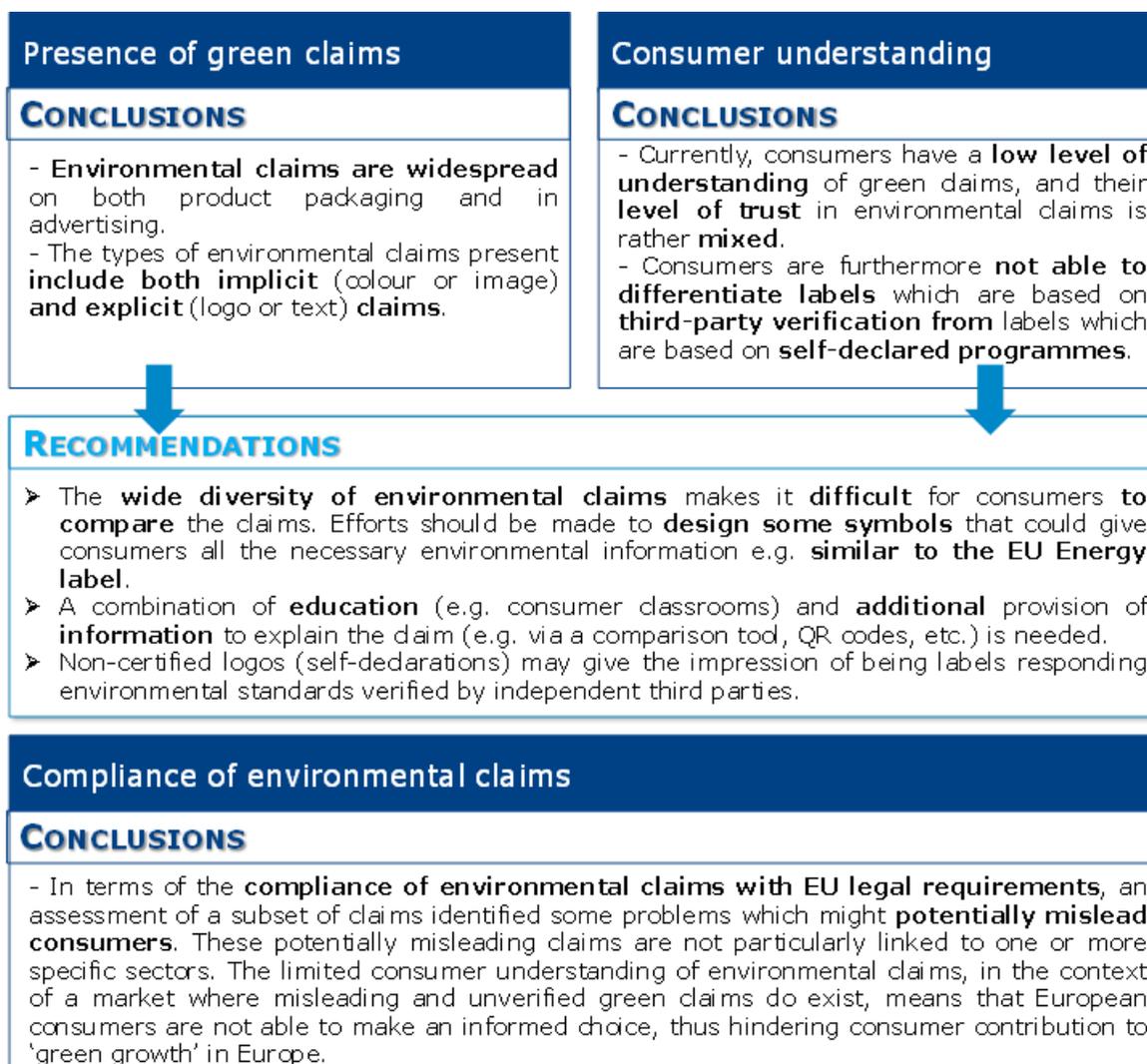
²⁸ E.g. the EU Energy labelling Directive.

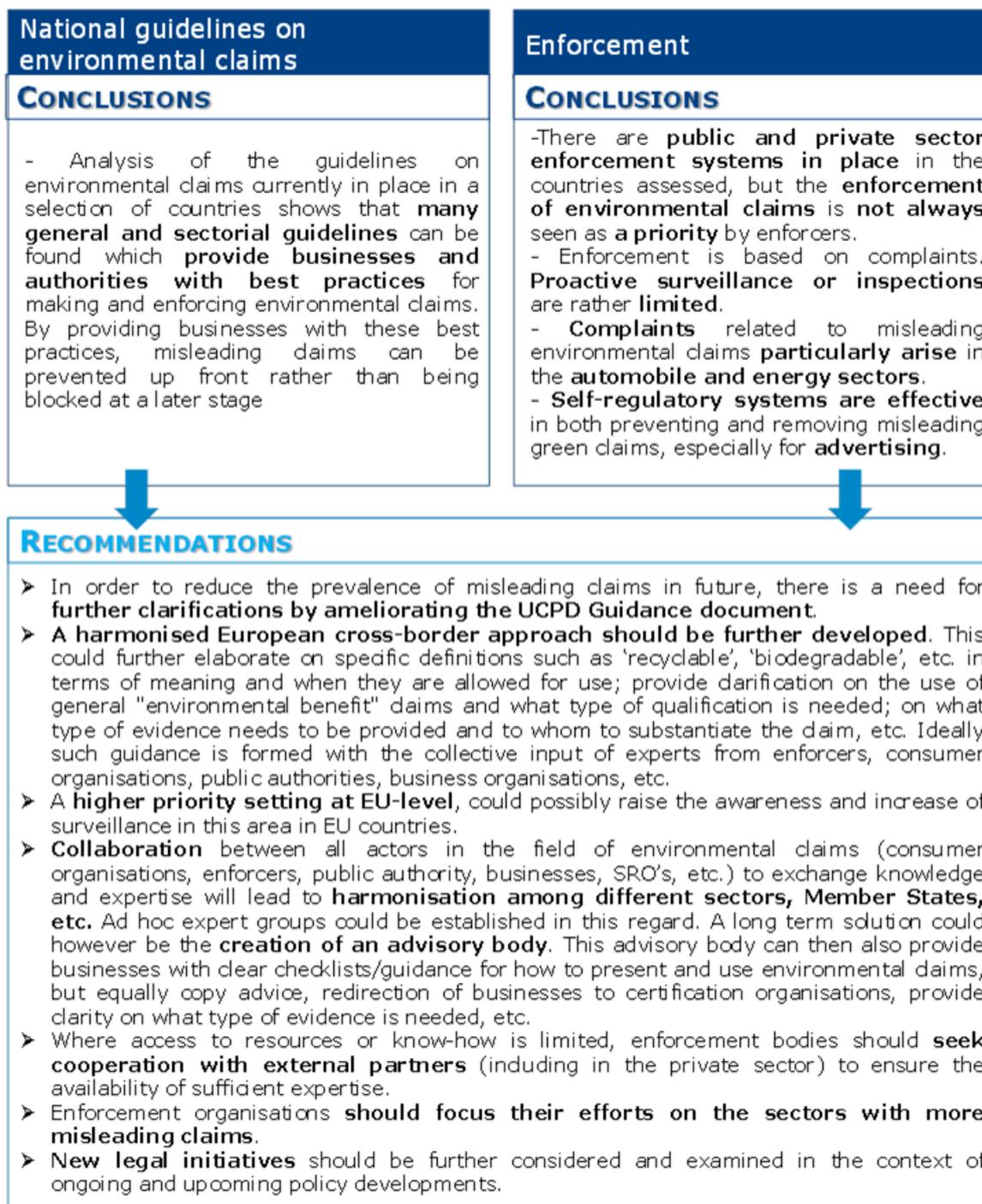
bodies and periodical or even unannounced inspection procedures. However, the recommendations²⁹ under the EU guidelines on voluntary food labels for carrying out inspections are not always applied. Sometimes this is due to the fact that on-site inspections are not foreseen or are not possible due to the nature of the product (e.g. the example of the supply of 'green' energy), whereas the verification can be done through documents. However in several cases there is a **lack of transparency on the inspection rules**, which in one specific case indicated a total lack of inspections.

²⁹ As a general principle, inspections should be effective, clear, transparent, based on documented procedures and relate to verifiable criteria underlying the claims made by the certification scheme. Unsatisfactory inspection results should lead to appropriate action. Regular inspections of scheme participants should be carried out. There should be clear and documented procedures for inspections, including frequency, sampling and laboratory/analytical tests in parameters related to the scope of the certification scheme. Unannounced inspections and inspections at short notice should be used as a general rule (e.g. within 48 hours). Inspections and audits should be based on publicly available guidelines, checklists and plans. The inspection criteria should be closely linked to the requirements of the scheme and the corresponding claims.

6. What recommendations can be made?

Based on the findings of this Consumer Market Study on environmental claims for non-food products, **the following conclusions are drawn and related recommendations are made:**





1 Introduction

1.1 Context and scope of the study

Consumer expenditure accounted for more than half (56%) of the European Union's GDP in 2011, reflecting the critical importance of consumers' contribution to economic growth and innovation. This is the backdrop to the Communication, adopted in May 2012 by the European Commission, entitled the 'European Consumer Agenda'³⁰ in which it details its strategic vision for European consumer policy for the future. Its main aim is to maximise consumer participation and trust 'by putting consumers at the heart of the Single Market'.

Trends in global consumption are on an upward path and are increasing pressure on the environment, including climate change, and on competition for natural resources. Two of the key tenets of the European Consumer Agenda are:

- consumers should be empowered, assisted and encouraged to make sustainable purchasing choices; and
- effective tools are needed to prevent misleading green claims.

The European Commission's 2008 Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy³¹ as well as the "Building the Single Market for Green Products" Communication³² identify the need to fully exploit the potential of the Single Market to reward the environmentally best performing products and companies to ensure a sustainable growth for Europe.

Because consumer demand for sustainable products can serve as a driver for growth and competition, it can increase the availability and affordability of these products and reward businesses that provide quality goods and services with lower environmental footprints. Increased choice of sustainable goods should therefore result in cost savings for consumers, as well as benefits for society as a whole.

When, in 2011, consumers were surveyed through the Eurobarometer³³ regarding their attitudes towards the environment, 95% of Europeans considered **environmental change** to be an important issue. In 2013, more than three-quarters of respondents in the Eurobarometer³⁴ were willing to pay more for environmentally friendly products/services. Nevertheless, despite citizens' stated good intentions and interest in purchasing green products, only 29% indicated that the environmental impact of a product had influenced their purchasing decision, whereas a large majority (69%) reported the contrary. Moreover, a **decline in confidence in environmental claims** was observed, from 52% in 2007 to 47% in 2011.

For consumers to make sustainable choices, they need to have **clear and reliable information** in order to be able to easily identify the 'right' product or service to purchase. Among other things, they need to know the **environmental impacts** throughout the lifecycle of a given product. Information of this nature is provided by business by means of a range of environmental/green claims.

³⁰ COM(2012) 225 final, European Commission, 22 May 2012

³¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0397:FIN:EN:PDF>

³² <http://ec.europa.eu/environment/eussd/smgp/index.htm>

³³ Special Eurobarometer 365 http://ec.europa.eu/environment/pdf/ebs_365_en.pdf

³⁴ Flash Eurobarometer 367 http://ec.europa.eu/public_opinion/archives/flash_arch_374_361_en.htm#367

The expressions '**environmental claims**' or '**green claims**' refer to the practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that **a product or a service is environmentally friendly** (i.e. it has a positive impact on the environment) **or is less damaging to the environment than competing goods or services**. This may be due to, for example, its composition, the way it has been manufactured or produced, the way it can be disposed of and the reduction in energy or pollution which can be expected from its use.³⁵ When such claims are not true or cannot be verified this practice can be described as "greenwashing".

Environmental claims, however, come in **many forms**: they range from claims on packaging about the energy-efficiency or ecologically-friendly manner of the product's manufacture, through claims that a product (or its packaging) meets particular green criteria in terms of recyclability, to advertisements portraying products in an environmentally-sympathetic light. Given that environmental claims may take a variety of forms, not only in terms of 'content/theme' but also in the way they are denoted either by the use of **explicit** claims, i.e. a symbol or textual claims or **implicit** references via environmental-friendly images or green/blue colours (implicit claims), or the interplay of colours and images, etc., it is essential that they are clear, accurate and reliable if they are to be of utility to consumers.

Furthermore, cases of **misleading and unsubstantiated environmental claims** (e.g. 'greenwashing') in certain product markets have been reported by businesses, as well as by consumers and environmental NGOs. For example, in the UK, the Advertising Standards Authority has observed an increase in the number of complaints received about environmental claims, with many of them being upheld³⁶ and as a result the advertiser being forced by ASA to alter or to cancel the – misleading – campaign. Further, the number of complaints against environmental marketing actions has declined considerably in the United Kingdom since 2007. It is believed that this decline is at least partially³⁷ due to a stronger preventive approach of ASA (SRO) and DEFRA (public authority).

³⁵ The working definition of 'environmental claims' used in this report is taken from the Guidance on the implementation/application of the Unfair Commercial Practices Directive (Commission Staff Working Document SEC (2009) 1666)

³⁶ Source: Futerra Sustainability Communications (2009) The Greenwash Guide.

³⁷ The economic recession may have an impact as well, whereas marketers focus more on marketing arguments in relation to the consumers' financial and economic concerns rather than environmental benefits.

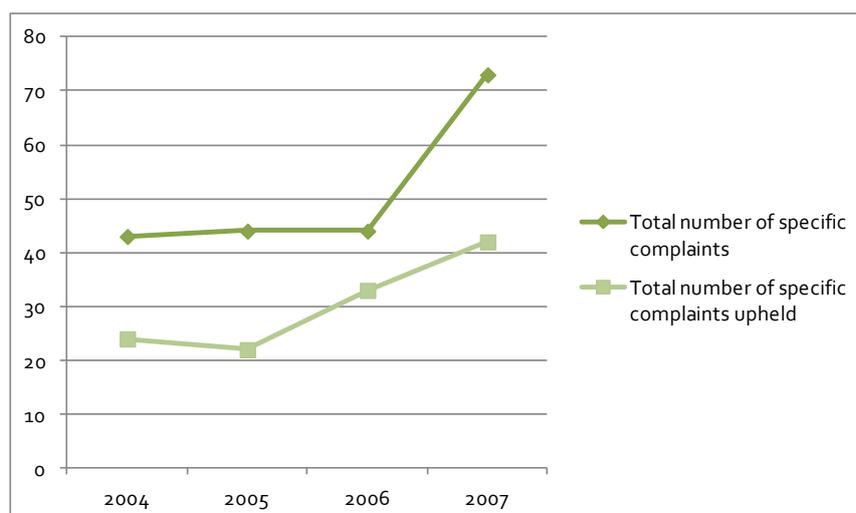


Figure 1: Environmental claims complaints formally investigated by the UK Advertising Standards Authority (ASA)

These misleading claims undermine consumers' ability to contribute to green growth by means of their purchasing choices.

In order for the market for 'green' or environmentally friendly products and services to function properly, business has to be able to ensure that environmental claims are **clear, accurate, comparable and reliable**. Only in these circumstances, taking into account the vast and ever-increasing array of products and services on the market, will consumers be able to compare products and services with one another and make a truly informed choice.

It is in this context that the Consumers, Health and Food Executive Agency acting on behalf of the European Commission has commissioned this **Consumer Market Study on environmental claims for non-food products**. This study complements another study that was recently carried out for food products in regards to voluntary food labelling schemes³⁸.

1.2 Legislative and regulatory framework

Directive 2005/29/EC on unfair commercial practices (the UCPD)³⁹ is the main general body of EU legislation regulating misleading advertising and other unfair practices harming consumers' economic interests. It applies to all business-to-consumer commercial practices including those involving environmental claims.

Under its Article 5, commercial practices which are contrary to the requirements of professional diligence and are likely to materially distort the economic behaviour of the average consumer with regard to the product are unfair and therefore prohibited. The Directive defines two main categories of unfair practices: those that are misleading (either by action or omission); and those that are aggressive.

According to Article 6 on misleading actions; a commercial practice shall be regarded as misleading if:

³⁸ In an in-depth study (2013), the European Commission assessed the performance of voluntary food labelling schemes and analysed consumers' awareness of, trust in and willingness to pay for food products affiliated to voluntary labelling schemes.

http://ec.europa.eu/consumers/consumer_research/market_studies/food_labelling_en.htm

³⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:EN:PDF>

- it contains false information and is therefore untruthful or deceives, in any way, including overall presentation, or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more elements such as the existence or nature of the product and the main characteristics of the product (e.g. its benefits, risks, composition, fitness for purpose, geographical origin, the results to be expected from its use, the results and material features of tests or checks carried out on the product);
- and in either case causes or is likely to cause the average consumer to take a transactional decision that she/he would not have taken otherwise.

Annex I to the Directive contains a list of 31 practices that shall in all circumstances be regarded as unfair. Several of its provisions may be particularly relevant to environmental claims:

- displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation (No 2);
- claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation (No 4);
- claiming to be a signatory of a code of conduct when the trader is not (No 1);
- claiming that a code of conduct has an endorsement from a public or other body which it does not have (No 3).

The Guidance document on the implementation and application of the UCPD⁴⁰ (the UCPD Guidance document) adopted in 2009, provides clarification on the application of the Directive to environmental claims.

The application of the provisions of the UCPD to environmental claims is summarised **in two main principles:**

- (a) based on the Directive's general clause, traders must, above all, present their green claims in a specific, accurate and unambiguous manner;
- (b) traders must have scientific evidence to support their claims and be ready to provide it in an understandable way if the claim is challenged.

When clarifying how the Directive applies to environmental claims, the UCPD Guidance document also refers to the following elements that have been used in this study as criteria to assess compliance of environmental claims:

- Objective misleading practice

The environmental claim is misleading because it contains false information and is therefore untruthful.

- Subjective misleading practice

The environmental claim is misleading because it deceives or is likely to deceive the average consumer, even if the information contained therein is factually correct.

- Scientific evidence to be verified by competent authorities

Any environmental claims must be made on the basis of evidence that can be verified by the competent authorities. Under Article 12 of UCPD traders should be able to furnish evidence as to the accuracy of factual claims in relation to a commercial practice.

⁴⁰ Commission Staff Working Document guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices, Brussels, 3 December 2009 SEC(2009) 1666

- Clarity and accuracy of the claims

The environmental claim should be mentioned in a way that is clear for the average consumer

- Reference to relevant prohibited practices of Annex I:
 - displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation (No 2);
 - claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation (No 4);
 - claiming to be a signatory of a code of conduct when the trader is not (No 1);
 - claiming that a code of conduct has an endorsement from a public or other body which it does not have (No 3).

These five criteria (objective misleading practice, subjective misleading practice, scientific evidence, clarity and accuracy of claims, prohibited practice under Annex I) provide a definition of what is a responsible use of green claims, which can drive consumer preferences and hence contribute to the development of a more sustainable economy, in line with the objectives of the European Consumer Agenda and the Europe 2020 Strategy.

1.3 Objectives of the study

The study aimed to provide a thorough understanding of the current dynamics of green claims operating in key non-food markets. It should identify any problems with the use of green claims in the sense defined by the Unfair Commercial Practices Directive, i.e. when green claims potentially mislead consumers in their purchase decisions.

Ultimately, the findings of the study should help the European Commission to further support national enforcers to properly implement the requirements of the Unfair Commercial Practices Directive. This study should help the European Commission to further develop best practices and Guidance in this respect.

In view of the above, this study seeks to achieve the following:

- provide information on **the current state of play on the presence of green claims in the Single Market for non-food markets**, at the level of products (goods and services) and marketing strategies;
- provide information on **the different types of claims made**;
- examine the **level of compliance with EU legal requirements** for a selection of those claims, including those using logos or labels;
- assess the regulatory framework at a national level on environmental claims identifying and analysing national Guidance documents specifically on environmental claims;
- **assess consumer understanding and behaviour** vis-à-vis different types of green claims on the market;
- provide an **analysis of the enforcement and self-regulatory instruments** available;
- provide **policy recommendations** for future EU policy initiatives in this field, based on a thorough understanding of the current dynamics of green claims.

1.4 Methodology

Data collection for this study was done through multiple channels:

- A literature review as well as a consultation with stakeholders in order to have access to reports, publications, studies, guidelines as well as to collect stakeholders' opinions about environmental claims.
- A consumer survey and experiment conducted online to collect views and perceptions on green claims.
- A mystery shopping exercise in shops and online to identify and analyse green claims on selected products and services.
- A scan on the Ebiquity advertisements database to identify and study green claims in selected advertisements.
- An extract of European Ecolabels from Ecolabelindex.com which is the largest global directory of ecolabels, currently tracking 444 ecolabels in 197 countries, and 25 industry sectors.
- Multi-stakeholder dialogue (MDEC) workshops established in collaboration between the Directorate-Generals Health and Consumers (SANCO), Environment (ENV) and Justice (JUST) with the participation of 25-30 representatives from national and EU-level consumer organisations, environmental NGOs, EU-wide business associations, Member States' national authorities, self-regulatory bodies, and academics and the European Consumer Summit of 18-19 March 2013 during which the MDEC report⁴¹ was presented.
- Desk research for identification of national guidance and for the information required for the analysis of claims.
- Analysis of existing legal and regulatory framework as described above.

The appendices to this report provide detailed information about the methodology implemented in this study (i.e. background information, fieldwork period, sample sizes, countries covered and data validation checks) as well as country specific/detailed results.

The content of the Appendices is the following:

- Appendix 1: Selection of products and markets and stakeholder consultation
- Appendix 2: Inventory/presence green claims
- Appendix 3: Consumer understanding
- Appendix 4: Guidelines
- Appendix 5: Assessment against UCPD and voluntary food label guidelines
- Appendix 6: Enforcement

⁴¹ 2013 MDEC report: http://ec.europa.eu/consumers/documents/consumer-summit-2013-mdec-report_en.pdf

2 Assessment of green claims on the selected market/product categories

2.1 Introduction

A series of studies undertaken by the OECD, the UK's DEFRA⁴² and the European consumer organisations BEUC/ANEC⁴³ suggests that in the last few years the market has seen a proliferation of 'green' claims promoting environmental features or benefits, both in terms of number and variety. A study of the French market, carried out by the French advertising standards authority⁴⁴, suggests that although the overall share of environmental claims in advertising has decreased in recent years (2010-2011), the actual number of environmental claims in advertising is increasing.

In order to frame the current situation, this chapter provides an overview of the environmental claims in the non-food market and the prevalence of these claims. It provides an overview of the presence of green claims in the Single Market as well as of the nature and forms of these claims on products/ packaging⁴⁵ and in advertisements. It aims to identify the key trends and findings related to the **current presence** of green claims on non-food products. The methodology used broadly follows that of the DEFRA study (UK, 2010)⁴⁶:

- The study of green claims found on product packaging was based on a mystery shopping exercise i.e. visits in shops, selection of a number of products on sale and identification of the environmental claims a consumer would see. For each product category, 20 products were selected in-store with fixed intervals, except for passenger vehicles, hotels, airlines and electricity services. These last four categories were assessed by visiting vendors' websites. In total, 1.610 products were assessed and 86 websites visited.
- The study of green claims found in advertisements was based on a selection of about 750 advertisements using the Ebiquity AdSearch database⁴⁷. The advertisements that were assessed were published between January 2010 and December 2012. This database provides considerable coverage of European advertisements across a variety of channels (press, TV, outdoor billboards, radio, and internet) in EU Member States and Norway.

⁴² DEFRA: Department for Environment Food & Rural Affairs, is a UK government department responsible for policy and regulations on environmental, food and rural issues.

⁴³ - OECD (2011); Environmental Claims - Findings and Conclusions of the OECD Committee on Consumer Policy.

- DEFRA (2010); Assessment of Green Claims on Product Packaging.

- DEFRA (2010) An assessment of green claims in marketing.

- BEUC/ANEC position papers X/2011/067 of 14/12/11 and X/022/2011 of 28/02/11

⁴⁴ Publicité et Environnement, 2012, Autorité de Régulation Professionnelle de la Publicité et Agence de l'Environnement et de la Maîtrise de l'Energie.

<http://www.arpp-pub.org/publicite-environnement,855.html>

⁴⁵ We don't adopt the term 'product packaging' per se, as some green claims are found on the actual product themselves i.e. a clothing label with the words 'organic cotton'. 'Packaging' therefore could be misleading in the sense that some products are not necessarily sold with packaging, but could still contain environmental information – as another example, a bar of soap could have 'natural ingredients' engraved into the soap bar.

⁴⁶ A difference between this study and DEFRA (2010) is that this study also captures implicit claims (images and colours) which was not the case in the DEFRA assignment. Furthermore, the Brook Lyndhurst work only looked at where a green claim constituted the main content of an advertisement, whereas this study coded every implicit claim regardless if it was the main content or a side "note".

⁴⁷ <http://www.ebiquity.com/en>

Within this exercise, the study focused on both explicit environmental claims, in the form of logos⁴⁸ and text⁴⁹, and implicit environmental claims, i.e. images and colours that can be assumed to give an environmental or 'green' touch to the product or advertisement. Environmental images⁵⁰ included: the image of a tree (or forest), leaves, water, animals, the sky, clouds, a mountain, a landscape with nature not covered by the earlier categories or another type of image that implicitly communicates the 'green message'. Only four colour criteria, 'green text colour', 'blue text colour', 'green background colour' and 'blue background colour', were considered as 'environmental colours'⁵¹. These 4 colours and the above stated images are de facto considered as green claims without taking into account the context they were applied in. It is possible that some products, services and advertisements were considered as containing an implicit environmental claim, even though it may not have been the intention of the producer/advertiser nor would it be perceived by an average consumer to be an environmental claim. A typical example could be an airline that features on its homepage an airplane in the sky. Also, in Ireland, corporate colours can be green, which is understood by many to be the national colour of Ireland. However, in the context of this study, objective criteria were needed in order to identify and classify implicit green claims. The rationale was to determine the extent to which green claims are present, from both an explicit and implicit perspective.

Green claims were assessed for 10 non-food markets (e.g. 'personal care' market) and 30 products/services, referred to as categories, covered by these markets (these range from consumer electronics, textiles and household cleaning and storing products, to personal hygiene, beauty and baby products, etc.). The markets and products/services selected are shown in Table 1.

The **selection** of these 10 markets and corresponding 30 **products/services** was **based on the following aspects**:

- the **impact** the product/service has **on the consumer budget**;
- the **consumer perception** of a given product/service;
- the **environmental impact** of the product/service;
- the **existence of issues** related to misleading claims in relation to a certain product/service;
- the **presence of specific EU legislation** with mandatory or voluntary information on environmental aspects for a certain product category.

⁴⁸As a guide, a list of logos identified by the desk and literature search and preliminary stakeholder consultation (see appendix 2) is provided. Other logos where a clear link to the environment is made were also included to complement the inventory of green logos. The specific instructions applied to determine the number of 'environmental logos' was: 'if the same logo appears two or more times in the advertisement/on the packaging, it should only be counted once'

⁴⁹ As a guide, a list of 100 green key words identified by the desk and literature search and stakeholder consultation is provided (see appendix 2). Other terms where a clear link to the environment is made were also included, to complement the inventory of green terms. Specific instructions were applied to determine the number of 'environmental textual claims', including: 'if you have one sentence that is referring to waste and one that is referring to CO₂, please count it as two, given the 'subject/topic/theme' is different', 'when coming across one green topic appearing in different phrasing, count them all individually (e.g. when reading in a washing machine ad: 'low temperature option', 'energy efficient', 'better performance than the average A+ rated appliances'; they all relate to the topic 'energy efficiency', but need to be counted three times'.

⁵⁰ Specific instructions applied to determine the number of 'environmental images': 'if you have an image with two trees, only count it once', 'if you have an image with a frog and a lion, count it as two as these are two different types of animal'.

⁵¹ Specific instructions applied to determine the number of 'environmental colours': 'if e.g. an advertisements/product/website contains green text on top of the page and green text at the bottom, please count this as two', 'it is sufficient that there is a green or blue colour, it should not be accompanied by a green image, text or logo'. In case a brand logo contained green or blue colours, it was not seen as an environmental colour, on the contrary a green or blue packaging was.

Selected markets product and service categories	Details
<i>Consumer electronics</i>	
Mobile phones	Mobile phones (focus on the devices, not on the provider)
Laptops	Laptops (all types)
Light bulbs/lamps	Light bulbs/lamps (all types and wattages, including energy saving; regular, halogens, tube lights)
Televisions	LED TV, TV monitors, Plasma TVs, small TVs and LCD TVs. Computer monitors not included
<i>Household appliances</i>	
Washing machines	Washing machines (all types)
Refrigerators	Refrigerators (all types)
Microwave ovens	Microwave ovens (all types)
Coffee machines	Coffee machines (all types)
Irons	Irons (all types)
<i>Textiles</i>	
Clothing	Jackets: men's & women's all season jacket. Jeans: adult, male and female T-shirts: men's crew neck only, cotton or cotton-blend short sleeved t-shirts.
Footwear	Men's, women's and children's everyday footwear including heeled, with laces shoes and basic sneakers. Specialised footwear such as snowboard boots and protective footwear not included)
Carpet	All types of carpets, based on display sample
<i>Household cleaning and storing products</i>	
All purpose cleaners	General cleaner
Washing machine detergents	Detergent for washing machines
Rubbish bags	Including bin liners, garden refuse sack and caddy liners, no rubble sacks
<i>Personal hygiene, beauty and baby products</i>	
Shampoos	All shampoos excluding conditioner
Skin creams	Body lotion, hand cream, foot cream, no tanning cream
Baby bottles	Containers of baby milk
Baby diapers	Baby diapers (all types) not including wipes
Toilet paper	Toilet paper rolls (all types)
<i>Miscellaneous household goods</i>	
Paints	All types, excluding trade and outdoor paint and vanish
Windows	Focus on the glass used in the windows
Hardwood floors	Solid wood flooring, including mixed composite wood floor. Laminate not included
Showerheads	Shower heads (all types)
<i>Transport</i>	
Passenger vehicles	Cars (camper and caravans excluded)
Tyres	Tyres (for cars)
Airlines	Airline companies, all destinations and journeys
<i>Tourism accommodation services</i>	
Hotels	Hotel chains
<i>Utilities</i>	
Household electricity services	Electricity services
<i>Financial services</i>	
Consumer investment products	Pensions, securities, credit cards are excluded from the consumer investment products

Table 1: Overview of the 10 markets and 30 product/service categories covered in the study

The data collected allowed for analysis at several different levels:

- the presence of green claims per category;
- the average number of green claims per category;
- the format of environmental claims present: logos, text, image and/or colour;
- the specific logos, textual claims, images and colours used, e.g. EU Ecolabel, Fairtrade logo, 'recyclable', 'low CO2 emission', an animal or a tree depicted, blue background, blue text, etc.

2.2 Assessment of green claims on product packaging⁵² and websites

The **mystery shopping** exercise was conducted in 7 countries. These countries were chosen to cover Europe geographically, as a mixture of early entrants to the EU and more recent ones, including some low and highly populated countries, and also to correspond to the countries selected for the analysis of the enforcement systems in place. More specifically 3 Western countries (France, Germany and the United Kingdom), 2 Eastern countries (Poland and Czech Republic), 1 Northern country (Denmark) and 1 Southern country (Italy) were included in the mystery shopping exercise.

The overall average of a product/service category is the unweighted average of four countries⁵³ i.e., one from each of the regions (North, East, South, West). Depending on the product/service category the composition of these 4 countries varies: though only Denmark (Northern region) and Italy (Southern region) are fixed, the Western and Eastern countries alternate between the United Kingdom, France, Germany, Poland and Czech Republic⁵⁴.

The 'average' in the tables represents the average of all products/services assessed whereby each product or service is equally important⁵⁵.

2.2.1 Presence, nature and forms of green claims on products, packaging and websites

Environmental claims can take different forms such as a **logo or a text**, both referred to as formats of **explicit environmental claims**, or an **image or a colour**, which in this study are referred to as formats of **implicit claims**.

This section provides an overview of the availability of green claims and the forms of green claims that are more commonly observed for each category (a logo, a text, an image or a specific colour) and how a given claim (environmental benefit or feature) is represented (e.g. EU Ecolabel, Mobius Loop, 'please recycle', a frog, etc.).

A company can apply a different strategy in different Member States for the same product or service. It is thus possible to have, for the same product, different formats of claims according to the country (or no claim at all).

This section will discuss first the presence of explicit claims. Later on, implicit claims will be reported. A summary will conclude the section, where both (explicit and implicit claims) will be discussed together.

⁵² We don't adopt the term 'product packaging' per se, as some green claims are found on the actual product themselves i.e. a clothing label with the words 'organic cotton'. 'Packaging' therefore could be misleading in the sense that some products are not necessarily sold with packaging, but could still contain environmental information – as another example, a bar of soap could have 'natural ingredients' engraved into the soap bar.

⁵³ Therefore, in case a certain product category in e.g. Denmark represents far more products (though with a maximum of 20) compared to for example Italy, the Danish results will be taken more into account in the overall figure of that market. The number of products assessed per category per country, can be retrieved from the appendix 2, section sampling.

⁵⁴ The list of which categories are assessed in which countries, can be retrieved from the appendix 2, section sampling.

⁵⁵ As can be seen in appendix 2, far more assessments were made for passenger vehicles, compared to rubbish bags. However the 'all market average' presumes – via equal weighting – that each product / service category is equally important.

2.2.1.1 Explicit claims

Overall, the presence of explicit green claims – including mandatory claims – is high on all product and service categories studied: 70% of the products/services assessed offline contain at least one explicit claim and 50% of the products/services assessed online contain at least one explicit claim. Passenger vehicles, airlines, hotels and household electricity services are the categories assessed online. For textiles (particularly clothing and footwear), some consumer electronics, such as mobile phones (10%) and laptops (17%), and hotels (10%) far lower presence is evident.

The overall **presence of (purely) voluntary explicit green claims on products assessed offline** (in shops) is **51%**, and 46% in case of online assessment. This implies consumers are very often confronted with green claims, since half of the products studied contain at least one.

The EU **mandatory environmental claims** among the studied products/services are the following:

- EU energy label on light bulbs, televisions, refrigerators and washing machines (*Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products*);
- EU energy label on tyres (*Regulation 1222/2009 on the labelling of tyres with respect to fuel efficiency, wet grip and external rolling noise performance of C1, C2 and C3 tyres*);
- Two mandatory claims for passenger cars, i.e. reference to fuel efficiency and CO₂ emissions (*Directive 1999/94/EC relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars*);
- Information about the energy sources for electricity generation, as well as reference to sources, where available, giving information on their environmental impact (*Directive 2009/72/EC of 13 July 2009 concerning common rules for the internal market in electricity*);
- Presence of CLP pictograms on general cleaning products (*the Regulation on the Classification, Labelling and Packaging of Substances and Mixtures (CLP), replacing certain provisions of the directives related to the classification, packaging and labelling of dangerous substances (Directive 67/548/EEC) and preparations (Directive 1999/45/EC)*);

It should be noted that next to the above market specific directives, there is also the Packaging and Packaging Waste Directive (PPWD) – 94/62/EC which is binding for all companies if their product(s) use(s) packaging. This Directive aims to harmonise national measures in order to prevent or reduce the impact of packaging and packaging waste on the environment and to ensure the functioning of the Internal Market. It contains provisions on the prevention of packaging waste, on the re-use of packaging and on the recovery and recycling of packaging waste.

To facilitate compliance to the 1994 directive, PRO Europe (Packaging Recovery Organization Europe) was set up in 1995 as an umbrella organization for Europe's packaging and packaging waste recovery and recycling. PRO Europe seeks to assist the various national recovery programs in the different European countries in servicing industries, for example by assisting them in the implementation of effective packaging waste collection systems. Besides promoting education on the advantages of reducing packaging waste, PRO Europe also administers and licenses the use of the Green Dot. The Green Dot is the license symbol of a European network of industry-funded

systems for recycling the packaging materials of consumer goods. The logo is trademark protected worldwide. The basic idea of the Green Dot is that consumers who see the logo know that the manufacturer of the products contributes to the cost of recovery and recycling of their packaging materials (and therefore commits to comply with the requirements of the directive). The use of the Green Dot logo on packaging is (semi-)mandatory in some countries⁵⁶.

The Green Dot as well as the above mentioned mandatory logos or textual claims are not included in the aggregated figures as this Section 2.2 focuses primarily on (purely) **voluntary** environmental claims. However mandatory claims and the green dot are discussed where relevant in the text of this section.

⁵⁶ For example in France, Turkey, Spain, Portugal and Bulgaria.

PRESENCE OF	explicit voluntary environmental claims (text and/or logo)	voluntary environmental logo	voluntary environmental text
<i>Consumer electronics</i>			
Mobile phones	5%	5%	0%
Laptops	17%	17%	0%
Light bulbs/lamps	69%	54%	19%
Televisions	6%	6%	0%
<i>Household appliances</i>			
Washing machines	23%	11%	16%
Refrigerators	29%	7%	25%
Microwave ovens	43%	37%	6%
Coffee machines	48%	48%	5%
Irons	70%	59%	16%
<i>Textiles</i>			
Clothing	23%	15%	12%
Footwear	25%	24%	17%
Carpet	63%	63%	0%
<i>Household cleaning and storing products</i>			
All purpose cleaners	75%	73%	17%
Washing machine detergents	85%	73%	54%
Rubbish bags	59%	54%	44%
<i>Personal hygiene, beauty and baby products</i>			
Shampoos	49%	35%	23%
Skin creams	57%	57%	9%
Baby bottles	85%	78%	20%
Baby diapers	100%	100%	48%
Toilet paper	91%	91%	23%
<i>Miscellaneous household goods</i>			
Paints	59%	59%	10%
Windows			
Hardwood floors			
Showerheads	33%	24%	11%
<i>Transport</i>			
Passenger vehicles*	69%	11%	65%
Tyres			
Airlines*	55%	20%	55%
<i>Tourism accommodation services</i>			
Hotels*	10%	10%	10%
<i>Utilities</i>			
Household electricity services*	52%	0%	52%
<i>Financial services</i>			
Consumer investment products			
All market average	50%	40%	21%
All market average offline assessments	51%	45%	17%
All market average online assessments	46%	10%	46%

Table 2: Availability of voluntary explicit green claims and its form (logo/text) (source: Mystery shopping; base = all products and services assessed). The * implies the assessment was executed online (website) instead of offline (product packaging in a shop).

The overall **presence of purely voluntary explicit green claims (i.e. excluding mandatory green claims and the Green Dot) on products assessed offline (in shops) is 51%**, as shown in Table 2 and 46% for products assessed online.

Overall, the **explicit environmental claims tend to take the form of a logo** (45%⁵⁷) **for most of the products assessed**, compared to only 17% in the form of text. The exceptions to this are refrigerators (25% text vs. 7% logo) and washing machines (16% text vs. 11% logo), where textual claims are more often seen than logos.

The same tendency, with a **higher proportion of textual claims**, could be seen in the **website assessments**: electricity services (52% text vs. 0% logo), passenger vehicles (65% text vs 11% logo), and airlines (55% text vs. 20% logo). For hotel websites, the proportion of environmental claims was equally distributed among logos and textual claims, and fairly limited (10% each).

The most commonly identified logo is the Green Dot (32%), which informs consumers that the manufacturer of a product contributes to the cost of packaging recovery and recycling. The presence of this logo is quite high, which may be due to the "semi-mandatory" character of the Green Dot. The most common way to comply with the – mandatory – Packaging and Packaging Waste Directive is in fact the use of the "Green Dot". However it is not mandatory to depict the logo on packaging in most countries. Amongst the countries where the mystery shopping exercise was carried out, only in France is the Green Dot logo semi-mandatory⁵⁸. The results from the consumer study (reported in chapter 3) indicate that consumers do not know the meaning of this logo and often wrongly assume that the product or its packaging is recyclable.

The Green Dot is most often found on light bulbs/lamps (83%), carpets (83%), toilet paper (53%) and washing machine detergents (51%). Products/services without packaging (such as washing machines, refrigerators, hotels, etc.) by default cannot use the Green Dot.

The Mobius Loop⁵⁹, which indicates that the product packaging is recyclable, **is the next most frequently present** (on 20% of products assessed offline). It is most often found on baby diapers (68%), baby bottles (58%) and light bulbs/lamps (50%).

The EU energy label, which helps consumers to choose products that save energy and thus money, logically only appears on certain products. Despite it being a mandatory logo for light bulbs, televisions, refrigerators and washing machines, not all products assessed comply with this obligation: 78% of televisions, 94% of light bulbs and 99% of refrigerators. Only on washing machines was 100% compliance recorded.

Some logos logically appear only on certain products, such as the VOC⁶⁰ for paints (present on 25% of all paints assessed).

⁵⁷ The Green Dot is considered as a semi-mandatory logo, and is excluded from the figure of 45%, given its "linkage" to the Packaging and Waste Directive 94/62/EC.

⁵⁸ In France there are 2 options: businesses can collect and recycle the packaging themselves or pay an approved body which allows them to use the green dot.

⁵⁹ The results from the consumer study indicate that consumers do not understand what this logo stands for. They wrongly assume that the product – and not the packaging – is recyclable. In the light of this, we would like to indicate that although it is an advisory claim, it should equally be seen as an environmental claim.

⁶⁰ VOC stands for volatile organic compounds such as methane. The presence to the VOC logo is related to the Regulation on the Classification, Labelling and Packaging of Substances and Mixtures.

PRESENCE OF	voluntary environmental logo	Green dot	Mobius loop	EU Energy label	EU Ecolabel	Nordic Swan	FSC	Tidyman	LDPE	AISE	VOC	BPAfree	PCT	Eco actions	SphereR	Crossed out garbage can
Consumer electronics																
Mobile phones	5%	0%	3%	0%	0%	0%	0%	3%	0%	0%	0%	0%	0%	0%	0%	0%
Laptops	17%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	17%
Light bulbs/lamps	54%	83%	50%	94%**	4%	0%	1%	31%	0%	0%	0%	0%	0%	0%	0%	0%
Televisions	6%	0%	0%	78%**	6%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Household appliances																
Washing machines	11%	0%	0%	100%**	1%	0%	3%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Refrigerators	7%	0%	0%	99%**	0%	0%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Microwave ovens	37%	39%	26%	0%	0%	0%	9%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Coffee machines	48%	48%	31%	0%	0%	0%	5%	16%	0%	0%	0%	0%	0%	0%	0%	0%
Irons	59%	45%	29%	29%	0%	0%	7%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Textiles																
Clothing	15%	11%	2%	0%	0%	0%	7%	4%	0%	0%	0%	0%	0%	0%	0%	0%
Footwear	24%	16%	19%	0%	0%	0%	5%	15%	0%	0%	0%	0%	0%	0%	0%	0%
Carpet	63%	83%	38%	0%	0%	0%	25%	0%	14%	0%	0%	0%	0%	0%	0%	0%
Household cleaning and storing products																
All purpose cleaners	73%	31%	13%	0%	2%	17%	0%	42%	0%	13%	0%	0%	0%	0%	0%	0%
Washing machine detergents	73%	51%	20%	0%	3%	15%	0%	42%	0%	20%	0%	0%	11%	0%	0%	0%
Rubbish bags	54%	49%	13%	0%	0%	0%	0%	23%	0%	0%	0%	0%	5%	0%	21%	0%
Personal hygiene, beauty and baby products																
Shampoos	35%	35%	10%	0%	0%	6%	0%	13%	1%	0%	0%	0%	0%	0%	0%	0%
Skin creams	57%	36%	6%	0%	1%	3%	37%	17%	0%	0%	0%	0%	0%	0%	0%	0%
Baby bottles	78%	36%	58%	0%	0%	0%	5%	15%	0%	0%	0%	0%	31%	0%	0%	0%
Baby diapers	100%	39%	68%	0%	0%	36%	32%	68%	0%	0%	0%	0%	0%	25%	0%	0%
Toilet paper	91%	39%	36%	0%	2%	15%	2%	57%	30%	0%	0%	0%	8%	0%	0%	0%
Miscellaneous household goods																
Paints	59%	4%	9%	0%	8%	0%	0%	20%	0%	0%	25%	0%	0%	0%	0%	0%
Windows																
Hardwood floors																
Showerheads	24%	38%	14%	3%	0%	0%	0%	1%	0%	0%	0%	0%	0%	0%	0%	0%
Transport																
Passenger vehicles*	11%	0%	5%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Tyres																
Airlines*	20%	0%	5%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Tourism accommodation services																
Hotels*	10%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Utilities																
Household electricity services*	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Financial services																
Consumer investment products																
All market average	40%	27%	17%	1%	1%	4%	5%	15%	2%	1%	1%	1%	1%	1%	1%	1%
All market average offline assessments	45%	32%	20%	2%	1%	4%	6%	17%	2%	1%	1%	1%	1%	1%	1%	1%
All market average online assessments	10%	0%	3%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%

Table 3: Details of the type of logos applied on the products packaging (or websites) (source: Mystery shopping; base = all products and services assessed). The * implies the assessment was executed online (website) instead of in offline (product packaging in a shop). 'Black cells' implies the product/service category wasn't included in the mystery shopping exercise. The ** implies it is referring to one of the mandatory logos⁶¹.

In terms of **textual claims**, around 360 different textual environmental claims were identified by the mystery shopping exercise. As indicated in Table 2, the presence of textual environmental claims is far higher for website assessments, 46%, compared to claims on the physical product (offline), 17%.

The most prevalent textual claims are: 'Recycle', 'Initiative for Sustainable Development', 'Med blegemiddel uden parfume og optisk hvidt. Effektiv fra 30 C⁶²'

The content of the textual claims varies widely among the categories of product/service assessed. The most common textual claims on clothes for example are: 'Grown without fertilizers', 'No pesticides', 'To protect human and environment', etc.

Overall, the most prevalent **textual claims** are shown in Table 4 and Table 5. A clear difference was observed between online and offline textual claims in the length of the claims, which is **considerably longer online**, even taking into account multiple claims.

⁶¹ The Green dot has not been marked as a mandatory logo given it is only mandatory in France, Turkey, Spain, Portugal and Bulgaria (and only France and Spain were assessed in this mystery shopping exercise).

⁶² This textual claim is translated as: 'With bleach without perfume and optical brighteners. Effective from 30 degree Celsius'

Top 20 offline textual claims	n° of mentions	proportion of all offline claims
Recycle	18	5%
Initiative for Sustainable Development	15	4%
Lyskilden opfylder EU's Ecodesignkrav til lyskilden. (The light source meet EU Ecodesign)	10	3%
Med blegemiddel uden parfume og optisk hvidt. Effektiv fra 30 C (With bleach without perfume and optical brighteners. Effective from 30 C)	10	3%
Airy, light and thin with naturally soft materials.	8	2%
Lotion Free	8	2%
BPA free	7	2%
100% recyclable	6	2%
grown without fertilizers	6	2%
No pesticides	6	2%
Reduced carbon footprint	6	2%
Throw with household products	6	2%
To protect human and environment	6	2%
Vandsparer (Water Saving)	6	2%
Waste valorisation	6	2%
To sort or not ?	5	1%
-20% energy consumption	4	1%
82% renewable plant materials	4	1%
For more than 130 years, our brands have combined top quality with respect for people and the environment. Our branded products	4	1%
Nature	4	1%

Table 4: Details top 20 of offline textual claims applied on the products packaging (source: Mystery shopping; base = all products and services assessed offline)

When looking at the **20 most common offline claims**⁶³, the majority **relate to:**

- **recycling** (e.g. recycle, throw with household goods, etc.);
- **energy efficiency** (e.g. contribute to lowering your energy consumption, effective at 30 degrees);
- claims that a negative substance is omitted: **Without** perfume and optical brighteners, lotion **free**, **no** pesticides.

Table 5 below presents the most frequently used **textual claims on websites**. Textual claims appearing at least twice were included, resulting in a top 13.

⁶³ The textual claims are written in the language in which they appeared on the product packaging. English language (where not preceded by another language) thus refers to products assessed in the UK or products assessed in other countries whereby the language environmental claim differs from the country assessed.

Top online textual claims (mentioned at least twice)	n° of online mentions	proportion of all online claims (excluding pure website links)
På den måde kan du med ro i maven, investere i et anlæg som vil bidrage til dit elforbrug - nu og mange år frem. (This allows you to calm the stomach, invest in a facility that will contribute to your energy consumption - now and for years to come.)	4	3%
Intelligent lightweight construction since 1948, is the basis of the identity of <brand> For both technical and ecological reasons.	3	2%
Models produced by <brand> proved that even cars with powerful performance can achieve in their respective categories moderate emission values in their respective category	3	2%
Så køreoplevelsen er fantastisk, men ikke på bekostning af CO2-udledninger og brændstofforbrug (So, the driving experience is great, but not at the cost of CO2 emissions and fuel consumption)	3	2%
Słoneczna promocja, Zyskaj do 60% oszczędności na ogrzewanie CWU i skorzystaj z rabatu nawet do 49% zakupu. (solar promotion. Earn up to 60% savings on heating hot water and take advantage of discount up to 49% of purchase.)	3	2%
dit zijn onze 21 verplichtingen gericht op duurzame ontwikkeling (these are our 21 commitments aimed at sustainable development)	2	1%
Flexifuel-motoren, der drives af E85 bioethanol, er en turboladet motor med direkte indsprøjtning og 180 hk, som udleder væsent mindre CO2 end en traditionel benzinmotor. (Flexifuel engine powered by E85 bioethanol, is a turbocharged engine with direct injection and 180 hp, which emit significantly less CO2 than a conventional gasoline engine.)	2	1%
Gezondheid, natuur, CO2-uitstoot, innovatie, dichtbij huis, werkgelegenheid en dialoog: 21 doelstellingen die bijdragen die aan een betere wereld. In al onze hotels werken medewerkers, gasten en relaties aan vernieuwde duurzame hotels. Een betere wereld begint bij onszelf. Helpt u ook mee? (Health, nature, CO2 emissions, innovation, local development, employment and dialogue: 21 goals that contribute to a better world. In all our hotels staff, guests and partners working on new sustainable hotels. A better world starts at home. Will you help us?)	2	1%
Low-Carbon: we will ensure that by the end of a Fuel Mix Reporting Year we will have obtained an amount of low-carbon nuclear electricity that at least matches the total volume of electricity we have estimated has been supplied to all <tariff plan> customers in that period, using the same method used to create our fuel label.	2	1%
Motoren har Start/Stop-teknologi samt genvinding af motorbremseenergi, hvilket bidrager til formet brændstoføkonomi og lave CO2-udledninger. (The engine features Start / Stop technology as well as recovery of motor braking energy, which helps to prime the fuel economy and low CO2 emissions.)	2	1%
Planet 21 dat zijn: 7 pijlers, 21 verplichtingen in 90 landen (Planet 21 that are 7 pillars, 21 commitments in 90 countries)	2	1%
Progress over time and environmental data. Over the last ten years <brand> has successfully improved our CO2 efficiency every year. However, in 2012 emissions per passenger km (the standard industry measure of efficiency) rose from 84.6g / km in 2011 to 85.5g / km. The reflects a further shortening of stage-lengths and the business focus on primary airports, which by their nature tend to have long taxi-times.	2	1%
Recuperation, When a vehicle brakes, the discs convert the kinetic energy into thermal energy, which is wasted as it cannot be used. With a recuperation system, like the one in the <brand>, the kinetic energy is converted into useful electrical energy. The way it works is simple. While the car is coasting or braking, the alternator voltage is raised above the level of the basic electrical system, which enables the alternator to generate electrical energy and store it temporarily in the battery. When the vehicle accelerates, this energy is used to relieve the load on the alternator, resulting in a fuel saving of up to 3%.	2	1%

Table 5: Details most mentioned online textual claims applied on websites (source: Mystery shopping; base = all products and services assessed online)

When looking at these most frequently stated textual claims on websites, the majority **relate to the following themes:**

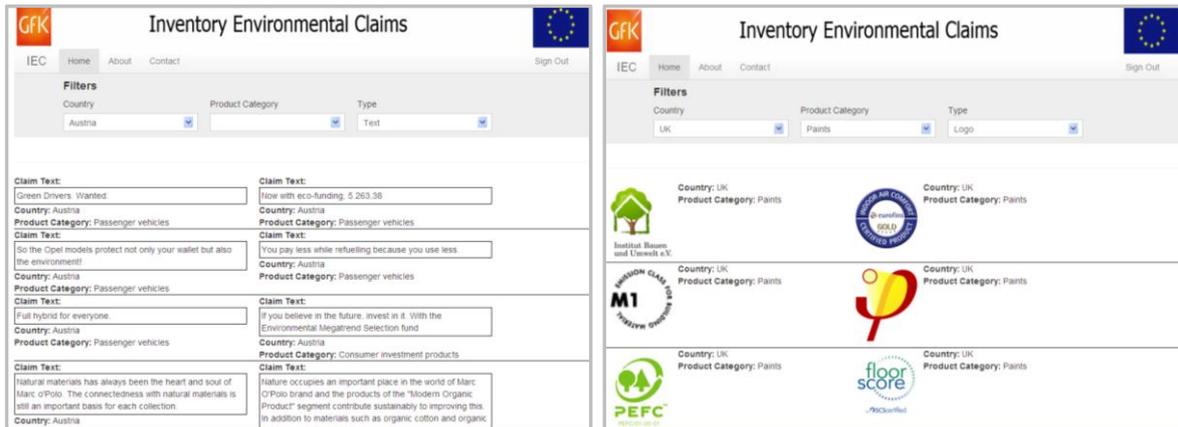
- **Carbon/CO2** related claims (low CO2 emission, less CO2)
- **Energy efficiency** (fuel saving, fuel consumption);

Furthermore, the most mentioned claims are **self-declared claims** rather than certified **textual claims**. Chapter 5 of this report expands on a selection of claims identified, verifying them against criteria derived from the UCPD and the related UCPD Guidance document.

More details on the textual claims and logos that are used among the different product categories can be found on the following website, designed to provide an inventory of the explicit claims found during this study:

<http://www.onlinereporting.be/InventoryEnvironmentalClaims>.

[Note: The website becomes accessible when entering 'gfk' in the upper box and 'PmfmbCas' in the lower box].



2.2.1.2 Implicit claims

The UCPD Guidance document states that: “subjective misleading practices relate to the way environmental claims are presented and put in context and the impression the commercial communication gives to consumers, such as suggesting an environmental benefit which may turn out to be misleading. For example: an advertisement showing a car in a green forest, the use of natural objects (flowers, trees, etc.) as symbols, the use of vague and general environmental terms (environmentally friendly, green, nature's friend, ecological, sustainable), a “green” brand or product name, etc.”

Furthermore, the consumer survey results, reported in chapter 3, indicate that 69% of consumers are paying attention to implicit claims. This suggests that colours and images may be perceived by consumers as implying an environmental benefit or feature of a product or service.

As indicated earlier, implicit environmental claims relate to images and colours that can be perceived as bestowing an environmental or ‘green’ touch on the product or advertisement. Environmental images included: the image of a tree (or forest), leaves, water, animals, the sky, clouds, a mountain, a landscape with nature not covered by the earlier categories or another type of image that implicitly communicates the ‘green message’. Only four colour criteria, ‘green text colour’, ‘blue text colour’, ‘green background colour’ and ‘blue background colour’, were considered as ‘environmental colours’. The assessment considered these 4 colours and the stated images as green claims without taking into account the context they were applied in. It is therefore possible that some products, services and advertisements were considered as containing an implicit environmental claim, even though this may not have been the intention of the producer/advertiser nor the perception of an average consumer. A typical example is an airline that features on its homepage an airplane in the sky. Also, in Ireland, corporate colours are often green, which is understood by many to be the national colour of Ireland. However, in the context of this study, objective criteria were applied in a standard manner in order to identify and classify implicit green claims. Detailed results are provided in this section.

PRESENCE OF	implicit environmental claims (image and/or colour)	environmental image	environmental colour
<i>Consumer electronics</i>			
Mobile phones	10%	0%	10%
Laptops	17%	17%	0%
Light bulbs/lamps	7%	3%	6%
Televisions	3%	0%	3%
<i>Household appliances</i>			
Washing machines	33%	20%	33%
Refrigerators	16%	12%	12%
Microwave ovens	4%	4%	4%
Coffee machines	2%	2%	2%
Irons	7%	6%	6%
<i>Textiles</i>			
Clothing	15%	2%	13%
Footwear	20%	12%	9%
Carpet	14%	14%	0%
<i>Household cleaning and storing products</i>			
All purpose cleaners	54%	38%	35%
Washing machine detergents	91%	80%	91%
Rubbish bags	82%	31%	74%
<i>Personal hygiene, beauty and baby products</i>			
Shampoos	67%	49%	51%
Skin creams	36%	20%	26%
Baby bottles	83%	64%	41%
Baby diapers	80%	59%	66%
Toilet paper	100%	85%	92%
<i>Miscellaneous household goods</i>			
Paints	71%	50%	60%
Windows			
Hardwood floors			
Showerheads	40%	14%	35%
<i>Transport</i>			
Passenger vehicles*	91%	90%	43%
Tyres			
Airlines*	100%	85%	90%
<i>Tourism accommodation services</i>			
Hotels*	80%	80%	45%
<i>Utilities</i>			
Household electricity services*	73%	42%	58%
<i>Financial services</i>			
Consumer investment products			
All market average	46%	34%	35%
All market average offline assessments	39%	26%	30%
All market average online assessments	86%	74%	59%

Table 6: Availability of implicit green claims and its form (image/colour) (source: Mystery shopping; base = all products and services assessed). The * implies the assessment was executed online (website) instead of offline (product packaging in a shop).

Implicit environmental claims account for 39% of the products assessed offline and for a **far higher proportion of the products/services assessed online** (86%).

Implicit claims are frequently used for products and services assessed online i.e. airlines (100%), passenger vehicles, hotels (80%) and electricity services (73%). Also for certain products assessed offline (such as toilet paper (100%), washing machine

detergents (91%), baby bottles (83%), rubbish bags (81%), baby diapers (80%), paints (71%), shampoos (67%) and all-purpose cleaners (54%)), implicit claims are common.

The **presence of a green or blue colour is far higher** (+ 10 percentage points difference) **in comparison to the presence of an environmental image** for the following categories: rubbish bags (+44 p.p.), showerheads (+21 p.p.), washing machines (+13 p.p.), clothing and washing machine detergents (+10 p.p.), mobile phones and paints (+10 p.p.).

Among the online assessments, colours are applied most often on airline websites (90%). Websites for electricity services account for the biggest difference between colour use and image (58% contain a blue or green textual or background colour and 42% contain an environmental image).

Environmental images account for 26% of the products assessed offline and a **far higher proportion of the products/services assessed online** (74%). The sky and clouds are, logically, the most frequently used images for airlines (85% and 75% respectively) and passenger vehicles (sky, 63%). Passenger vehicles also often depict a tree, 71%. Hotel websites mostly contain images of trees and water (65% and 55% respectively).

For offline-assessed products, there is not a clear-cut trend, except for baby bottles, baby diapers and toilet paper, which most often display an image of an animal (on at least one fifth of the products assessed). The association between water and washing machine detergents is observed on one fifth of products assessed.

PRESENCE OF	environmental image	Tree	Leaves	Water	Forest	Animal	Sky	Clouds	Mountain	Sun	Other image
Consumer electronics											
Mobile phones	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Laptops	17%	0%	0%	0%	0%	0%	0%	0%	0%	0%	17%
Light bulbs/lamps	3%	0%	0%	0%	0%	0%	0%	0%	0%	0%	3%
Televisions	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Household appliances											
Washing machines	20%	0%	0%	15%	0%	0%	0%	0%	0%	0%	5%
Refrigerators	12%	1%	4%	0%	0%	0%	0%	0%	0%	0%	10%
Microwave ovens	4%	0%	0%	0%	0%	0%	0%	0%	0%	0%	4%
Coffee machines	2%	0%	0%	0%	0%	0%	0%	0%	0%	0%	2%
Irons	6%	0%	3%	0%	0%	0%	0%	0%	0%	0%	6%
Textiles											
Clothing	2%	0%	0%	0%	0%	0%	0%	0%	0%	0%	2%
Footwear	12%	0%	4%	0%	0%	6%	0%	0%	0%	0%	5%
Carpet	14%	0%	0%	0%	0%	0%	0%	0%	0%	0%	14%
Household cleaning and storing products											
All purpose cleaners	38%	0%	0%	0%	0%	2%	0%	0%	0%	0%	38%
Washing machine detergents	80%	3%	22%	20%	0%	3%	7%	0%	5%	8%	62%
Rubbish bags	31%	0%	15%	0%	0%	0%	0%	0%	0%	0%	31%
Personal hygiene, beauty and baby products											
Shampoos	49%	0%	12%	7%	0%	0%	0%	0%	1%	0%	45%
Skin creams	20%	6%	6%	0%	0%	7%	0%	0%	0%	4%	13%
Baby bottles	64%	2%	5%	0%	0%	25%	0%	0%	0%	2%	37%
Baby diapers	59%	5%	2%	0%	0%	18%	0%	0%	0%	7%	43%
Toilet paper	85%	0%	0%	0%	2%	32%	0%	0%	0%	0%	66%
Miscellaneous household goods											
Paints	50%	1%	6%	1%	0%	1%	1%	1%	0%	0%	43%
Windows											
Hardwood floors											
Showerheads	14%	0%	1%	5%	0%	0%	0%	0%	0%	0%	10%
Transport											
Passenger vehicles*	90%	71%	3%	40%	16%	1%	63%	48%	40%	16%	24%
Tyres											
Airlines*	85%	30%	20%	35%	15%	0%	85%	75%	25%	5%	30%
Tourism accommodation services											
Hotels*	80%	65%	20%	55%	15%	5%	40%	25%	10%	5%	40%
Utilities											
Household electricity services*	42%	14%	5%	8%	3%	1%	25%	21%	1%	11%	23%
Financial services											
Consumer investment products											
All market average	34%	8%	4%	6%	2%	3%	7%	6%	3%	2%	19%
All market average offline assessments	26%	1%	4%	2%	0%	4%	0%	0%	0%	1%	21%
All market average online assessments	74%	45%	12%	35%	12%	2%	53%	42%	19%	9%	29%

Figure 2: Details of the type of images applied on the products packaging (or websites) (source: Mystery shopping; base = all products and services assessed). The * implies the assessment was executed online (website) instead of in offline (product packaging in a shop). 'Black cells' implies the product/service category wasn't included in the mystery shopping exercise.

Table 7 provides an overview of the **colours used** to convey environmental claims. However, the **context** in which those colours were presented was **not taken into account**; as such these figures purely reflect a **factual assessment**. As indicated above, it is therefore possible that some products, services and advertisements were considered as containing an implicit environmental claim, even though this may not be the intention of the producer/advertiser or the perception of an average consumer.

The assessment shows that **products/services assessed offline are most likely to contain a blue background (18%)** whereas **those assessed online make most use of blue background and blue text** in the same proportion (33% and 32% respectively).

Looking closely at the products and services, airlines unsurprisingly most often use blue background (60%) and then blue text (55%). Washing machines and detergents on the other hand are equally likely to use green and blue background (both 64%).

PRESENCE OF	environmental colour	Green text	Blue text	Green background	Blue background
<i>Consumer electronics</i>					
Mobile phones	10%	0%	0%	1%	9%
Laptops	0%	0%	0%	0%	0%
Light bulbs/lamps	6%	1%	1%	1%	1%
Televisions	3%	0%	0%	0%	3%
<i>Household appliances</i>					
Washing machines	33%	5%	5%	25%	24%
Refrigerators	12%	5%	5%	1%	10%
Microwave ovens	4%	0%	0%	4%	0%
Coffee machines	2%	2%	2%	0%	0%
Irons	6%	3%	1%	6%	3%
<i>Textiles</i>					
Clothing	13%	2%	0%	6%	9%
Footwear	9%	1%	0%	2%	6%
Carpet	0%	0%	0%	0%	0%
<i>Household cleaning and storing products</i>					
All purpose cleaners	35%	6%	15%	19%	10%
Washing machine detergents	91%	39%	50%	64%	64%
Rubbish bags	74%	26%	38%	41%	41%
<i>Personal hygiene, beauty and baby products</i>					
Shampoos	51%	14%	22%	26%	29%
Skin creams	26%	11%	13%	10%	9%
Baby bottles	41%	7%	10%	27%	19%
Baby diapers	66%	30%	32%	39%	50%
Toilet paper	92%	8%	34%	17%	57%
<i>Miscellaneous household goods</i>					
Paints	60%	4%	14%	36%	48%
Windows					
Hardwood floors					
Showerheads	35%	8%	3%	13%	15%
<i>Transport</i>					
Passenger vehicles*	43%	5%	30%	8%	10%
Tyres					
Airlines*	90%	10%	55%	20%	60%
<i>Tourism accommodation services</i>					
Hotels*	45%	0%	5%	20%	35%
<i>Utilities</i>					
Household electricity services*	58%	12%	38%	11%	26%
<i>Financial services</i>					
Consumer investment products					
All market average	35%	8%	14%	15%	21%
All market average offline assessments	30%	8%	11%	15%	18%
All market average online assessments	59%	7%	32%	15%	33%

Table 7: Details of the type of colours applied on the products packaging (or websites) (source: Mystery shopping; base = all products and services assessed). The * implies the assessment was executed online (website) instead of in offline (product packaging in a shop). 'Black cells' implies the product/service category wasn't included in the mystery shopping exercise.

2.2.1.3 All claims

PRESENCE OF	voluntary environmental claims (explicit and/or implicit)	explicit voluntary environmental claims (text and/or logo)	implicit environmental claims (image and/or colour)
<i>Consumer electronics</i>			
Mobile phones	10%	5%	10%
Laptops	17%	17%	17%
Light bulbs/lamps	69%	69%	7%
Televisions	9%	6%	3%
<i>Household appliances</i>			
Washing machines	46%	23%	33%
Refrigerators	30%	29%	16%
Microwave ovens	43%	43%	4%
Coffee machines	48%	48%	2%
Irons	70%	70%	7%
<i>Textiles</i>			
Clothing	27%	23%	15%
Footwear	36%	25%	20%
Carpet	63%	63%	14%
<i>Household cleaning and storing products</i>			
All purpose cleaners	90%	75%	54%
Washing machine detergents	97%	85%	91%
Rubbish bags	85%	59%	82%
<i>Personal hygiene, beauty and baby products</i>			
Shampoos	68%	49%	67%
Skin creams	67%	57%	36%
Baby bottles	92%	85%	83%
Baby diapers	100%	100%	80%
Toilet paper	100%	91%	100%
<i>Miscellaneous household goods</i>			
Paints	75%	59%	71%
Windows			
Hardwood floors			
Showerheads	51%	33%	40%
<i>Transport</i>			
Passenger vehicles*	98%	69%	91%
Tyres			
Airlines*	100%	55%	100%
<i>Tourism accommodation services</i>			
Hotels*	80%	10%	80%
<i>Utilities</i>			
Household electricity services*	84%	52%	73%
<i>Financial services</i>			
Consumer investment products			
All market average	64%	50%	46%
All market average offline assessments	59%	51%	39%
All market average online assessments	90%	46%	86%

Table 8: Availability of voluntary green claims (explicit/implicit) (source: Mystery shopping; base = all products and services assessed). The * implies the assessment was executed online (website) instead of offline (product packaging in a shop).

The **overall presence** – explicit and implicit, voluntary and mandatory – of **green claims** is **76%** among the products assessed offline.

Looking at the **voluntary explicit and implicit claims altogether** (and excluding mandatory claims – 45% of the offline assessments⁶⁴), results show **59% of products assessed offline and 90% of the products/services assessed online use green claims**. In the first group, the highest proportion of green claims is observed on household cleaning products, baby diapers and bottles, shampoos, skin creams, paints, irons, carpets and light bulbs.

The **presence of implicit claims strongly boosts the presence of voluntary green claims** in all four online assessed categories as well as for the following offline assessed categories: rubbish bags and washing machines, respectively by 26 and 24 percentage points.

It should be noted that the vast majority of claims are self-declarations. About 17%⁶⁵ could be considered as (presumably) certified claims⁶⁶.

2.2.2 Multiple claims on products packaging and websites: average number of green claims

2.2.2.1 Explicit claims

Figure 3 shows the proportion of products/services having one single claim in comparison to those having multiple claims. More specifically, it specifies the number of explicit voluntary environmental claims among all products/services with such a claim⁶⁷.

⁶⁴ Mandatory and voluntary claims accumulate to a share of 76% green claims (implicit and explicit) among the products assessed offline. Detailed results, including mandatory claims, can be retrieved from appendix 2.

⁶⁵ Excluding mandatory claims in both nominator and denominator.

⁶⁶ This 17% figure gives only an indication and it should be highlighted that no detailed assessment was done in this part of the study on whether the claim has been actually certified. Based on the contractor's team knowledge, following claims of the inventory were considered as claims presumably linked to a certification scheme: AISE Cleanright, Blue Angel, Bluesign, CO2certificate, CTG, Ear of grain 02, Ecarf, Eco actions, Ecocert, Ecojoy, Ecosmart, Ekokom, EU Ecolabel, FSC, Fairtrade, ISO9001, ISO14001, LDPE, Materbi, NAAF, Nordic Swan, OKpower, PCT, PEFC, Rainforest Alliance Certified, Sphere, The Green Key, TÜV SÜD Mark, Varefakta, VOC, Wateraid, Waterwise and WWF.

⁶⁷ The denominator changes depending if one looks at all green claims, explicit green claims or explicit voluntary claims. Overall the study counts 1164 products/services with an explicit claim compared to 1317 products/services with either an explicit or implicit claim (out of the 1803 products/services assessed offline and online).

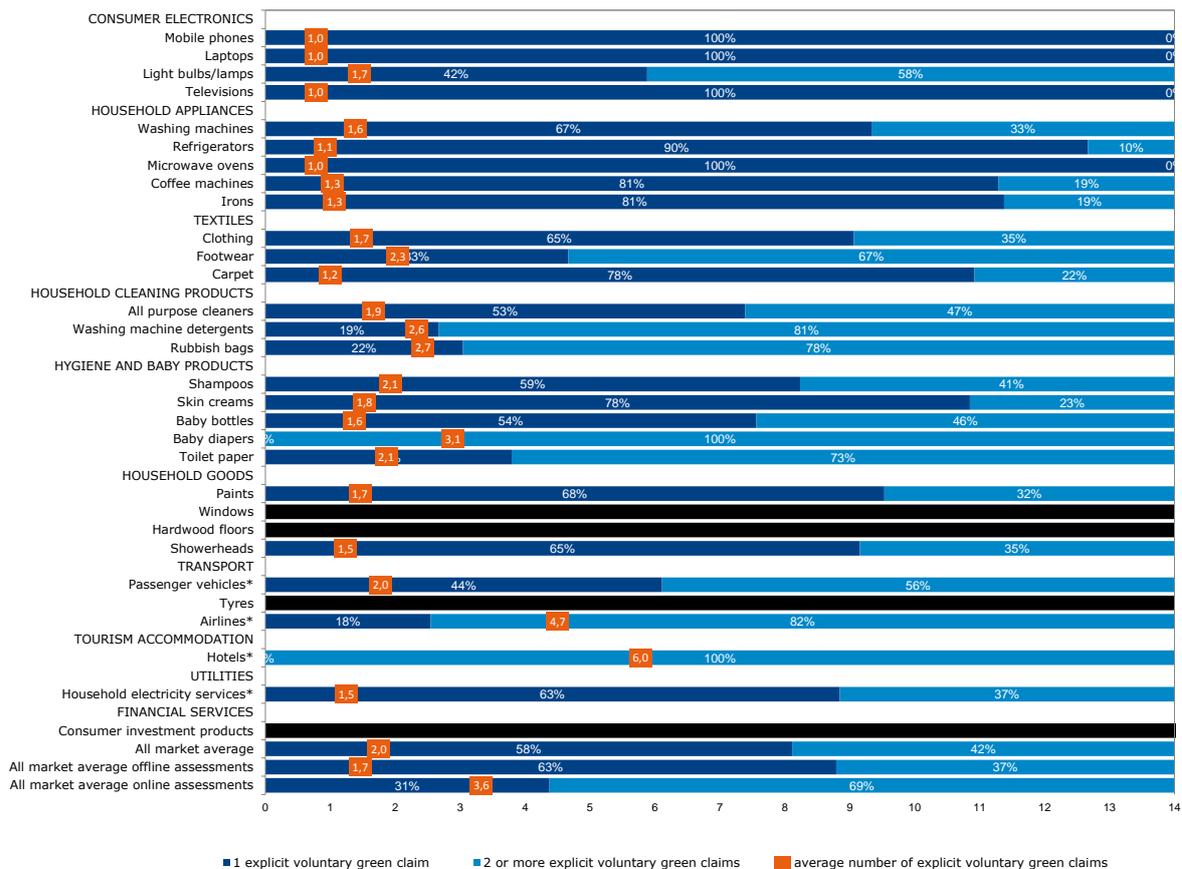


Figure 3: Intensity of explicit voluntary green claims among all products/services with explicit voluntary green claims (source: Mystery shopping; base = all products and services assessed with at least one environmentally explicit voluntary claim). The * implies the assessment was executed online (website) instead of offline (product packaging in a shop). 'Black rows' implies the product/service category wasn't included in the mystery shopping exercise. Please take into account the sample sizes next to the categories.

Among products/services with explicit voluntary environmental claims⁶⁸, either logo or text, **the proportion of single explicit claims is higher than that of multiple claims for products assessed offline.** This implies 37% of products with explicit voluntary claims assessed in a shop have more than one explicit voluntary claim on the product or package. **The contrary is true for products assessed online**, where the proportion of multiple claims is nearly double that of those assessed offline, at 69%.

In particular, products such as mobile phones, laptops, televisions and microwave ovens often have only one claim. On the other hand, the highest proportion of multiple explicit claims is observed for products such as baby diapers (100%), airlines (82%), washing machine detergents (81%), rubbish bags (78%) and toilet paper (73%). Among the online assessed products/services hotels have the highest proportion of multiple claims (100%), followed by airline websites with 82%.

Consequently the average number of explicit green claims is also lower for the offline assessments (1.7 claims). The lowest offline averages are seen for refrigerators (1.1 claims), carpets (1.2 claims), coffee machines (1.3 claims) and irons (1.3 claims).

⁶⁸ In numbers, out of the 1803 assessments made, 1164 assessments contained at least one explicit environmental claim, in total 2383 explicit claims were found.

On average, the highest number of explicit green claims is observed for hotels (6.0) - and airline websites (4.7). Among the offline assessments baby diapers account for the highest average number of explicit claims: 3.1.

2.2.2.2 Implicit claims

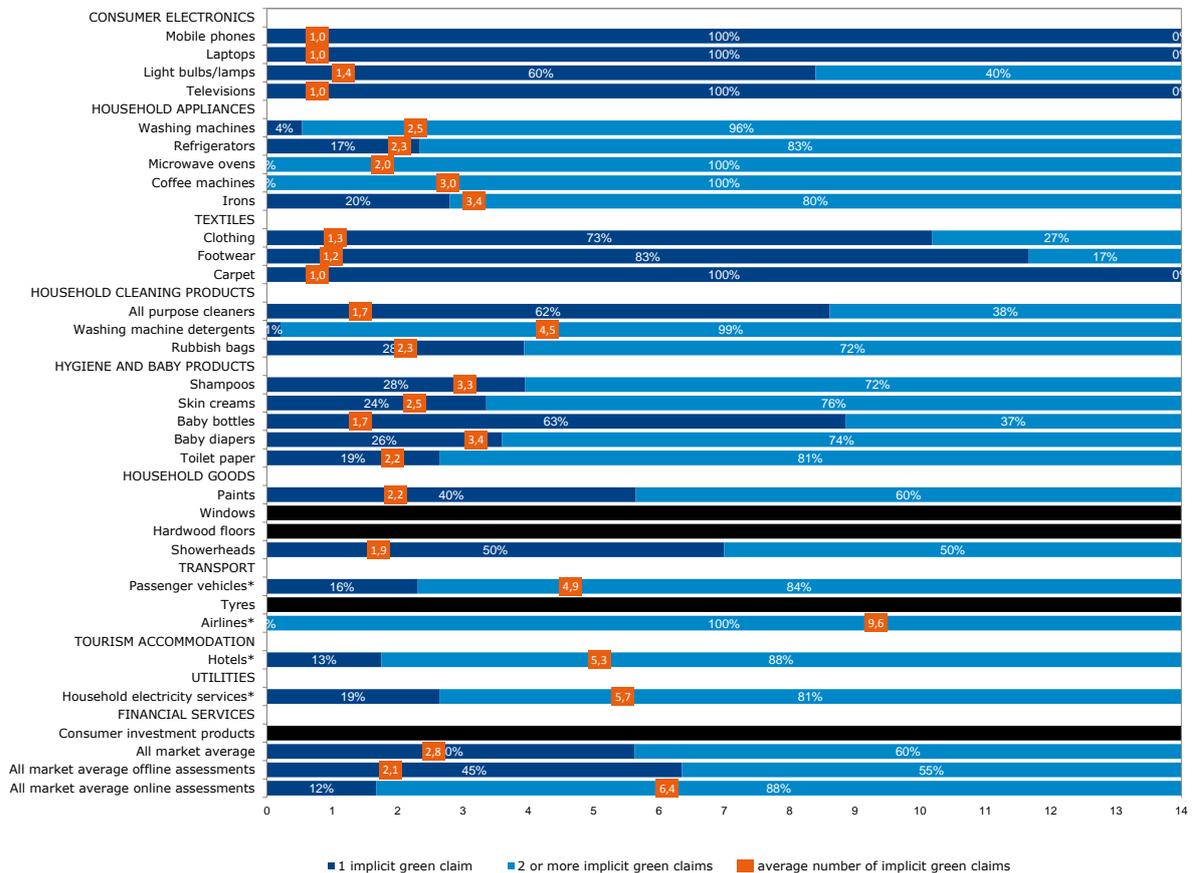


Figure 4: Intensity of implicit green claims among all products/services with implicit green claims (source: Mystery shopping; base = all products and services assessed with at least one environmentally implicit claim). The * implies the assessment was executed online (website) instead of in offline (product packaging in a shop). 'Black rows' implies the product/service category wasn't included in the mystery shopping exercise. Please take into account the sample sizes next to the categories.

The proportion of products with multiple **implicit green claims**, either in the form of an image or a green or blue colour, is higher than the proportion having a single implicit claim for all 4 online assignments. **The proportion with multiple claims decreases from 88% for online assessments to 55% amongst offline assessments.**

The average number of implicit green claims is the highest for airlines (9.6), electricity services (5.7), hotels (5.3), and passenger vehicles (4.9). Washing machine detergents (4.5) have the highest average among the products/services assessed offline.

2.2.2.3 All claims

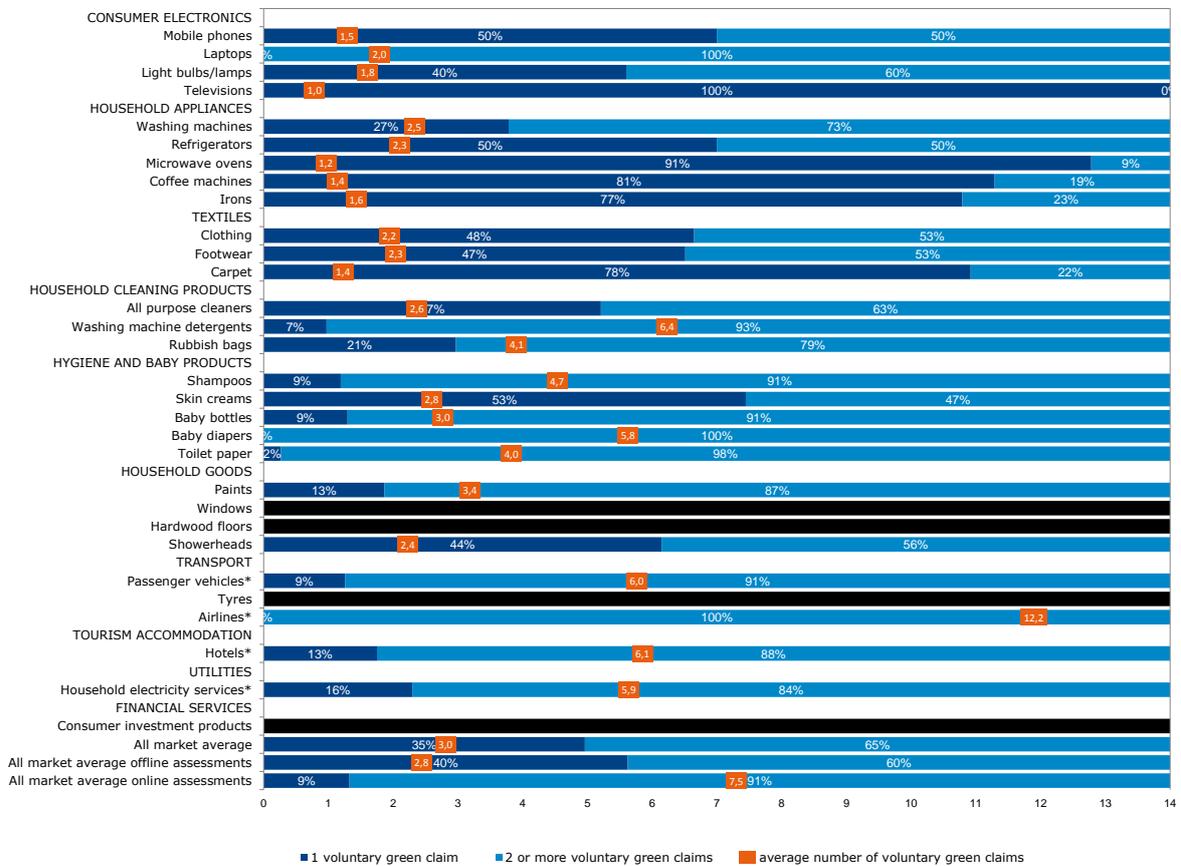


Figure 5: Intensity of green voluntary claims among all products/services with green voluntary green claims (implicit and/or explicit) (source: mystery shopping; base = all products and services assessed with at least one environmentally voluntary claim). The * implies the assessment was executed online (website) instead of in offline (product packaging in a shop). 'Black rows' implies the product/service category wasn't included in the mystery shopping exercise. Please take into account the sample sizes next to the categories.

When looking at the products/services with at least one **environmental claim, either explicit or implicit**, it appears that, on average, 3 environmental claims (3.0) are present on the product or packaging (or websites in case of the 4 services assessed online). In numbers, out of the 1803 assessments made (of which 83 were websites), 4664 environmental claims were found, either in the format of logo, text, image or colour.

Large variations in the number of claims exist for **online (7.9) versus offline assessments (2.8)**. The top 5 are airline websites (12.2), washing machine detergents (7.0), websites of passenger vehicles (6.4), baby diapers (6.2), websites of electricity service providers (6.2) and hotel websites (6.1).

2.3 Assessment of green claims in advertisements

This chapter examines the proportion of advertisements that incorporate environmental claims. The main source for identifying green claims in advertising was a scan on the Ebiquity AdSearch database, based on "green" keywords⁶⁹ and set to cover EU27 plus Norway and Iceland. Ebiquity's advertising database is one of the most comprehensive in the world containing over 20 million ads dating back to the 1950s. Ebiquity covers magazines, newspapers, TV, radio, outdoor billboards and website banners. On a daily basis Ebiquity captures advertisements from 14 European countries, with another 80 countries available on request.

Around 100 green key words such as "natural", "ecological", "environmentally-friendly", "alternative energy", "biodegradable", "pollution", "Recyclable", "recycling", etc. were provided to Ebiquity's ad team to conduct a database scan for green claims.

A full list of the key words used for the database scan can be found in Appendix 2. Matches between the key words and the tags used by Ebiquity to organise their databases were identified. A tag is a label assigned to each advertisement and stored in the Ebiquity database. This label not only contains information on the publication date, the source, the duration (of radio and TV advertisements), but also a short description of the advertisement and some key words. The use of such tags allowed for the identification of written advertisements (magazines, newspapers, billboards and static banners) via the keyword search but also other advertisements from audio or visual channels (radio, TV, and dynamic banners). In addition, given that these tags are in English, the translation of green keywords was not necessary.

The results of the first database search identified 1235 advertisements with green claims. Out of the 1235 green claims, 150 were selected for further analysis, based on a representative coverage of the product groups and countries. These environmental claims were then categorised according to aspects such as the media channel utilised, messages being conveyed, images and colours used, presence of labels and the environmental themes they addressed.

Analysis of the results of the first database scan indicated 1235 advertisement with green claims out of a total of about 360.000 advertisements examined, corresponding to very low presence figures, namely 0.03% environmental claims in advertisements. This figure did not align with the mystery shopping exercise, which showed a far higher proportion of green claims, namely 78%. After further investigation it became clear that the English tags allocated to each advertisement showed poor consistency among the different countries and did not cover the full range of the 100 keywords applied during the search.

Therefore, in order to overcome these shortcomings, a more refined second research exercise was carried out for the UK and Italy (countries where Ebiquity has extensive coverage of advertisements) on magazine advertisements only. For each of the 30 product categories, 10 advertisements were randomly selected per country (i.e. without application of search terms) to avoid the risk that the use of tags could skew the results. The approximately 600 magazine advertisements resulting from this selection - manual and random - were then analysed individually in order to identify the presence of environmental logos, textual claims, images and colours and to count the number of claims for each of these formats. No further analysis⁷⁰ identifying the specific claim was carried out, given this had already been done in the first advertising

⁶⁹ See appendix 2 for the full list of "green" keywords.

⁷⁰ As a consequence, mandatory claims cannot be filtered out from this analysis.

search exercise. The proportion of green claims identified in the second exercise was 70%, i.e. 70% of the advertisements contain at least one green claim either in explicit or implicit form, which is in line with the mystery shopping exercise. The striking difference between the figures resulting from the two exercises is explained by the fact that for the second exercise no green key words were applied. In other words, in the first database scan, the use of green key words significantly narrowed down the scope and number of claims, leaving out adverts with green claims whose tags did not correspond to the green key words used (i.e. a claim containing a particular environmental image that was not picked up by the 1st database scan). The random selection of magazine advertisements in the second database scan allowed the project team to closely study each individual advertisement to identify green claims that may not have been picked up by an automated database scan based on key words.

2.3.1 Presence, nature and forms of green claims per product category

This section examines the presence and format of green claims within advertisements. The next section will focus on the average number of claims in advertisements. In the summary, comparison will be made against the figures from the product packaging assessment.

As indicated in the introduction (see 2.3), the data on presence and average number of claims are based on an analysis of magazine advertisements in UK and Italy. The specification on the exact type of claim, i.e. which text, logo, colour or which image, result from the results of the 1st database scan on 150 advertisements spread over all countries, product categories and advertisement channels (TV, radio, magazine, newspaper, banner). The source (the 600 magazine advertisements from UK and Italy or the 150 advertisements) is made clear in the caption for each graph/table.

2.3.1.1 Explicit claims

Table 9 provides an overview of the proportion of explicit green claims (logo or text) in advertising for the 10 markets assessed.

PRESENCE OF	explicit environmental claims (text and/or logo)	environmental logo	environmental text
<i>Consumer electronics</i>			
Mobile phones	0%	0%	0%
Laptops	0%	0%	0%
Light bulbs/lamps	35%	0%	35%
Televisions	5%	0%	5%
<i>Household appliances</i>			
Washing machines	75%	15%	75%
Refrigerators	65%	35%	45%
Microwave ovens	0%	0%	0%
Coffee machines	0%	0%	0%
Irons	73%	45%	55%
<i>Textiles</i>			
Clothing	5%	0%	5%
Footwear	5%	0%	5%
Carpet			
<i>Household cleaning and storing products</i>			
All purpose cleaners	45%	20%	30%
Washing machine detergents	35%	10%	35%
Rubbish bags	100%	0%	100%
<i>Personal hygiene, beauty products and baby products</i>			
Shampoos	20%	10%	20%
Skin creams	25%	0%	25%
Baby bottles	55%	35%	35%
Baby diapers	15%	0%	15%
Toilet paper	45%	25%	45%
<i>Miscellaneous household goods</i>			
Paints	25%	5%	25%
Windows	63%	31%	44%
Hardwood floors			
Showerheads			
<i>Transport</i>			
Passenger vehicles	35%	0%	35%
Tyres	20%	10%	20%
Airlines	0%	0%	0%
<i>Tourism accommodation services</i>			
Hotels	10%	0%	10%
<i>Utilities</i>			
Household electricity services	80%	0%	80%
<i>Financial services</i>			
Consumer investment products	10%	0%	10%
All market average	31%	9%	28%

Table 9: Availability of explicit environmental claims in advertisements (logo/text) (source: Ebiquity database scan; base = all magazine advertisements assessed, case study Italy and UK) 'Black rows' implies the product/service category wasn't included in the Ebiquity scan exercise.

Looking at explicit claims only, the highest proportion is observed for rubbish bags (100%), electricity services (80%), washing machines (75%), irons (73%)

2.3.1.2 Implicit claims

Table 10 provides an overview of the share of green implicit claims (image or colour) in advertising for the 10 markets assessed.

PRESENCE OF	implicit environmental claims (image and/or colour)	environmental image	environmental colour
<i>Consumer electronics</i>			
Mobile phones	45%	5%	40%
Laptops	35%	0%	35%
Light bulbs/lamps	60%	15%	55%
Televisions	30%	15%	25%
<i>Household appliances</i>			
Washing machines	60%	25%	45%
Refrigerators	50%	25%	40%
Microwave ovens	67%	67%	0%
Coffee machines	35%	5%	30%
Irons	82%	18%	82%
<i>Textiles</i>			
Clothing	10%	0%	10%
Footwear	55%	40%	30%
Carpet			
<i>Household cleaning and storing products</i>			
All purpose cleaners	95%	30%	85%
Washing machine detergents	75%	45%	60%
Rubbish bags	100%	0%	100%
<i>Personal hygiene, beauty products and baby products</i>			
Shampoos	70%	45%	60%
Skin creams	75%	25%	65%
Baby bottles	65%	15%	65%
Baby diapers	85%	25%	75%
Toilet paper	85%	40%	85%
<i>Miscellaneous household goods</i>			
Paints	80%	40%	55%
Windows	75%	25%	63%
Hardwood floors			
Showerheads			
<i>Transport</i>			
Passenger vehicles	60%	30%	30%
Tyres	75%	63%	50%
Airlines	65%	20%	50%
<i>Tourism accommodation services</i>			
Hotels	70%	55%	45%
<i>Utilities</i>			
Household electricity services	75%	45%	50%
<i>Financial services</i>			
Consumer investment products	80%	20%	70%
All market average	65%	27%	52%

Table 10: Availability of implicit environmental claims in advertisements (image/colour) (source: Ebiquty database scan; base = all magazine advertisements assessed, case study Italy and UK) 'Black rows' implies the product/service category wasn't included in the Ebiquty scan exercise.

Implicit claims in advertisements mainly take the form of colours (52%) rather than an image (27%). More than eight in ten implicit green claims in magazine advertisements for irons, all-purpose cleaners, toilet papers and rubbish

bags are in the form of a colour. Claims for footwear, hotels, tyres and microwave ovens are more likely to be in the form of an image (rather than a colour).

When it comes to **images, the sky and leaves are most often used**. Images of the sky are most often found in advertisements for tyres (71%) and washing machine detergents (33%) whereas leaves are found in advertisements for rubbish bags (50%), mobile phones (33%) and skin care (30%). Not surprisingly, advertisements for washing machines more often contain the image of water (60%) compared to the overall average. On the other hand, when it comes to advertising toilet paper, images of trees and forests are mainly used (both 67%).

PRESENCE OF	Tree	Leaves	Water	Forest	Animal	Sky	Clouds	Mountain	Sun	Other image
<i>Consumer electronics</i>										
Mobile phones	0%	33%	0%	0%	0%	0%	0%	0%	0%	67%
Laptops	20%	20%	0%	0%	20%	0%	0%	0%	0%	0%
Light bulbs/lamps	0%	0%	0%	0%	17%	0%	0%	0%	0%	17%
Televisions	0%	0%	0%	0%	25%	25%	25%	0%	0%	25%
<i>Household appliances</i>										
Washing machines	0%	10%	60%	10%	0%	0%	0%	0%	0%	10%
Refrigerators	0%	25%	0%	0%	0%	25%	0%	0%	0%	25%
Microwave ovens										
Coffee machines	0%	0%	0%	0%	50%	0%	0%	0%	0%	0%
Irons	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<i>Textiles</i>										
Clothing	11%	11%	0%	0%	0%	0%	0%	0%	0%	0%
Footwear	0%	17%	33%	0%	0%	0%	0%	0%	0%	0%
Carpet										
<i>Household cleaning and storing products</i>										
All purpose cleaners	0%	17%	0%	17%	17%	17%	17%	0%	0%	17%
Washing machine detergents	0%	0%	44%	0%	0%	33%	0%	11%	0%	0%
Rubbish bags	0%	50%	0%	0%	25%	0%	0%	0%	0%	0%
<i>Personal hygiene, beauty and baby products</i>										
Shampoos	25%	25%	25%	0%	0%	25%	0%	0%	0%	0%
Skin creams	0%	30%	0%	0%	0%	10%	10%	0%	0%	30%
Baby bottles	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Baby diapers	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Toilet paper	67%	0%	33%	67%	0%	0%	0%	0%	0%	0%
<i>Miscellaneous household goods</i>										
Paints	0%	17%	0%	0%	0%	0%	0%	0%	0%	33%
Windows	0%	0%	0%	0%	0%	10%	10%	0%	0%	20%
Hardwood floors										
Showerheads										
<i>Transport</i>										
Passenger vehicles	0%	0%	6%	6%	6%	6%	0%	6%	0%	25%
Tyres	0%	0%	0%	57%	0%	71%	43%	43%	0%	0%
Airlines	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<i>Tourism accommodation services</i>										
Hotels	17%	17%	33%	33%	17%	17%	17%	33%	0%	0%
<i>Utilities</i>										
Household electricity services	25%	8%	25%	25%	25%	25%	17%	17%	0%	25%
<i>Financial services</i>										
Consumer investment products	17%	0%	0%	0%	17%	17%	17%	0%	0%	67%
All market average	7%	11%	10%	8%	8%	11%	6%	4%	0%	14%

Table 11: Details of the type of images applied in advertisements (source: Ebiquity database scan; base = all 150 advertisements assessed) 'Black rows' implies the product/service category wasn't included in the Ebiquity scan exercise.

Magazine advertisements make most use of a green background colour, followed by a blue background (in 14% and 7% of the advertisements respectively), especially for rubbish bags (75% use a green background) and footwear (50% use a green background).

PRESENCE OF	Green text	Blue text	Green background	Blue background
<i>Consumer electronics</i>				
Mobile phones	0%	0%	0%	0%
Laptops	0%	0%	20%	0%
Light bulbs/lamps	0%	0%	33%	17%
Televisions	0%	0%	0%	0%
<i>Household appliances</i>				
Washing machines	0%	0%	0%	0%
Refrigerators	0%	0%	25%	25%
Microwave ovens				
Coffee machines	0%	0%	0%	0%
Irons	0%	0%	0%	0%
<i>Textiles</i>				
Clothing	0%	0%	0%	0%
Footwear	0%	0%	50%	17%
Carpet				
<i>Household cleaning and storing products</i>				
All purpose cleaners	17%	0%	33%	17%
Washing machine detergents	11%	0%	11%	11%
Rubbish bags	0%	0%	75%	25%
<i>Personal hygiene, beauty and baby products</i>				
Shampoos	25%	25%	25%	0%
Skin creams	0%	0%	0%	0%
Baby bottles	0%	0%	0%	0%
Baby diapers	0%	0%	0%	0%
Toilet paper	0%	0%	0%	0%
<i>Miscellaneous household goods</i>				
Paints	0%	0%	33%	0%
Windows	0%	0%	0%	0%
Hardwood floors				
Showerheads				
<i>Transport</i>				
Passenger vehicles	0%	0%	13%	19%
Tyres	0%	0%	0%	0%
Airlines	0%	0%	0%	0%
<i>Tourism accommodation services</i>				
Hotels	0%	0%	33%	17%
<i>Utilities</i>				
Household electricity services	0%	0%	8%	17%
<i>Financial services</i>				
Consumer investment products	0%	0%	17%	17%
All market average	2%	1%	14%	7%

Table 12: Details of the type of colours applied in advertisements (source: Ebiquity database scan; base = all 150 advertisements assessed) 'Black rows' implies the product/service category wasn't included in the Ebiquity scan exercise.

2.3.1.3 All claims

PRESENCE OF	environmental claims (explicit and/or implicit)	explicit environmental claims (text and/or logo)	implicit environmental claims (image and/or colour)
<i>Consumer electronics</i>			
Mobile phones	45%	0%	45%
Laptops	35%	0%	35%
Light bulbs/lamps	65%	35%	60%
Televisions	30%	5%	30%
<i>Household appliances</i>			
Washing machines	85%	75%	60%
Refrigerators	75%	65%	50%
Microwave ovens	67%	0%	67%
Coffee machines	35%	0%	35%
Irons	100%	73%	82%
<i>Textiles</i>			
Clothing	15%	5%	10%
Footwear	55%	5%	55%
Carpet			
<i>Household cleaning and storing products</i>			
All purpose cleaners	95%	45%	95%
Washing machine detergents	80%	35%	75%
Rubbish bags	100%	100%	100%
<i>Personal hygiene, beauty products and baby products</i>			
Shampoos	75%	20%	70%
Skin creams	80%	25%	75%
Baby bottles	80%	55%	65%
Baby diapers	95%	15%	85%
Toilet paper	85%	45%	85%
<i>Miscellaneous household goods</i>			
Paints	80%	25%	80%
Windows	88%	63%	75%
Hardwood floors			
Showerheads			
<i>Transport</i>			
Passenger vehicles	70%	35%	60%
Tyres	75%	20%	75%
Airlines	65%	0%	65%
<i>Tourism accomodation services</i>			
Hotels	70%	10%	70%
<i>Utilities</i>			
Household electricity services	85%	80%	75%
<i>Financial services</i>			
Consumer investment products	80%	10%	80%
All market average	71%	31%	65%

Table 13: Availability of environmental claims in advertisements (explicit/implicit) (source: Ebiqity database scan; base = all magazine advertisements assessed, case study Italy and UK) 'Black rows' implies the product/service category wasn't included in the Ebiqity scan exercise.

More than 70% of all magazine advertisements for all the categories assessed⁷³ contain at least one green claim (in the form of logo, text, image or colour) which is only slightly below the overall presence of explicit and implicit green claims on product packaging assessed offline (76%). If mandatory claims are excluded from the offline assessment the proportion of green claims on product packaging assessed offline is lower (59%) than that for magazine advertisements (71%).

The proportion of explicit environmental claims in advertisements is significantly lower than implicit claims (31% explicit versus 65% implicit green claims), whereas the opposite was observed when looking at green claims on packaging (67% explicit versus 46% implicit green claims).

The share of green claims in advertisements is highest for the following product categories: all-purpose cleaners (95%), baby diapers (95%), windows (88%), washing machines (85%), toilet paper (85%), household electricity services (85%), machine detergents (80%), skin creams (80%), baby bottles (80%), paints (80%), and financial services (80%).

For product categories such as light bulbs, regulated by the Energy Labelling Directive (art.4c), a lower proportion of claims is found in advertisements (65%) compared to products. Indeed, it is not mandatory for the energy label to be shown in advertisements, simply a reference to the energy class.

The environmental claims that were found during assessment of presence of green claims in advertisements were organised according to 13 themes. An individual green claim could be categorised into several themes i.e. the textual claim 'this vehicle is fuel efficient and has lower CO² emissions compared to other brand name vehicles' is categorised under the themes 'carbon/climate' and 'efficiency'.

Air: General air quality or volatile organic compounds (VOCs)
Biodegradable: Degradable, biodegradable, compostable
Carbon / Climate: Climate-related claims, greenhouse gases, carbon, CO ₂ , carbon footprinting
Cause: Environmental cause-related, donate or support environmental organisations
Efficiency: Energy efficiency or fuel efficiency
Forest: Forest-related, timber
Life Cycle: Life cycle, cradle-to-grave, cradle-to-cradle, or description of impacts across a products whole cycle (manufacturing, use, etc.)
Lifespan: durability, lifetime
Materials: Material or resource efficiency, renewable resources
Organic: Organic
Recycle: Recyclable, recycled content, recycling symbols.
Water: Reduced water consumption, water reuse, wastewater treatment, anything water related
General Explicit: general environmental benefit claims, including natural, ecological, minimal impact, safe for the environment, steps toward green, cleaner means greener, our home, our planet, go green, eco-friendly, etc.

Table 14: List of 13 themes (claim categories) - also applied by DEFRA in the UK study: Assessment of Green Claims in Marketing (2010).

⁷³ Rubbish bags and microwave ovens have a base size of only 1 and 3 respectively. Please take into account when interpreting its results; look at them with caution.

	Air	Bio degradable	Carbon climate	Cause	Efficiency	Forest	Life cycle	Lifespan	Materials	Organic	Water	General explicit
<i>Consumer electronics</i>												
Mobile phones	0%	0%	33%	0%	0%	0%	0%	0%	100%	33%	0%	33%
Laptops	0%	0%	0%	0%	0%	0%	0%	20%	60%	40%	0%	60%
Light bulbs/lamps	0%	0%	17%	17%	83%	0%	0%	33%	0%	0%	0%	100%
Televisions	0%	0%	0%	25%	100%	0%	0%	0%	25%	0%	0%	75%
<i>Household appliances</i>												
Washing machines	0%	0%	0%	0%	70%	0%	0%	10%	0%	0%	60%	40%
Refrigerators	0%	0%	0%	50%	100%	0%	0%	25%	0%	0%	0%	75%
Microwave ovens												
Coffee machines	0%	0%	0%	0%	0%	0%	0%	0%	100%	25%	0%	75%
Irons	0%	0%	0%	0%	100%	0%	0%	0%	0%	0%	100%	0%
<i>Textiles</i>												
Clothing	0%	0%	0%	11%	0%	0%	0%	0%	44%	67%	0%	67%
Footwear	0%	0%	50%	0%	0%	0%	0%	0%	33%	33%	0%	83%
Carpet												
<i>Household cleaning and storing products</i>												
All purpose cleaners	0%	17%	0%	0%	0%	0%	0%	0%	17%	67%	0%	67%
Washing machine detergents	0%	0%	0%	22%	22%	0%	0%	11%	33%	0%	33%	89%
Rubbish bags	0%	75%	50%	0%	0%	0%	0%	0%	75%	25%	0%	75%
<i>Personal hygiene, beauty and baby products</i>												
Shampoos	0%	50%	0%	0%	0%	0%	0%	0%	50%	50%	0%	100%
Skin creams	0%	0%	0%	10%	0%	0%	0%	0%	10%	90%	0%	90%
Baby bottles	0%	0%	100%	0%	0%	0%	0%	0%	100%	0%	0%	100%
Baby diapers	0%	0%	0%	0%	0%	0%	0%	0%	0%	50%	0%	100%
Toilet paper	0%	0%	33%	33%	0%	100%	0%	0%	67%	67%	0%	67%
<i>Miscellaneous household goods</i>												
Paints	50%	0%	33%	17%	0%	0%	0%	0%	67%	33%	0%	100%
Windows	0%	0%	0%	0%	80%	0%	0%	0%	10%	10%	0%	30%
Hardwood floors												
Showerheads												
<i>Transport</i>												
Passenger vehicles	0%	0%	44%	0%	81%	0%	0%	0%	6%	0%	0%	38%
Tyres	0%	0%	29%	0%	100%	0%	0%	43%	14%	0%	0%	57%
Airlines	0%	0%	100%	100%	100%	0%	0%	0%	0%	0%	0%	100%
<i>Tourism accommodation services</i>												
Hotels	0%	0%	0%	17%	0%	0%	0%	0%	0%	0%	0%	100%
<i>Utilities</i>												
Household electricity services	0%	8%	42%	17%	67%	0%	0%	8%	33%	0%	17%	42%
<i>Financial services</i>												
Consumer investment products	0%	0%	0%	67%	17%	0%	0%	0%	17%	0%	0%	83%
All market average	2%	6%	20%	15%	35%	4%	0%	6%	33%	23%	8%	71%

Table 15: Availability of environmental claims in advertisements by theme (source: Ebiquity database scan; base = all n=150 advertisements assessed) 'Black rows' implies the product/service category wasn't included in the Ebiquity scan exercise.

The majority of the claims found in advertisements **could not be allocated to a specific theme** and are rather seen as general messages of environmental friendliness. Overall, the majority of the claims in advertisements (newspaper, TV, radio, magazines, newspapers, banners) are related to efficiency (35%) or materials (33%), followed by "organic/recycle".

For some product categories specific themes are more prevalent. Examples include:

- water-related claims for most of the washing machines and washing machine detergents;
- efficiency-related claims in the transport market (cars and tyres), on several household appliances (washing machines and refrigerators), consumer electronics (light bulbs, televisions) but also for windows and electricity services;
- material-related claims especially for: mobile phones, baby bottles, coffee machines, rubbish bags, paint and toilet paper;
- organic/recycle⁷⁴-related claims are mainly used for skin creams, all-purpose cleaners and toilet paper;
- organic/recycle or biodegradable for rubbish bags.

⁷⁴ In the codification template organic and recycle were processed as one theme, instead of two separate ones, so no further separation can be made.

2.3.2 Multiple claims in advertisements: average number of green claims per product category

2.3.2.1 Explicit claims

Looking at **advertisements** with explicit environmental claims⁷⁵, it appears that **there is a tendency towards multiple explicit green claims, except in the following categories: clothing, baby diapers, hotels and televisions.** In addition, advertisements for tyres have the highest number of explicit green claims (3.3⁷⁶). Interestingly, the average number of explicit green claims in advertisements is similar to that observed for product packaging (2.0 against 1.7).

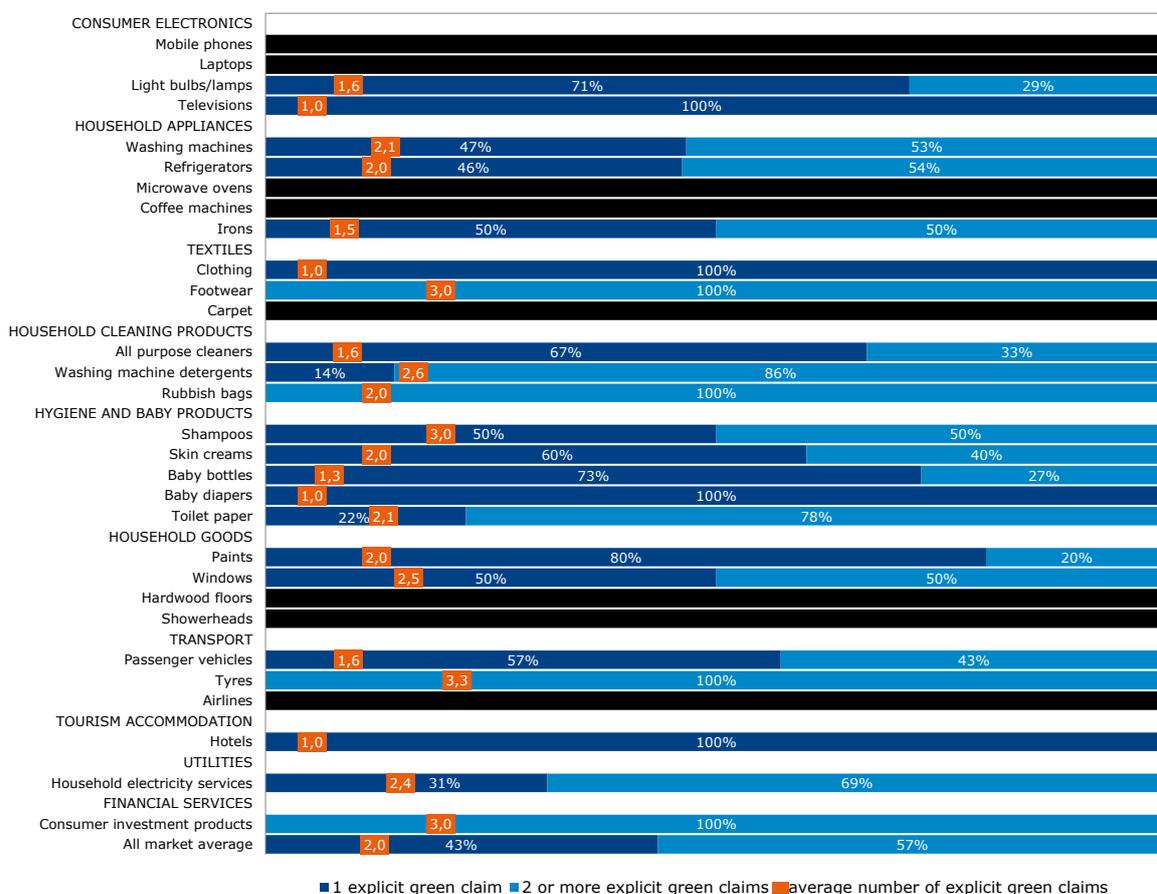


Figure 7: Intensity of explicit green claims among advertisements with explicit green claims (source: Ebiquty database scan; base = all magazine advertisements assessed with at least one explicit green claim, case study Italy and UK) 'Black rows' implies the product/service category wasn't included in the Ebiquty scan exercise.

⁷⁵ The denominator for Figure 7 is as a consequence lower, 154 advertisements with an explicit claim compared to 347 advertisements with either an explicit or implicit claim (out of the 491 advertisements assessed).

⁷⁶ It should be noted that only 4 advertisements for tyres contain explicit claims.

2.3.2.2 Implicit claims

When looking at **magazine advertisements** with **implicit claims**, **half of them tend to be single claim** advertisements, and half contain multiple implicit claims. The **exceptions** to this are televisions (93% with 1 claim only), clothing (90% with 1 claim only), baby bottles (88% with 1 claim only), laptops (87% with 1 claim only), coffee machines (76% with 1 claim only), mobile phones (69% with 1 claim only), refrigerators (63% with 1 claim only), footwear and shampoos (both 60% with 1 claim only).

The average number of claims is highest for hygiene and baby products: toilet paper (2.7), baby diapers (2.1), baby bottles (2.1) and shampoos (2.0).

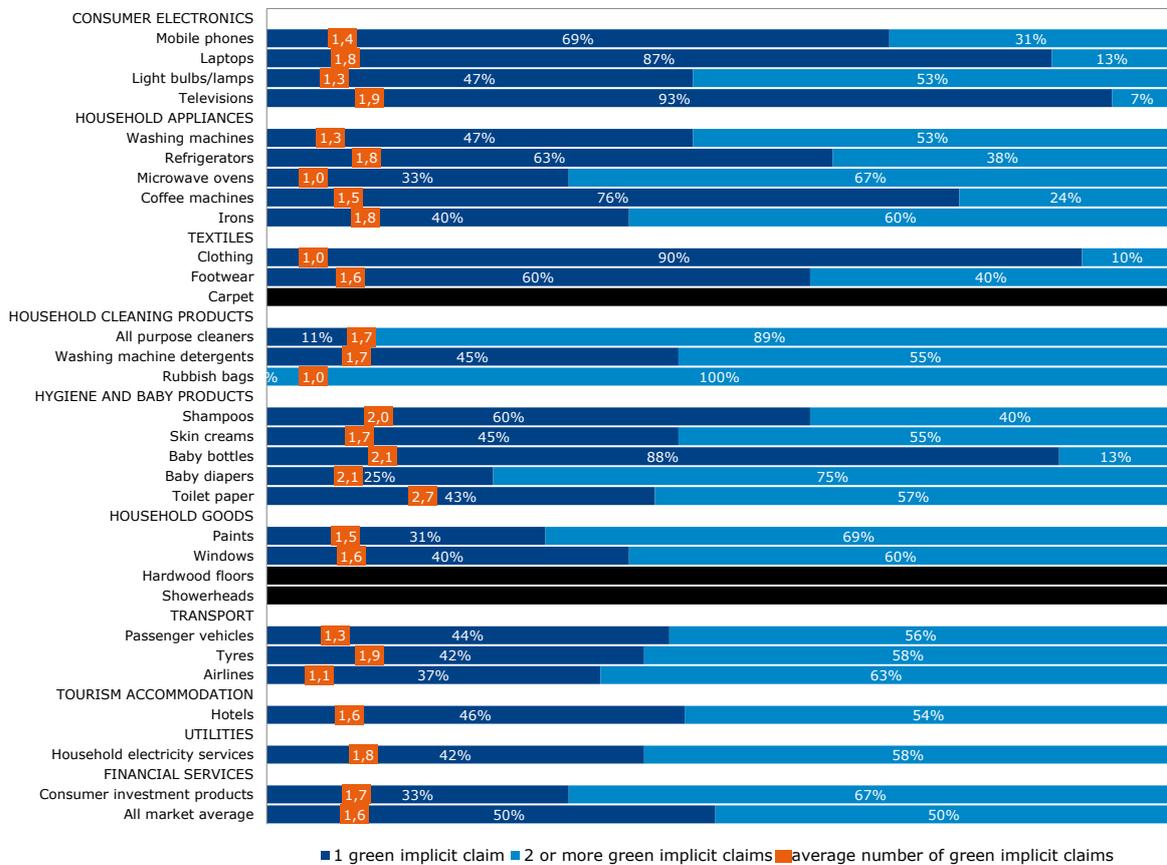


Figure 8: Intensity of explicit green claims among advertisements with explicit green claims (source: Ebiquity database scan; base = all magazine advertisements assessed with at least one implicit green claim, case study Italy and UK) 'Black rows' implies the product/service category wasn't included in the Ebiquity scan exercise.

2.3.2.3 All claims

When looking at the average number of claims for all the advertisements containing at least one claim (implicit and/or explicit), **the norm is for multiple claims (64%)** rather than only one claim (36%). Multiple claims are most common for baby bottles (94%), irons (91%), electricity services (88%), televisions (83%) and washing machine detergents (81%). The average number of claims is 2.3 and toilet paper (3.9), windows (3.1) and rubbish bags (3.0) have the largest numbers of claims per product.

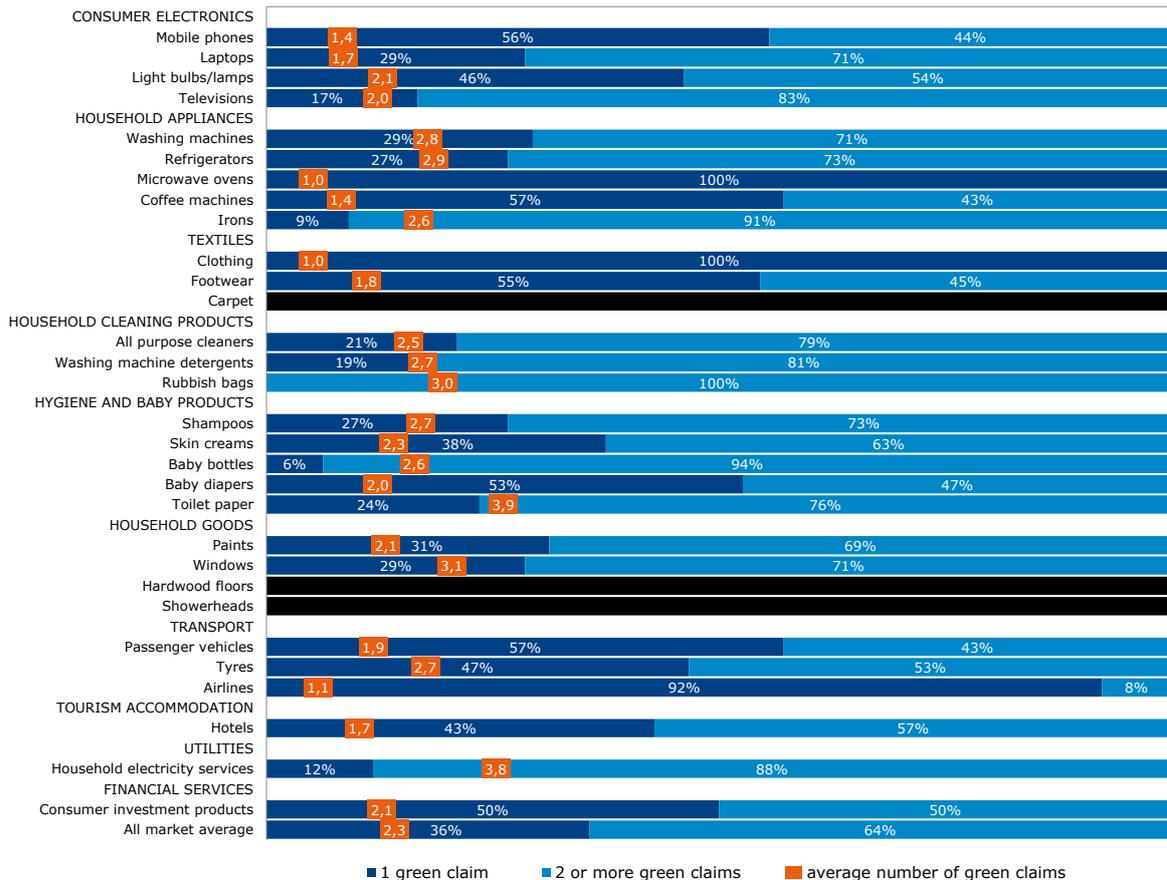


Figure 9: Intensity of green claims among advertisements with green claims (implicit and/or explicit) (source: Ebiquity database scan; base= all magazine advertisements assessed with at least one green claim, case study Italy and UK) 'Black rows' implies the product/service category wasn't included in the Ebiquity scan exercise.

2.4 Summary

Assessment of green claims on product packaging and websites

Overall, the assessment shows that **green claims are widespread in the different markets**. The **overall presence** – explicit and implicit, voluntary and mandatory – of **green claims is 76%** among the products assessed offline.

70% of all products assessed offline (in shops) contain at least one environmental logo or textual claim, i.e. an explicit claim. This relatively high prevalence of explicit green claims includes the EU mandatory environmental claims⁷⁷ among the products/services studied, such as the EU Energy label, reference to fuel efficiency and CO₂ emissions, the Green Dot, etc⁷⁸.

Looking at the voluntary explicit green claims only, **half (51%) of the products assessed offline** and 46% assessed online **display a voluntary environmental logo or textual claim**. In the latter category, particularly for electricity services, hotels, airlines and passenger vehicles, the use of implicit claims (environmental images and blue or green colours) is more common than explicit claims.

Overall, **environmental claims tend to take the form of a logo** for most of the products assessed offline **and less often a textual claim**.

The most common logo is the Green Dot: on 32% of the products this logo (which indicates that the manufacturer of a product contributes to the cost of recovery and recycling) was present. **The Mobius Loop**, which indicates that the product packaging is recyclable, **is next most commonly seen (20%)**.

Implicit claims, in the form of images or colours, **are present on 39% of the products assessed offline** and 86% of the products/services assessed online (100% for airlines and passenger vehicles). These implicit claims can be seen as *possible* green claims; the context they appeared in was not taken into account during the assessment. Consequently all blue or green colours or images such as a tree, the sun, etc. were by default considered as implicit claims. When only looking at environmental images, the proportion drops to 26% for products assessed offline and to 74% for websites.

When looking at the products/services with at least one environmental claim, either voluntary explicit or implicit, it appears that, on average, 3.0 environmental claims are observed on the products/services assessed. When excluding the four website assessments, this **average** goes down to **2.8**. For online assessments solely, the average is 7.5 green claims.

The **average number of explicit environmental claims** is logically **somewhat lower** than implicit, with an overall average of 2 claims, 3.6 for solely website assessments and 1.7 for offline assessments.

Assessment of green claims found in advertisements

Overall, 71% of advertisements in the Italian and UK magazines examined **contain green claims**. The proportion of **explicit environmental claims in**

⁷⁷ Despite mandatory EU labelling, the share of explicit claims on some product categories such as light bulbs is not 100%.

⁷⁸ See section 2.2.1.1 for the full list of mandatory claims.

advertisements is significantly **lower than that of implicit claims** (31% explicit versus 65% implicit green claims), whereas the opposite was observed for product packaging (67% explicit versus 46% implicit green claims).

Explicit claims are most often in text form (28%) rather than a logo (9%). Words such as 'Energy', 'Environment', and 'CO²' are most commonly used and the most frequently used logo is '95% natural origin' (5%).

Implicit claims in advertisements, on the other hand, **mainly take the form of colours (52%) rather than images (27%).** A green background is most commonly used to convey green messages (14%).

When looking at the average number of claims for all the advertisements containing at least one claim (implicit and/or explicit), **the norm is multiple claims** (64%) rather than only one claim (36%). **The average number is 2.3.**

Conclusion

The inventory shows that there are many environmental claims and many different types of claims in use. This **diversity** of environmental claims on products and in advertisements **can make it difficult to make comparisons** not only for consumers but for monitoring purposes⁷⁹. However, the widespread presence of green claims **demonstrates that many businesses want to communicate their efforts on sustainability** to consumers.

⁷⁹ I.e. inspectors going in the field to determine non-compliance to the UCPD principles.

3 Consumer perceptions

3.1 Introduction

A Flash Eurobarometer⁸⁰ of July 2013 shows that a vast majority of European consumers are willing to take into account environmental factors when making purchases. High proportions (eight in ten) state that they often buy environmentally-friendly products. However, six in ten consumers find it difficult to determine the environmental impact of products. They find the information is either not available or not clear.

This chapter **examines consumers' perceptions of the variety and types of environmental claims and the extent to which these claims influence purchasing behaviour**. In particular, it reports on consumers' awareness of logos and environment-related terms, and the extent to which they understand and trust them. This information will assist in understanding the current state of play of environmental claims from a consumer perspective. Where appropriate, market and regional differences are reported.

Findings presented in this chapter are based on an **online consumer survey and behavioural experiment conducted in 10 EU countries** (Croatia⁸¹, Denmark, Italy, Spain France, Germany, the Netherlands, UK, Czech Republic and Poland) **and Norway**. The 'weighted average selected countries', represents the average of all countries surveyed taking into account respective population sizes.

3.2 Consumers' perception of environmental claims

Consumers were asked to describe their general attitude towards environmentally friendly products and environmental claims found on products and advertisements. Figure 10 provides an overview of their responses.

⁸⁰ Flash Eurobarometer 367. Note that some questions asked in the EB are similar to those asked in this study. However, direct comparison cannot be made due to the differences in scope of these survey and questions formulations. Reference to some EB findings is only made for the purpose of contextualise the findings of this present study.

⁸¹ Croatia is covered only for this part of the study: "consumer understanding" via an additional contract (EAHC/2013/CP/12 concerning Consumer Market Study on environmental claims for non-food products - Integration of Consumer Survey in Croatia).

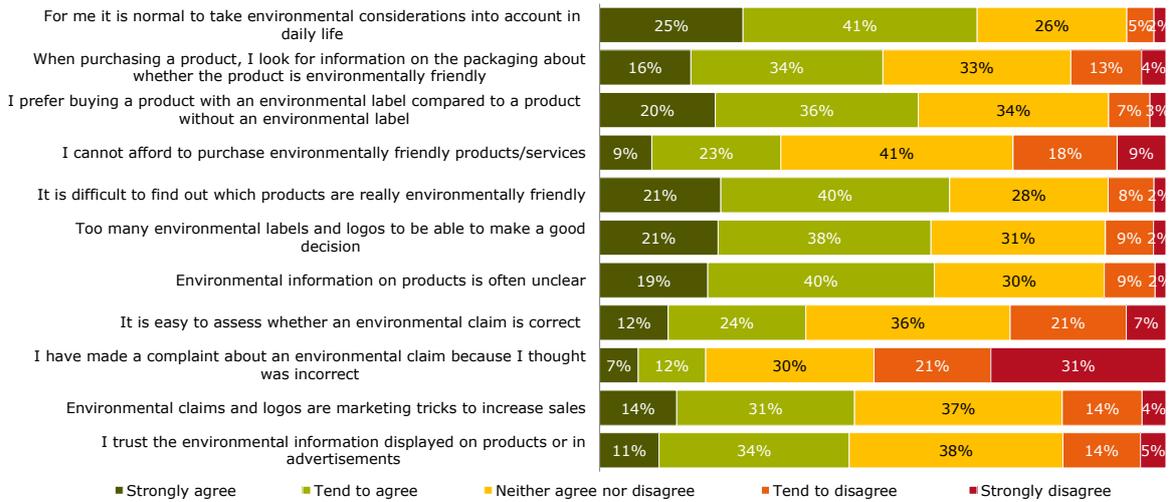


Figure 10: To what extent do you agree or disagree with the following statements related to environmental claims? (Source: Consumer survey; Base = all consumers)

Overall, **two-thirds of consumers** (66%⁸²) state that they **take environmental considerations into account in daily life**. At country level, this is the stated behaviour of more than 7 in 10 consumers in Germany (75%), Czech Republic (74%), France (71%), Italy (71%) and Poland (70%). Perhaps surprisingly, in countries such as the UK, Norway and the Netherlands (countries which may be presumed to have a relatively high level of environmental awareness), only half of the consumers surveyed indicate they take environmental considerations into account in daily life, respectively 53% and 52% and 50%.

Looking specifically at environmental claims, the survey results show that:

When purchasing a product, **half of the consumers** (50%) **look for information on the packaging to know whether this product is environmentally friendly or not**. This is especially the case in Italy (60%), Poland (55%) and Spain (55%). The Netherlands and Norway significantly deviate from this, with only 26% and 37% of consumers indicating they look for environmental information.

In fact, for the three countries scoring higher than average (Italy, 71%, Poland, 65% and Spain, 62%), more than 6 in 10 consumers **prefer buying a product with an environmental label compared to a product without such a label** (EU average 56%). Consumers in The Netherlands have the lowest tendency to agree with this statement, only 35%.

However, **almost a third of consumers think they cannot afford environmentally friendly products/services**, particularly in the UK where 38% agree with this statement.

Almost two thirds (**61%**) of consumers state that they find it difficult to find out which products are truly environmentally friendly. This is especially true for more than 7 in 10 consumers in Germany compared to only 5 in 10 in Poland and Denmark.

⁸² Proportion 'strongly agree' and 'tend to agree'.

For a majority (59%) of consumers in the countries surveyed, **the wide range of environmental claims hinders** them in making **good purchase decisions**. It should be noted that this proportion is smaller for the UK and Norway, both 54%.

Not only do consumers find it difficult to make their way through the large number of environmental claims, but these **claims are often perceived to be unclear** (59%). More than 60% of Italians and Germans said this, despite clear guidelines being made available in Italy on the prevention of vague claims (see chapter 4). In addition, for more than a quarter of consumers (28%) in the countries examined, it is **not easy to assess whether an environmental claim is correct or not**. In Czech Republic, Denmark, France, the UK, the Netherlands and Norway 4 in 10 consumers are of this opinion. Despite this, a large percentage of consumers do not look for evidence that proves environmental claims are correct. However, half of the consumers indicate they have at least once verified an environmental claim. Those who have checked the veracity of a claim (54%) have mainly looked for information on the internet (57%). The outcome of these checks usually reveals that the claim is correct (59% of those who have checked).

Surprisingly **about one fifth** (19%) of respondents say that they have **made a complaint about an environmental claim because they thought it was incorrect**. The findings of chapter 6 however indicate that the number of official complaints is marginal. The type of complaints respondents are referring to may include word of mouth complaints to friends and relatives.

Moreover, a large share of consumers (45%) perceives **environmental claims as marketing tricks to increase sales**, especially in Germany (51%). Despite this, **4 in 10 consumers tend to trust the environmental information displayed on products or advertisements**, particularly in Italy (50%), Poland (49%), France (48%) and Spain (48%).

3.3 Awareness of environmental claims

The results show that consumers' awareness of environmental claims, especially logos and terms, varies very much from one type of claim to another.

Eight in ten consumers have seen the terms **'recyclable'**, **'organic'** and **'biodegradable'** and seven in ten the terms 'environmentally friendly' and 'sustainable'. On the other hand, fewer than four in ten consumers have seen the term 'carbon-neutral'.

As far as European logos are concerned, consumers are most aware of the Mobius Loop (87%) and the Green Dot (75%) and less aware of the Fairtrade logo (50%) or the Eco-label (36%).

	Weighted average selected countries	Czech Republic	Denmark	France	Germany	Italy	Poland	UK	The Netherlands	Spain	Norway	Croatia
												
ENVIRONMENTAL CLAIMS IN THE FORM OF TEXT												
Recyclable	80%	94%	60%	85%	59%	87%	82%	92%	62%	87%	71%	79%
Organic	77%	75%	86%	69%	85%	75%	62%	89%	74%	76%	59%	75%
Bio-degradable	77%	66%	54%	77%	69%	86%	78%	83%	62%	84%	53%	77%
Environmental friendly	69%	92%	71%	74%	72%	19%	88%	82%	69%	81%	75%	74%
Sustainable	60%	49%	41%	65%	60%	69%	38%	67%	65%	62%	47%	38%
Carbon-neutral	35%	9%	61%	30%	17%	67%	36%	49%	15%	29%	22%	8%
ENVIRONMENTAL CLAIMS IN THE FORM OF LOGO												
Mobius loop	 87%	88%	86%	83%	88%	84%	85%	91%	83%	90%	92%	95%
Green dot	 75%	75%	73%	87%	96%	56%	72%	59%	59%	77%	67%	74%
Fairtrade	 50%	32%	81%	38%	77%	24%	21%	94%	81%	12%	73%	17%
FSC	 41%	10%	45%	33%	53%	34%	21%	62%	76%	26%	20%	28%
EU Ecolabel	 36%	16%	35%	66%	24%	46%	23%	26%	31%	36%	19%	34%
Blue Angel	 92%	-	-	-	92%	-	-	-	-	-	-	-
Nordic swan	 83%	-	83%	-	-	-	-	-	-	-	-	-
Environmental friendly label	 78%	-	-	-	-	-	-	-	-	-	-	78%

Table 16: Have you ever seen the following labels or terms? (source: Consumer survey; Base = all consumers)

The results from the consumer survey indicate that **some environmental labels and terms are only well known in some countries**. For some of them, the country of origin may partially explain the high awareness level: e.g. the Green Dot originated in Germany⁸³. The only exceptions are the Mobius Loop, which was identified by over eight in ten consumers in all countries.

At national level, the Nordic Swan has been seen by 83% of Danish consumers⁸⁴, the Blue Angel by 91% of Germans, and the Environmental friendly label by 78% of Croats, which indicates these are better known in these countries than their European counterpart, the EU Ecolabel.

Based on the number of claims they recognised, consumers in each country were grouped into three categories:

- Low awareness: they have seen a maximum of 5 claims;
- Medium awareness: they have seen up to 8 claims; and
- High awareness: they have seen between 9 and 11 claims⁸⁵.

⁸³ <http://www.greendotprint.com/html/about.html>

⁸⁴ Products with the Nordic Swan are sold in several countries in Europe and mostly in the Scandinavian countries. The awareness of the Nordic Swan was however only assessed in Denmark and not assessed in Norway or in the other countries.

⁸⁵ The Nordic Swan and the Blue Angel, only assessed in one country each, were excluded from the analysis.

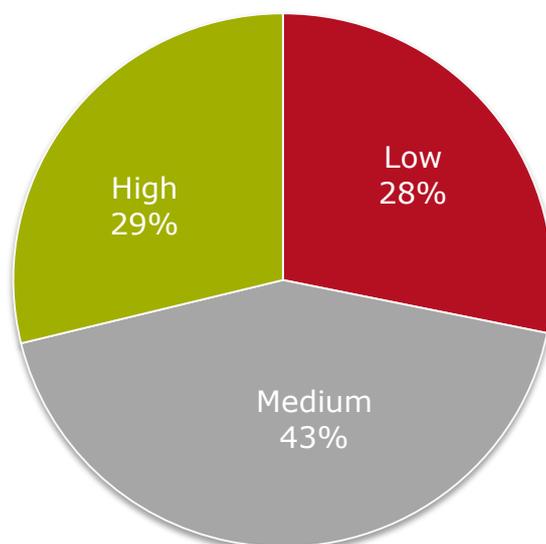


Figure 11: Have you ever seen the following labels or terms? (source: Consumer survey; Base = all consumers)

Across the countries surveyed, 28% of consumers fall into the first category, having the lowest level of awareness of green claims, 43% in the second and **29%** in the third, **having the highest level of awareness of green claims.**

Level of awareness	Weighted average selected countries	Czech Republic	Denmark	France	Germany	Italy	Poland	UK	The Netherlands	Spain	Norway	Croatia
Low	28%	36%	32%	27%	26%	30%	42%	17%	30%	28%	42%	38%
Medium	43%	55%	31%	40%	45%	48%	43%	33%	37%	51%	38%	49%
High	29%	9%	37%	33%	29%	23%	15%	50%	33%	21%	20%	12%

Table 17: Have you ever seen the following labels or terms? (source: Consumer survey; Base = all consumers)

A country-by-country analysis shows that in the UK 50% of consumers have high levels of awareness while in Czech Republic only 9% fall into this category. Also noteworthy, more than 4 in 10 Polish, Norwegian and Croatian consumers have a low level of awareness.

When we look at the profile of these different groups in terms of age, gender, education, family situation, budget, member of an environmental organisation, etc., some significant differences were found. Awareness varies by:

- Age: **the younger the consumer, the higher the awareness** (27%). The age of 50 shows a clear cut off point;
- Education: **the longer people study, the higher their awareness** of proposed environmental claims (41%);
- Budget: **those who can make ends meet easily at the end of the month have the greatest awareness** (59%).

These 'awareness' results give some food for thought. When consumers are unaware of environmental claims, their attitudes towards consumption and their actual

purchasing behaviour are less likely to be influenced by them, which implies lower numbers of sustainable purchases and an increasing pressure on the environment, including climate change, and on competition for natural resources.

Furthermore, education plays an important role in increasing awareness of environmental claims specifically, but also in terms of impact on consumers' purchasing behavior in general terms. Only a quarter of consumers strongly agree with the statement 'For me it is normal to take environmental considerations into account in daily life'. Furthermore, only 7% are active members of any environmental association (an additional 11% claim to be passive members).

3.4 Understanding of environmental claims

Consumers were presented with different **logos** and a list of possible definitions of these logos. For each logo, they were asked to choose the definition they thought appropriate. The results show that consumers have a poor understanding; the following pages outline these findings in detail.

Table 18 shows the distribution of correct and incorrect answers given by consumers about meaning of the **EU Ecolabel**.

 EU Ecolabel	Weighted average selected countries	Czech Republic	Denmark	France	Germany	Italy	Poland	UK	The Netherlands	Spain	Norway	Croatia
It is among the most environmentally friendly products in its category	49%	59%	49%	51%	27%	54%	58%	48%	41%	61%	44%	61%
The product is made in the European Union (EU)*	43%	33%	37%	48%	45%	44%	35%	34%	42%	47%	38%	43%
Ensures that products have high quality and a long service life	19%	21%	14%	19%	22%	18%	26%	18%	20%	16%	17%	14%
It is a voluntary label	18%	9%	20%	21%	26%	12%	13%	24%	15%	11%	19%	4%
Only used on electronic products (washing machines, refrigerators, etc.)*	13%	9%	8%	11%	18%	9%	18%	13%	14%	13%	11%	11%
None of these*	6%	7%	10%	7%	9%	4%	6%	5%	13%	3%	11%	5%

Table 18: Please indicate which of the below statement(s) you think corresponds to the meaning of this 'EU Ecolabel'. You can indicate multiple statements per label (source: Consumer survey; Base = consumers who are aware of 'EU Ecolabel') Options with * mean that these are incorrect answers apply to the label.

Three correct and two incorrect answers were presented to the respondents. The correct meanings for the EU Ecolabel are:

- The product that bears it is amongst the most environmental friendly in its category
- It ensures that products carrying the label have high quality and long service life
- It's a voluntary label

The incorrect answers are:

- This label is only applicable on electronic products
- This label means that the product is made in Europe (EU)

Respondents had also the option to answer 'none of these', if they thought that none of the answer categories corresponded to what they thought the logo means.

Results show that **70% of respondents who had seen the EU Ecolabel before⁸⁶ have a partial understanding (i.e. stating at least⁸⁷ one correct answer⁸⁸)** of the logo and 30% have no understanding at all. Particularly, a majority (56%) give

⁸⁶ 36% of consumers have already seen the EU Ecolabel

⁸⁷ but not all correct answers indicated

⁸⁸ this may also include wrong answers

one correct answer, 12% two correct answers and only less than 1% give three correct answers with no wrong answers.

Only **49%** of European consumers who have seen the EU Ecolabel before know that the **EU Ecolabel** means that **a product is amongst the most environmentally friendly in its category**. German consumers are the least informed (27% gave correct answers), whereas a majority of Spaniards (61%), Croats (61%), Czechs (59%) and Poles (58%) clearly know about the EU Ecolabel. The other countries are closer to the average, from 41% in the Netherlands to 54% in Italy.

Almost one fifth of respondents correctly believe that this logo is **a guarantee of high quality and long service life**. A similar proportion also correctly thinks it is a voluntary label. Interestingly, the most common mistake is to believe that products bearing the **EU Ecolabel are made in the European Union**. This is believed by 43% of consumers across the sample, but more often by consumers in Western and Southern countries than Northern and Eastern countries.

Table 19 shows how consumers understand the **Green Dot**.

 Green dot	Weighted average selected countries	Czech Republic	Denmark	France	Germany	Italy	Poland	UK	The Netherlands	Spain	Norway	Croatia
The packaging is recyclable*	54%	55%	61%	51%	64%	44%	56%	49%	54%	54%	52%	48%
The product is recyclable*	36%	43%	35%	35%	28%	36%	47%	39%	35%	38%	48%	39%
Manufacturer contributes to the cost of recovery and recycling	25%	19%	16%	38%	23%	24%	30%	16%	28%	21%	17%	23%
Companies comply to the requirements under European Packaging Waste Directive	23%	20%	7%	25%	23%	27%	26%	18%	16%	24%	23%	31%
None of these*	5%	3%	5%	6%	6%	4%	2%	7%	7%	2%	6%	3%

Table 19: Please indicate which of the below statement(s) you think corresponds to the meaning of this label 'Green Dot'. You can indicate multiple statements per label (source: Consumer survey; Base = consumers who are aware of the Green Dot) Options with * mean that these are incorrect answers apply to the label.

Two correct and two incorrect answers were presented to consumers to define the Green Dot. The correct ones were the following:

- It means that the manufacturer of the product contributes to the cost of recovery and recycling
- Companies that bear the label indicate they comply with the requirements under the European Packaging Waste Directive 94/62/EC. This directive is binding for all companies if their products use packaging and requires manufacturers to recover their own packaging

At the same time, the following incorrect answers were presented to respondents:

- It means that the packaging is recyclable
- It means that the product is recyclable

Results show that consumers who have seen this logo (75%) have a lower understanding of it than the EU Ecolabel (36% have partial understanding, 62% 'no understanding' and only 2% full understanding). More than 50% of respondents give only wrong answers.

Only 25% of consumers who have seen the Green Dot know that it means that the manufacturer of the product contributes to the cost of recovery and recycling. 23% also know that companies using this logo on their products comply with the requirements under the European Packaging Waste Directive.

In turn, **half wrongly** associate it with the Mobius Loop and believe it **indicates that the packaging is recyclable**. This belief might lead consumers to take a wrong action, harming the environment and society as a whole. E.g. wrongly depositing of packaging that displays a green dot, leading to additional sorting of the collected waste. Another 36% wrongly believe the products bearing this label are recyclable.

At the country level, French consumers who are familiar with the Green Dot, know more often (38%) than the average that the Green Dot refers to manufacturers contributing to the cost of recovery and recycling while only 16% of Danes and Britons know this. Noteworthy is the high proportion of Germans (64%) and Danes (61%) who wrongly think that this label means that the packaging is recyclable.

Table 20 shows how consumers understand the presence of a **Mobius Loop**.

 Mobius loop	Weighted average selected countries	Czech Republic	Denmark	France	Germany	Italy	Poland	UK	The Netherlands	Spain	Norway	Croatia
The packaging is recyclable	53%	52%	57%	46%	50%	53%	61%	58%	50%	53%	53%	54%
The product is recyclable*	43%	51%	39%	47%	30%	42%	50%	50%	47%	42%	54%	46%
Manufacturer contributes to the cost of recovery and recycling*	23%	18%	15%	33%	21%	21%	28%	13%	22%	26%	20%	27%
Everyone can introduce this label on its packaging whenever they feel like it	8%	3%	5%	10%	11%	6%	7%	7%	7%	5%	6%	4%
None of these*	6%	3%	6%	6%	16%	3%	3%	3%	8%	4%	6%	2%

Table 20: Please indicate which of the below statement(s) you think corresponds to the meaning of this label 'Mobius Loop'. You can indicate multiple statements per label (source: Consumer survey; Base = consumers who are aware of the Mobius Loop) Options with * mean that these are incorrect answers apply to the label.

Respondents were also asked to give the meaning of the Mobius Loop by choosing among four possible answers. Two correct and two incorrect answers were presented to consumers to define the Mobius Loop. The correct ones were the following:

- The logo means the packaging is recyclable.
- There is no external verification on the labels; anyone can display it on packaging whenever they feel like it.

At the same time, the following incorrect answers were presented to respondents:

- The logo means that the manufacturer of the product contributes to the cost of recovery and recycling.
- The logo means the product is recyclable.

More than half of the consumers have a partial understanding of the logo and 46% have no understanding at all. Only 1% have a full understanding (with no wrong answers).

Half of the consumers correctly associated it with 'recyclable packaging'. **The most common mistake is the confusion between the packaging and its content: 43% of consumers wrongly assume that the logo indicates recyclable products.**

Consumers were also presented with a definition of two **textual claims** and had to indicate their degree of agreement with this definition: the correct answer relates to "strongly agree" for carbon-neutral and to "strongly disagree" for biodegradable. Figure 12 shows that **19% correctly understand the term 'carbon-neutral'** to mean that manufacturers must 'save' the same amount of carbon dioxide as is put in when making a product. **About 5% of consumers correctly understand that**

biodegradable products can not necessarily always be composted in home gardens. In essence, only specific types of biodegradable products will break down in a composting process.

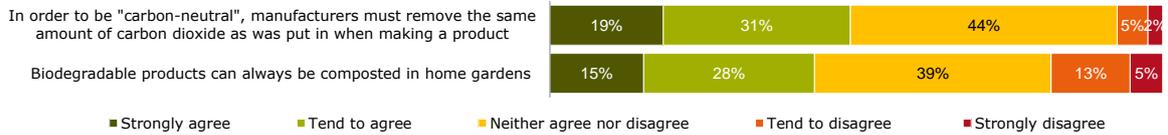


Figure 12: To what extent do you agree or disagree with the following statements related to environmental claims? (Source: Consumer survey; Base = all consumers)

Country specific logos

Two **national logos** were tested for consumer understanding, respectively 'Blue Angel' in Germany and 'Environmentally Friendly' label in Croatia.

Blue Angel	Germany
	
It's the German eco-label	61%
For companies as a reward for their commitment to environmental protection	50%
Ensures that products/services feature high quality and a long service life	17%
It's an obligatory label*	6%
None of these*	8%

Table 21: Please indicate which of the below statement(s) you think corresponds to the meaning of this label 'Blue Angel'. You can indicate multiple statements per label (source: Consumer survey; Base = consumers who are aware of the Blue angel) Options with * mean that these are incorrect answers apply to the label.

German respondents were asked to give the meaning of the **Blue Angel** by choosing among four answer possibilities (three correct answers and one incorrect answer). The correct answers were:

- It's the German eco-label.
- For companies as a reward for their commitment to environmental protection.
- Ensures that products/services feature high quality and a long service life.

At the same time, the following incorrect answer was presented to respondents:

- It's an obligatory label.

8 out of 10 German consumers showed a partial understanding⁸⁹ of the logo (83%) and 11% no understanding at all. Only 6% demonstrated a full understanding (with no wrong answers).

The link between "Blue Angel" and "German eco-label" is well understood:

61% of the German respondents answered correctly that the Blue Angel is the German Ecolabel. Furthermore, half of the German consumers correctly associated the Blue Angel with companies' commitment to environmental protection. That Blue Angel also indicates that products bearing it ensure high quality and a long service life is only

⁸⁹ Partial understanding means that the respondent stated at least one correct answer.

recognised by one out of five German consumers (17%). Only 6% wrongly believe it is an obligatory label.

 Environmentally Friendly	Croatia
Guarantees to the consumer that the product is more environmentally friendly compared to similar products	72%
Is a voluntary logo	21%
Means that the product is made in Croatia*	17%
There is no external verification of the label, everyone can introduce it on its packaging*	9%
None of these*	6%

Table 22: Please indicate which of the below statement(s) you think corresponds to the meaning of this label 'Environmentally Friendly'. You can indicate multiple statements per label (source: Consumer survey; Base = consumers who are aware of the Environmentally Friendly) Options with * mean that these are incorrect answers apply to the label.

Croatian respondents were also asked about the meaning of the **Environmentally Friendly label** by choosing among four possible answers (two correct and two incorrect). The correct answers were:

- Guarantees to the consumer that the product is more environmentally friendly compared to similar products
- Is a voluntary logo

At the same time, the following incorrect answers were presented to respondents:

- Means that the product is made in Croatia
- There is no external verification of the label, anyone can use it on packaging

Four out of five Croatian consumers have a partial understanding⁹⁰ of the logo (80%) and 15% have no understanding at all. Only 5% demonstrated a full understanding (with no wrong answers).

Almost three out of four Croats (72%) correctly associated the "environmentally friendly" logo with a guarantee to consumers that the product is more environmentally friendly compared to similar products. The vast majority of respondents (91% and 83% respectively) were also aware that the statements "everyone can introduce it on its packaging" and "the product is made in Croatia" were incorrect answers. However, only 21% are aware that this is a voluntary logo.

Based on the section on 'country-specific/regional label's (Blue angel and the Croatian Environmental Friendly logo), these labels seem to be better understood than global/EU wide logos.

One of the main distinctions in the vast array of environmental labels is that between **non-certified labels and third party certified labels**. When well designed, recognised, understood, trusted and perceived by consumers to be relevant, environmental labels can have a significant influence on consumer behaviour. Under these conditions, labels can be a powerful tool to guide and shape consumer behaviour towards more environmentally friendly choices. Using a reputable labelling scheme with clear criteria will often be one of the most effective ways for businesses to

⁹⁰ Partial understanding means that the respondent stated at least one correct answer.

demonstrate to consumers that they are meeting high environmental standards.⁹¹ Results show that consumers, feeling 'lost' about the meaning of environmental logos, **rarely distinguish between non-certified and third party certified labels.**

The only exceptions are found at country level and with very well-known labels such as the German Blue Angel and the Nordic Swan.

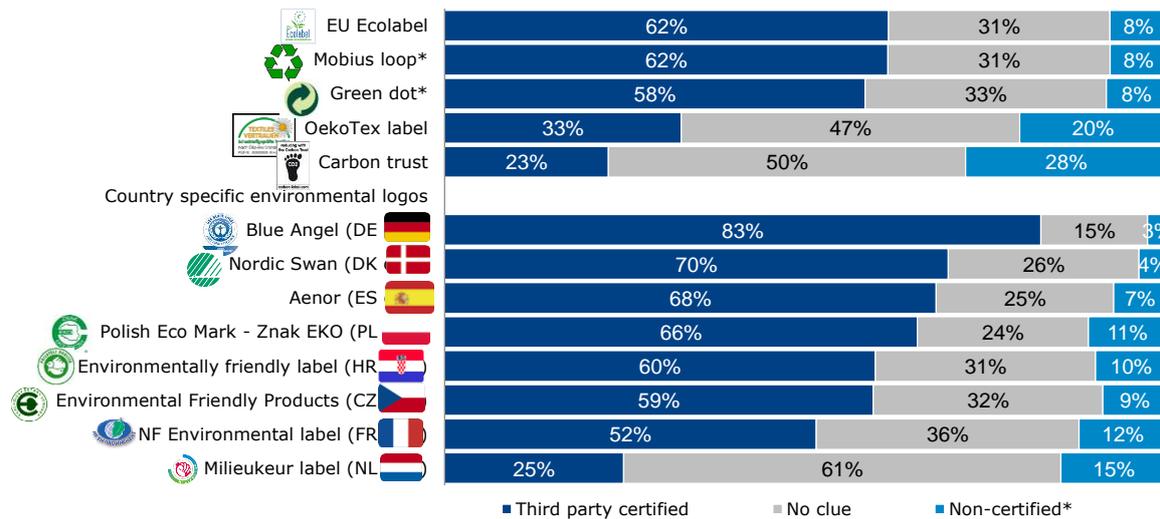


Figure 13: Certain environmental labels are "third party certified labels" (certified by independent controllers), and others are "non-certified labels". Please put the "third party certified labels" in the left pile and the "non-certified labels" in the right pile. If you have no clue, you can put them in the middle pile. You can do this by dragging and dropping the cards. (source: Consumer survey; Base = all consumers) **Options with * mean that these are non-certified labels.**

Are those **consumers who have seen the labels** above, better able than others to correctly attribute these labels as either third party certified or non-certified? As shown in Figure 14, this is the case for the EU Ecolabel, Blue Angel and Nordic Swan. However, it does not hold true for the Mobius Loop and the Green Dot. For those two labels, the proportion of those saying they have "no clue" decreases, but not in favour of the correct answer i.e. "non-certified". Consumers who recognise these labels from earlier situations/purchases are more inclined than people who are not aware of them to identify them as "third party certified labels". These results confirm that **consumers assume that any logo is a certified one**, whereas in fact the majority of claims are self-declared (see section 2.2.1.1).

⁹¹ See also section 4.5 in the 2013 MDEC report: http://ec.europa.eu/consumers/documents/consumer-summit-2013-mdec-report_en.pdf

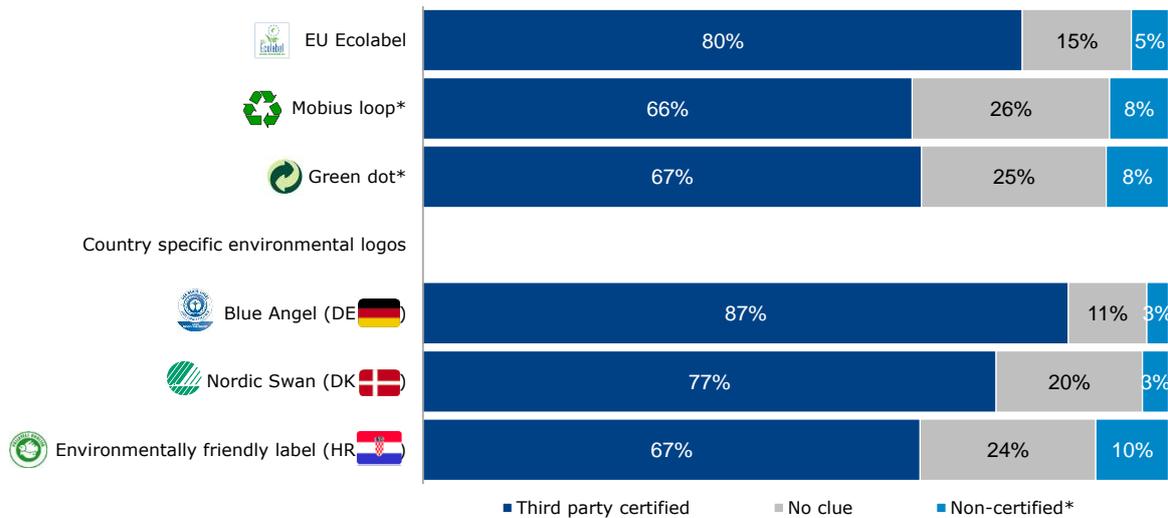


Figure 14: Certain environmental labels are “third party certified labels” (certified by independent controllers), and others are “non-certified labels”. Please put the “third party certified labels” in the left pile and the “non-certified labels” in the right pile. If you have no clue, you can put them in the middle pile. You can do this by dragging and dropping the cards. (source: Consumer survey; Base = consumers who are aware of the above labels) **Options with * mean that these are non-certified labels.**

These results on how consumers understand or interpret environmental claims give some food for thought. **When consumers accord a wrong interpretation to a claim this can impact negatively or positively on their purchasing behaviour**, i.e. consumers not buying a product or service because they are not aware of the true environmental benefits indicated by the claim or consumers buying a product or service wrongly assuming the claim implies a certain (environmental) feature or benefit. Moreover consumers’ misunderstanding of environmental claims not only affects purchasing decisions, but the way they dispose of products and packaging. For example, the numerous consumers wrongly believing that the Green Dot refers to recyclable packaging might wrongly dispose of packaging leading to higher costs for sorting materials to correct the ‘errors’ consumers make.

This is why **environmental claims** (and information in general), **must be clear and easy to understand.**

Education of consumers is key to improve awareness of the impact of their purchasing behaviour and secondly to enable them to ‘detect’ and correctly interpret environmental claims. This will empower them to make sustainable choices. Though currently, given the numerous environmental claims used (as reported in chapter 2) and perhaps the lack of a clear source of information/explanation of these claims, it is difficult to identify how consumers might best be educated/informed. There may be an important role to play for businesses that formulate and communicate green claims. **Consumers do not systematically search out, read or properly digest all of the information that is available to them when making a purchasing decision.** This highlights the need for further policy actions (see chapter 7 Recommendations).

3.5 Trust in environmental claims

Given the large number of claims and their lack of clarity for the average consumer, it is not surprising to observe that there is **some mistrust of environmental information displayed on products and in advertisements.** Overall however, the degree of trust is reasonably high (45%), which can be partly explained by consumers

relying on a brand or manufacturer to ensure that the information provided is correct rather than doing so themselves. **Consumers trust that there is adequate regulations and control carried out by competent authorities⁹².** This implicit trust carries certain risks; it **makes consumers more vulnerable to misleading claims.** Consequently prevention of misleading claims is of primal importance.



Figure 15: To what extent do you agree or disagree with the following statements related to environmental claims? (Source: Consumer survey; Base = all consumers)

However, this degree of trust varies depending on the environmental claim assessed, as shown in Figure 16.

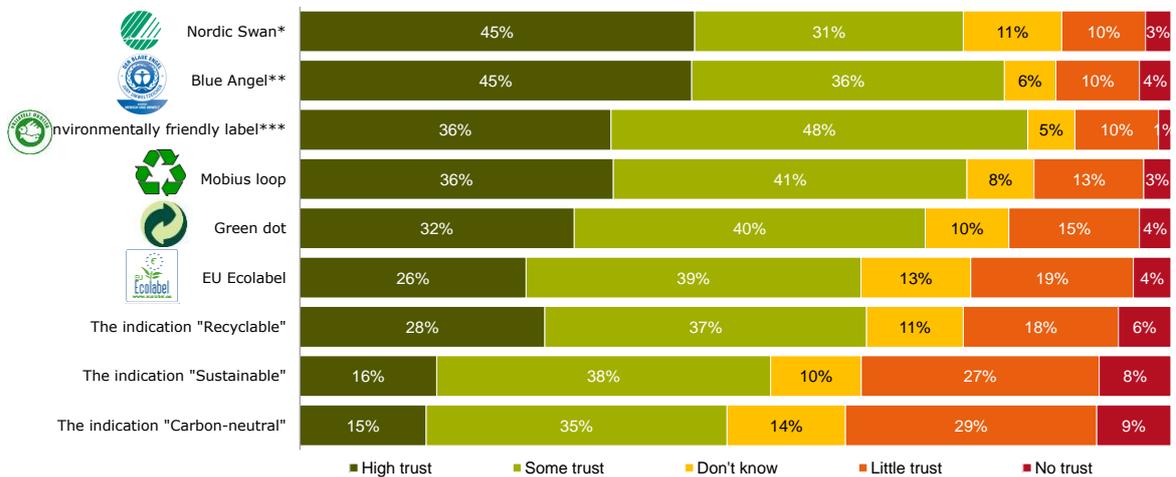


Figure 16: Please indicate how much trust you have that products that bear the labels or terms are really environmentally friendly. (source: Consumer survey; Base = all consumers) * was only assessed in Denmark, ** was only assessed in Germany and *** was only assessed in Croatia.

National/regional labels, such as the Blue Angel in Germany and the Nordic Swan in Denmark, are very credible in their respective countries (81% and 76% of respondents trust them).

The **Mobius Loop is perceived as very reliable** (77% of consumers trust this 87% are aware of it, 54% have a partial understanding and 1% a full understanding). This is also the case of the Green Dot (72% of trust, 75% are aware, 36% partial understanding and 2% full understanding) and the EU Ecolabel (65% trust, 36% aware, 70% partial understanding and less than 1% full understanding). Textual claims 'Sustainable' and 'Carbon-neutral' are less well trusted (54% and 50% of consumers respectively trust these).

Consequently it can be concluded that:

1. There is a **higher level of trust in logos**, which confirms the findings that logos are generally linked – by consumers - with certification

⁹² Verbeke and Ward, 2006

2. **Trust is not necessarily linked to awareness** (e.g. the EU Ecolabel), i.e. trust can be high and awareness low or the opposite. This confirms that consumers look for a trusted bigger picture, such as brands/products, EU/European Commission.

So, there is an important job to be done in terms of increasing awareness, but this needs to be linked to improving understanding.

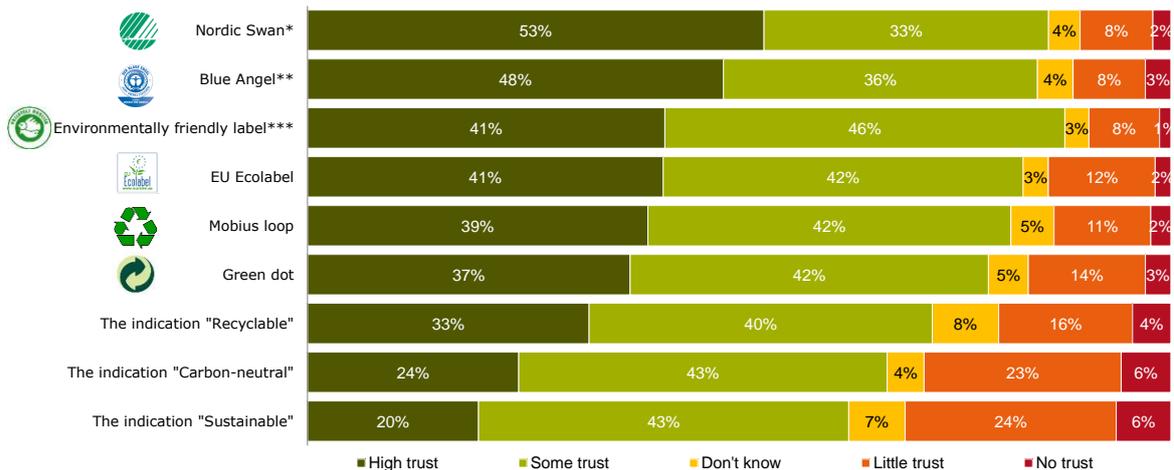


Figure 17: Please indicate how much trust you have that products that bear the labels or terms are really environmentally friendly. (source: Consumer survey; Base = respondents who are aware of the specific labels) * was only assessed in Denmark, ** was only assessed in Germany and *** was only assessed in Croatia.

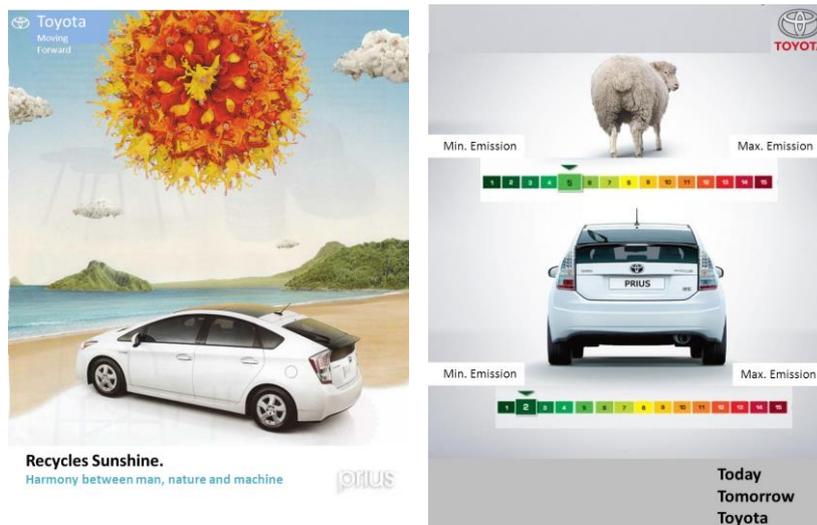
The **trust in the labels among consumers who are aware of them increases** as we can see in Figure 17. This is **especially the case for EU Ecolabel**, bringing it into the top 3 of trusted labels. Familiarity with the labels definitely triggers trust, i.e. once you are aware of a claim trust will follow.

3.6 Impact of environmental claims on consumer purchasing behaviour

According to a Eurobarometer (EB Flash 367⁹³) survey, a large majority of consumers state that they often or sometimes buy environmental-friendly products. The consumer experiment looked at the elements on the packaging or in advertisements that consumers pay attention to when evaluating the environmental-friendliness of a product.

Respondents were presented with the following 2 advertisements from a car manufacturer. They were asked to indicate which one most made them think that the product advertised was environmentally friendly.

⁹³ http://ec.europa.eu/public_opinion/flash/fl_367_en.pdf



Overall, for a majority of consumers (53%), **the advertisement on the right makes them think most that the product is environment-friendly**. In Denmark, Germany, the UK and the Netherlands, six in ten consumers or more chose this advert.

The **key element that convinces** the most consumers (43%) is the **emission scale**. The **green to red variation** of the scale has an impact on a similar proportion of consumers (40%).

To a lesser extent, other elements of both advertisements give consumers the feeling that the product is environmentally friendly:

- The impression that the car is being run on solar power (26%);
- The text "Today, Tomorrow, Toyota" (26%);
- The background colour of the advertisement (25%);
- The text "recycles sunshine" (25%)
- The text "Harmony between man, nature and machine" (22%)
- The sheep on the picture (21%)
- The sun (19%).

Overall, **69% of consumers referred to at least one implicit environmental claim**, the green grass, the trees, the blue sky, the sheep, the wavy landscape or the sun. 93% referred to at least one explicit claim: one of the textual claims ("Today Tomorrow Toyota", "Recycles Sunshine", "Toyota moving forward", "Harmony between man, nature and machine") or the impression that the car is run on solar power, the green to red scale or the emission scales for sheep and car. 61% referred to both implicit and explicit claims conveying to them the message that the car is environmentally-friendly. Such a high proportion of attention paid to implicit claims, confirms the validity of provisions in the UCPD Guidance document and other guidelines, that implicit claims can be considered in some contexts as misleading or potentially misleading.

According to the results of the survey, presented in section 3.2, environmental labels are also important to consumers. A majority of consumers (60%) prefer to buy a product with an environmental label than without. Half (50%) look for environmental information on the packaging when purchasing a product.

In a behavioural experiment⁹⁴ consumers were put in the situation where they had to buy different products/services. They were asked to select the claims they would pay attention to when buying:

- a washing machine;
- a shampoo; and
- electricity services.

The claims that are most relevant to consumers differ between these products/services.

When buying a **washing machine, 82% of consumers pay attention to the indication of the energy efficiency class first**, then 'automatic energy and water saving' (55%) and, finally, the indication of the annual energy consumption in kWh (36%) with the energy efficiency class and the annual energy consumption already being covered in the mandatory EU energy label.

Washing machine	Weighted average selected countries 	Czech Republic 	Denmark 	France 	Germany 	Italy 	Poland 	UK 	The Netherlands 	Spain 	Norway 	Croatia 
The indication of the energy efficiency class	82%	90%	88%	86%	84%	85%	73%	79%	84%	79%	76%	88%
The indication "Automatic energy and water saving"	55%	60%	49%	54%	45%	60%	71%	54%	36%	61%	49%	69%
The indication of the annual energy consumption in kilowatt hours	36%	35%	28%	35%	31%	39%	58%	31%	21%	37%	26%	46%
The indication "Environmentally-friendly washing machine"	29%	41%	29%	29%	21%	25%	44%	29%	15%	36%	26%	35%
The indication "Low environmental impact washing machine"	27%	29%	27%	23%	23%	38%	16%	31%	10%	34%	20%	34%
The presence of EU Ecolabel	23%	14%	12%	30%	16%	31%	22%	20%	20%	27%	13%	25%
The indication "Carbon neutral washing machine"	18%	4%	22%	14%	12%	34%	17%	18%	4%	21%	8%	9%
None of these are important to me	3%	0%	3%	3%	5%	1%	1%	3%	6%	2%	7%	2%

Table 23: Please imagine that you are buying a washing machine. Customize the product to your needs by selecting the environmental claims that you would pay attention to when buying, all other things being equal (price, quality, etc.). You can tick multiple aspects. (source: Consumer survey; Base = all respondents)

Furthermore, respondents were asked to rank their selected claims in order of importance.

⁹⁴ The experiment was carried out in a way to have a mix of different services & products (i.e. shampoo, washing machine, electricity), taking into account high and low purchase costs (i.e. washing machine vs. shampoo costs) as well as a wide mix of textual claims, logo, colour and images. Some reoccurring claims such as 'environmental friendly' were also included. The behavioural experiment however was an online exercise and can include stated behaviour which might for some be different (higher) from actual behaviour. In shop assessments, following the consumers, or wearing eye tracking glasses were not part of the study.

Washing machine	Mentioned (regardless the place)	Most important	2nd most important	3rd most important	4th place	5th place	6th place	Least important
The indication of the energy efficiency class	82%	62%	12%	5%	2%	1%	0%	0%
The indication "Automatic energy and water saving"	55%	17%	23%	10%	3%	1%	0%	0%
The indication of the annual energy consumption in kilowatt hours	36%	6%	13%	10%	3%	2%	1%	1%
The indication "Environmentally-friendly washing machine"	29%	3%	6%	9%	6%	3%	1%	1%
The indication "Low environmental impact washing machine"	27%	3%	6%	7%	6%	3%	1%	0%
The presence of EU Ecolabel	23%	4%	6%	5%	3%	2%	2%	1%
The indication "Carbon neutral washing machine"	18%	2%	3%	4%	4%	2%	2%	1%
None of these are important to me	3%							

Table 24: You have indicated that the following environmental claims are important for you when buying a washing machine. Please rank them in the order of importance for you. 1 means this claim is most important to you. (source: Consumer survey; Base = all respondents)

"The indication of the energy efficiency class" was important to 82% of respondents and the most important claim for 62%.

In the case of **shampoos**, the overall preference of consumers for one specific claim or another is less clear-cut, but **natural (40%)** and **biodegradable (38%) shampoos and shampoos bearing the indication 'environmentally-friendly' (30%)** were favoured over other claims.

Shampoo	Weighted average selected countries	Czech Republic	Denmark	France	Germany	Italy	Poland	UK	The Netherlands	Spain	Norway	Croatia
The indication "natural shampoo"	40%	60%	19%	41%	27%	46%	54%	39%	25%	46%	34%	51%
The indication "bio degradable shampoo"	38%	42%	35%	33%	38%	52%	46%	27%	19%	42%	31%	54%
The indication "environmentally-friendly shampoo"	30%	43%	24%	34%	11%	36%	47%	31%	16%	40%	26%	35%
The presence of the EU Ecolabel	29%	15%	18%	33%	26%	34%	32%	21%	14%	38%	14%	39%
The indication "paraben free"	26%	16%	47%	46%	17%	32%	22%	17%	10%	27%	32%	31%
The indication "low environmental impact shampoo"	25%	27%	22%	20%	25%	35%	17%	26%	9%	34%	19%	36%
The presence of following image	11%	6%	5%	9%	10%	12%	11%	12%	6%	15%	7%	13%
None of these are important to me	18%	12%	24%	15%	24%	6%	9%	27%	49%	8%	24%	9%

Table 25: Please imagine that you are buying a shampoo. Customize the product to your needs by selecting the environmental claims that you would pay attention to when buying, all other things being equal (price, quality, etc.). You can tick multiple aspects. (source: Consumer survey; Base = all respondents)

The ranking of environmental claims by importance when buying shampoo to is shown in Table 26.

Shampoo	Mentioned (regardless the place)	Most important	2nd most important	3rd most important	4th place	5th place	6th place	Least important	Not ranked
The indication "natural shampoo"	40%	25%	9%	4%	2%	1%	0%	0%	60%
The indication "bio degradable shampoo"	38%	12%	12%	8%	3%	1%	0%	0%	62%
The indication "environmentally-friendly shampoo"	30%	9%	10%	7%	3%	1%	0%	0%	70%
The presence of the EU Ecolabel	29%	13%	6%	4%	3%	1%	1%	0%	71%
The indication "paraben free"	26%	12%	7%	3%	2%	1%	1%	0%	74%
The indication "low environmental impact shampoo"	25%	8%	6%	6%	3%	2%	1%	0%	75%
The presence of following image	11%	4%	3%	2%	1%	1%	0%	1%	89%
None of these are important to me	18%								

Table 26: You have indicated that the following environmental claims are important for you when buying shampoo. Please rank them in the order of importance for you. 1 means this claim is most important to you. (source: Consumer survey; Base = all respondents)

The most frequently mentioned claim overall was 'natural shampoo' (40%), though only 24% of consumers ranked this as the most important claim.

The EU Ecolabel on the other hand only ranks fourth place (29%) as a claim that consumers would pay attention to. However, it is second most important overall when consumers are asked to rank claims. This means for those consumers who pay attention to this label, it has a high value compared to others.

Consumers' top three preferred claims for **electricity tariff plans** are: **'renewable energy' (47%)**, **'the only energy sources used are: water, wind, sun and biomass' (39%)** and the indication **'environmental-friendly energy' (38%)**.

Electricity	Weighted average selected countries	Czech Republic	Denmark	France	Germany	Italy	Poland	UK	The Netherlands	Spain	Norway	Croatia
The indication "renewable energy"	47%	43%	10%	50%	39%	60%	59%	43%	7%	55%	51%	68%
The indication "the only energy sources used are: water, wind, sun and biomass"	39%	28%	43%	40%	34%	52%	44%	30%	26%	46%	31%	39%
The indication "environmental-friendly energy"	38%	43%	36%	43%	31%	34%	54%	39%	19%	44%	36%	52%
The indication "sustainable energy"	33%	21%	43%	36%	26%	31%	21%	41%	35%	45%	25%	41%
The indication "green energy"	31%	31%	43%	32%	19%	30%	29%	36%	43%	40%	18%	33%
The indication "eco"	23%	19%	12%	35%	11%	23%	37%	23%	14%	24%	15%	25%
None of the above are important to me	13%	17%	19%	12%	15%	6%	7%	22%	32%	7%	21%	6%

Table 27: Please imagine that you are subscribing to a new electricity tariff plan. Customize the product to your needs by selecting the environmental claims that you would pay attention to when buying, all other things being equal (price, quality, etc.). You can tick multiple aspects. (source: Consumer survey; Base = all respondents)

Consumers' importance ranking of selected environmental claims when subscribing to a new electricity tariff is depicted in Table 28.

Electricity	Mentioned (regardless the place)	Most important	2nd most important	3rd most important	4th place	5th place	6th place	Least important
The indication "renewable energy"	47%	20%	16%	7%	3%	1%	0%	0%
The indication "the only energy sources used are: water, wind, sun and biomass"	39%	22%	8%	5%	2%	1%	1%	0%
The indication "environmental-friendly energy"	38%	13%	11%	8%	4%	2%	1%	0%
The indication "sustainable energy"	33%	10%	9%	7%	4%	2%	1%	0%
The indication "green energy"	31%	8%	9%	7%	4%	2%	1%	0%
The indication "eco"	23%	7%	5%	4%	3%	2%	2%	0%
None of the above are important to me	13%							

Table 28: You have indicated that the following environmental claims are important for you subscribing to a new electricity tariff plan. Please rank them in the order of importance for you. 1 means this claim is most important to you. (source: Consumer survey; Base = all respondents)

When purchasing electricity services, the indication "the only energy sources are water, wind, sun and biomass" is most often ranked as the most important claim (22%), and "renewable energy" mentioned most often overall (47%).

However, despite the above, environmental friendliness is not always a decisive factor for consumers when buying a product/service. The relative importance of this as a factor will depend on the product/service.

In the consumer survey, respondents were asked to imagine they were buying a list of products/services (see Table 29). For each, they were asked to rate, on a scale from 0 to 100, **the importance of the environmental friendliness of the product/service**. Results show that this is most important to consumers for the

following products/services: **washing machines (65), light bulbs (63) and cars (61)**. It is interesting to note that these products all directly affect energy consumption. Detergents, paints, shampoos and toilet paper are products for which "environmental friendliness" is also important to a majority of consumers. On the other hand, a stay in a hotel or an airline trip is less likely to cause consumers to consider environmental impact. The degree of **importance accorded can also be linked to the presence of marketing communications for products/services** in relation to their environmental impact/benefit e.g. light bulbs, cars, cleaning detergents, electricity services, etc.

	Weighted avg selected countries 	Czech Republic 	Denmark 	France 	Germany 	Italy 	Poland 	UK 	The Netherlands 	Spain 	Norway 	Croatia 
A washing machine	65	63	64	64	68	73	62	58	58	67	53	69
A light bulb/lamp	63	59	61	65	60	74	64	57	55	66	51	67
A car	61	56	58	58	60	69	57	56	52	67	52	59
A cleaning detergent	59	60	55	60	60	70	61	49	45	64	50	65
Electricity	58	52	51	53	60	68	57	52	53	62	50	61
Paint	56	51	45	57	61	59	61	45	46	61	52	57
Toilet paper	52	48	44	48	54	60	54	48	38	55	46	62
A bottle of shampoo	51	46	44	49	49	63	54	42	35	56	41	62
A t-shirt	40	37	28	37	45	46	40	33	31	44	31	45
An airline trip	38	32	23	37	41	44	26	39	30	44	32	29
A stay in a hotel	36	28	23	34	37	43	30	33	25	43	30	33

Table 29: Now, please imagine that you are buying the following products. How important is the environmental friendliness of the product/service? Please move the ruler to the right (100) to the extent you pay attention to the environmental friendliness. The outer left (0) meaning that you don't pay attention to the environmental friendliness of the product/service. The outer right meaning that the environmental friendliness of the product/service is the only aspect you pay attention to. (source: Consumer survey; Base = all respondents)

As shown in Figure 18, there is a **link between awareness of claims and the importance consumers attach to environmental friendliness**⁹⁵ when buying a product/service, i.e. a limited awareness of environmental claims correlates with a low importance accorded to environmental claims during the purchase process. The gap in importance accorded to environmental friendliness between consumers with a low versus high awareness of environmental claims is smaller for a stay in a hotel (6 points) than for the purchase of a car or light bulbs (10 points).

⁹⁵ The Y-axis reflects the importance consumers indicate to environmental friendliness in reply on the following question: "How important is the environmental friendliness of the product/service? Please move the ruler to the right (100) to the extent you pay attention to the environmental friendliness. The outer left (0) meaning that you don't pay attention to the environmental friendliness of the product/service. The outer right meaning that the environmental friendliness of the product/service is the only aspect you pay attention to.". Whereas Table 29 depicted the "overall" figure, Figure 18 presents the results split by consumers with a high level of awareness and a low level of awareness.

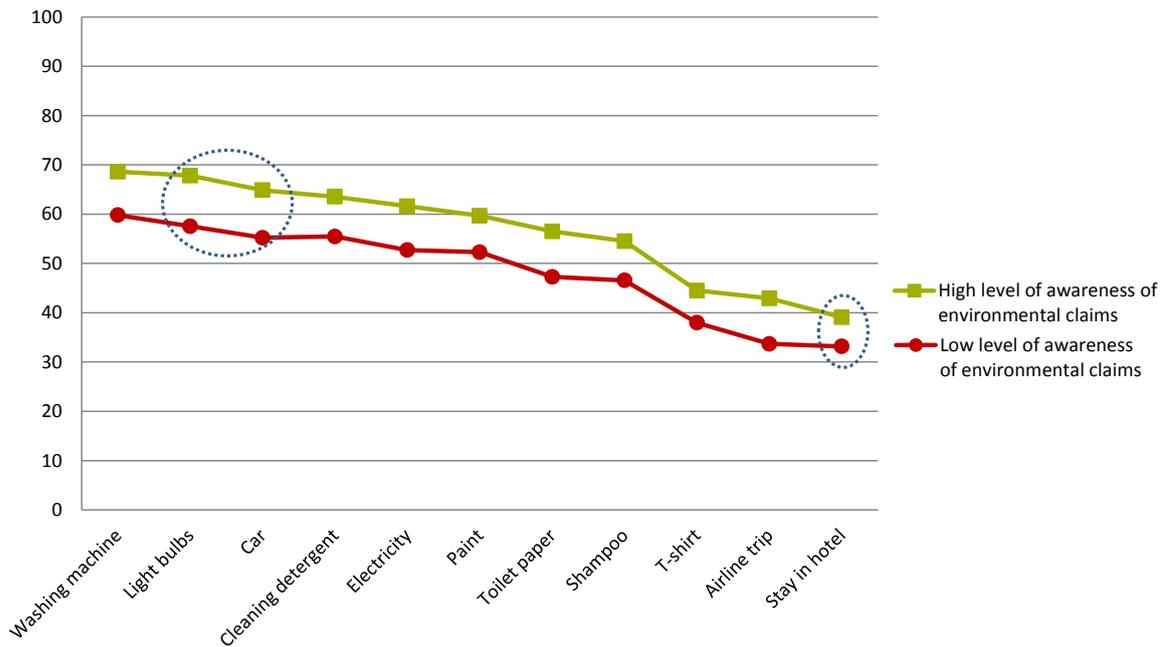


Figure 18: Combination of the awareness of claims and the importance consumers indicate to environmental friendliness when buying a product/service (source: Consumer survey; Base = all respondents)

Although the environmental friendliness of some products is important to consumers, it is interesting to investigate the reasons why they do not (always) purchase environmentally friendly products or services.

More than **30% of consumers** stated that they could not afford **to purchase environmentally friendly products/services**, though the influence of cost varies according to the type of product, as shown in Figure 19 and in Figure 20.

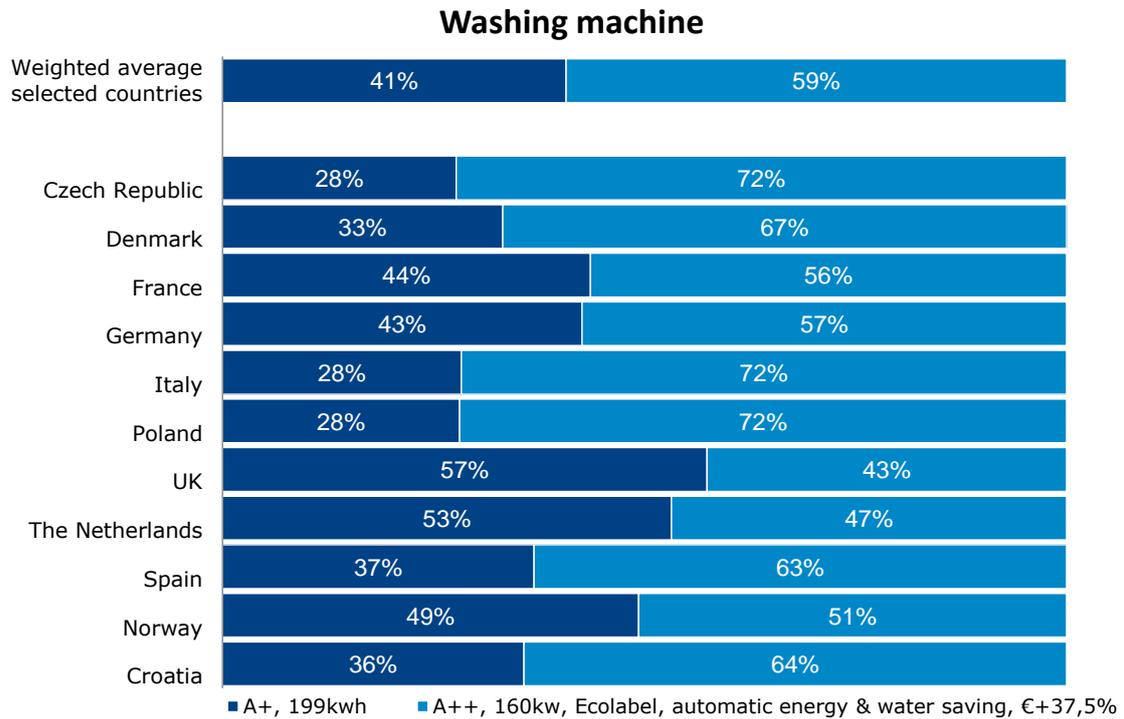


Figure 19: Please imagine that you are buying a washing machine, which one would you buy taking into account the specifications and cost indicated. The cheapest washing machine is sold at a cost of € 799 while the more expensive one costs € 1.099 (source: Consumer survey; Base = all respondents)

When purchasing a **washing machine**, **41% of consumers choose the cheapest option** because they are not convinced that the environmental claims, i.e. Ecolabel and 'automatic energy & water saving', a better energy class (A++ instead of A+) and a lower annual energy consumption (160kwh instead of 199kwh) justify a **price difference of 37.5%**.

Respondents in the UK (57%) and the Netherlands (53%) are the least likely to be prepared to spend more on an environmentally-friendly product: more than half of respondents in these two countries prefer to buy the cheapest washing machine.

Shampoo

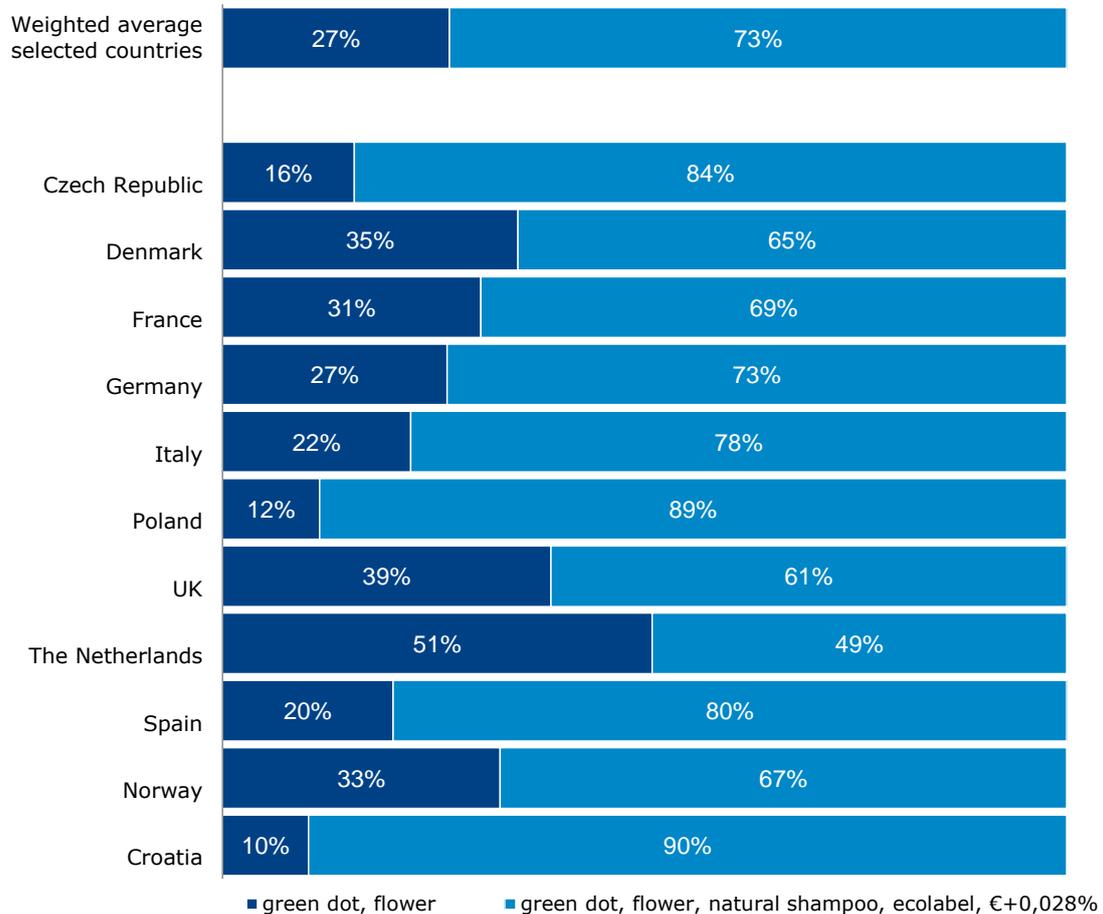


Figure 20: Please imagine that you are buying a shampoo, which one would you buy taking into account the specifications and cost indicated. The cheapest shampoo is sold at a cost of € 5,68 while the more expensive one costs € 5,84 (source: Consumer survey; Base = all respondents)

When buying a **shampoo**, the proportion of consumers who choose the **cheapest option is lower (27%)** than for washing machines. They consider that the indication 'natural shampoo' and the Ecolabel are worth the **2.8% difference in price**. This of course has a much smaller impact on the overall expenditure. Respondents in the UK and the Netherlands are again the least ready to spend more for environmentally-friendly products.

3.7 Summary

To sum up, a large majority of consumers indicate interest in environmental issues and are ready to take them into account in their daily lives as, for example, in the purchase of some products/services. Most are also ready to spend more on green products.

However, a majority of consumers find it **difficult to understand which products are truly environmentally friendly and** the wide range of environmental claims hinder consumers in making good purchase decisions. Not only do consumers find it difficult to make their way through the large number of environmental claims but they also think these claims are often unclear. In addition, it is not easy to assess whether an environmental claim is correct or not.

Consumers' confusion when faced with the array of environmental claims is also noticeable when it comes to assessing their knowledge of environmental claims. Although **awareness varies significantly from claim to claim, some logos/indications are completely unfamiliar** to the majority of consumers. **In addition, most consumers have a low or incorrect understanding of the meaning and characteristics of green claims, even when they are familiar with them.** Their trust in the different claims and the importance they attribute to claims across different products also vary considerably.

These findings suggest that:

- **There are many different claims in use**, which makes it difficult for consumers to know them all and to understand the significance and specific characteristics of each.
- It is important to **develop control mechanisms**, to ensure that claims are genuine environmental guarantees and do not amount to greenwashing. It is likely this would **have a positive impact on consumers' levels of trust**, since most do not systematically check the accuracy of claims. However for proper control, there is a **need for robust methods and product-specific rules to measure and benchmark the environmental performance** of products and services. Relevant work is currently being undertaken as part of the European Commission's initiative "Building the Single Market for Green Products" and its 3 year Product Environmental Footprint (PEF) Pilot Phase launched in 2013.⁹⁶ **Trained inspectors are needed** who clearly understand the requirements that environmental claims must meet – as specified in the UCPD and its Guidance document - in order not to be perceived as misleading.
- **Education and provision of better information** on the meaning of environmental logos/labels is crucial to improve consumer awareness of the impact of purchasing behaviour on the environment but also to increase consumer capacity to:

⁹⁶ COM (2013) 196. See <http://ec.europa.eu/environment/eussd/smgp/index.htm>
The objectives of this PEF pilot phase are:

- to set up and validate the process of the development of product group-specific rules (Product Environmental Footprint Category Rules – PEFCRs) and sector-specific rules (Organisation Environmental Footprint Sector Rules – OEFSRs), including the development of performance benchmarks;
- to test different compliance and verification systems, in order to set up and validate proportionate, effective and efficient compliance and verification systems;
- to test different business-to-business and business-to-consumer communication vehicles for Environmental Footprint information in collaboration with stakeholders.

- 'detect' the environmental claims on product packaging and in advertisements;
- correctly interpret the environmental claims presented;
- assess the full – and thus long term– value of an environmentally friendly product/service, not only in relation to its benefits for the environment, but in relation to the cost savings this product/service allows them to make (energy saving, long lasting, etc.);
- understand the importance of some claims.

4 Guidelines on green claims

4.1 Introduction

The **identification of national guidelines** in the EU Member States, Iceland and Norway was based on desk research through websites of the relevant actors (e.g. ministries of consumer affairs, advertisers' associations, authorities in charge of the control of broadcast/non-broadcast advertising) and direct contacts with the relevant authorities or associations. Two types of guidelines adopted at national level were identified⁹⁷:

- **General guidelines or Codes of conduct**, which are established and developed by national competent authorities or self-regulatory bodies. For traders, they constitute a useful tool for implementing and applying requirements related to environmental claims, as they indicate general conditions for use of green claims, as well as relevant recommendations and examples of best practice. Moreover, they provide consumers with an explanation of environmental claims in order to improve understanding and to support purchasing choices. General Guidelines may cover claims in all forms of communication, advertising and marketing or in specific communication channels, such as broadcast or non-broadcast advertising.
- **Sectorial guidelines or Codes of Conduct**, which are developed by business or sectorial associations in different forms and under different names (such as best practices, codes of conduct, guidance, etc.). These provide traders with essential information on how the commercial and marketing laws and standards apply to environmental claims **specific to the sectors** or products in which they are active.

The results show that **a large number of Member States and the Third Countries subject to this study** (i.e. Norway, Iceland) **have developed general guidelines** (see Appendix 4), except in Austria, Bulgaria, Cyprus, Germany, Greece, Latvia, Lithuania, Slovakia and Malta.⁹⁸ Furthermore, no sectorial guidelines were identified in the following countries: Austria, Bulgaria, Czech Republic, Cyprus, Germany, Greece, Hungary, Ireland, Luxembourg, Latvia, Lithuania, Malta, Slovakia and Spain.

In most of the countries, the following was observed:

- **Advertising associations/agencies both for broadcasting and non-broadcasting advertising are very proactive in the development of recommendations on environmental claims.** In most cases these recommendations are included in one section or chapter of the general Advertising Codes (i.e. Belgium, Estonia, France, Hungary, Iceland, Ireland, Luxembourg, Netherlands, Portugal, Poland, Romania, and the UK).
- **General guidelines** on all types of environmental claims prepared by public authorities were published in Czech Republic, Denmark, Finland, France, Iceland, Norway and the UK. **In most cases these guidelines are elaborated in partnership with the business actors and consumer associations** (e.g. French guidelines⁹⁹).
- **General guidelines** on all types of environmental claims **prepared by private entities** were adopted in Spain (Autocontrol) and Portugal (da Sair da Casca).

⁹⁷Note that this study does not cover EU sectorial guidelines. A list of such guidelines and codes are however included in the overview table in appendix 4.

⁹⁸To note that in Hungary, one guidelines document was identified, the Hungarian Code of Advertising Ethics, which only contains one provision on environmental claims formulated in a rather generic manner.

⁹⁹ The practical guide to environmental claims for traders and consumers prepared by the National Consumer Council.

Although the Spanish Guidelines contain general recommendations, currently only the automotive and energy sectors are committed to this code. The Autocontrol guidelines can be applied to other sectors upon decision by a competent management body.

- **Sectorial guidelines are developed either by trade associations or public authorities** in order to support traders operating in certain industrial sectors. **Several sectorial guidelines cover environmental claims for the marketing of cars** (Finland, Netherlands, Sweden, the UK and Norway)
- **The highest number of guidelines was identified in the UK** where trade associations and national authorities work closely together.

N° of guidelines identified		General guidelines	Sectorial guidelines	Total n° of guidelines
Austria	AT	0	0	0
Belgium	BE	1	1	2
Bulgaria	BG	0	0	0
Croatia	HR	2	0	2
Cyprus	CY	0	0	0
Czech Republic	CZ	1	0	1
Denmark	DK	1	0	1
Estonia	EE	1	0	1
Finland	FI	1	2	3
France	FR	3	1	4
Germany	DE	0	0	0
Greece	EL	1	0	1
Hungary	HU	1	0	1
Iceland	IS	2	0	2
Ireland	IE	1	0	1
Italy	IT	2	0	2
Lithuania	LT	0	0	0
Luxembourg	LU	1	0	1
Latvia	LV	0	0	0
Malta	MT	0	0	0
Netherlands	NL	1	1	2
Norway	NO	2	2	4
Poland	PL	1	0	1
Portugal	PT	2	0	2
Romania	RO	1	0	1
Slovakia	SK	0	0	0
Slovenia	SI	1	0	1
Spain	ES	1	0	1
Sweden	SE	0	1	1
United Kingdom	UK	3	6	9
Total		30	14	44

100

¹⁰⁰ The Croatian guidelines have been identified by the Commission services, not by the contractor as they fell outside the initial scope of the study. Note that Croatia is covered for one part of the study on consumer understanding. In Germany there is no real public enforcement organisation that is responsible for enforcement of the rules. Enforcement has been delegated to a self-regulating organization for the market (Wettbewerbszentrale) or an organization of consumer protection that may persecute offenders (which is largely funded by the public authority) (Verbraucherzentrale). The SRO for the advertising sector is not

The absence of guidelines for certain countries in the above table, however, does not necessarily imply that nothing is being done in that country. For example, **some SROs enforce the ICC Code** (e.g. Sweden only enforces the ICC Code), which includes a chapter on green claims. Furthermore, false green claims fall within the scope of misleading advertising under many general codes that are in place. The above table only refers to **specific nationally developed** general and sectorial **guidelines/codes on environmental claims** (or where there is a chapter dedicated to environmental claims).

The **comparative analysis** conducted provides an overview of **how** the **different** types of guidelines across Member States **interpret and develop the five criteria** identified in the Commission Guidance document on the UCPD (objective misleading, subjective misleading, substantiation/scientific evidence, clarity and accuracy, reference to Annex I prohibited practices in the UCPD). It covers the guidelines identified in the EU Member States plus Norway, Iceland, the USA and the Consolidated International Chamber of Commerce Code of Advertising and Marketing Communication Practice¹⁰¹. It should be noted that the following issues complicated the assessment:

- the criteria mentioned in the Commission Guidance documents were not always explicitly mentioned in the national guidelines; and
- very few identified guidelines refer specifically to the UCPD or the UCPD Guidance document.

There is however no obligation for Member States to adopt guidelines on green claims, or to refer to the UCPD or its guidance when they do adopt guidelines. Note that **even though the guidelines examined are in different languages, target different audiences and sectors and vary largely in terms of length and detail, no major inconsistencies were identified** in the recommendations and principles they include.

The detailed assessment for each of the guidelines in the different countries can be found in appendix 4.

comparable to the other countries and is not involved with environmental claims. Thus, the typical organisations that made almost all the guidelines in the other countries, are not involved in Germany. The rules are based on a flexible self-regulatory approach set forth in case law.

¹⁰¹Available November 2013 at: [http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2011/Advertising-and-Marketing-Communication-Practice-\(Consolidated-ICC-Code\)/](http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/2011/Advertising-and-Marketing-Communication-Practice-(Consolidated-ICC-Code)/)

4.2 Objective misleading practice

Under Article 6(1) of the UCPD

"A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful [...]"

Under the UCPD Guidance:

*"Objective misleading practice: the environmental claim is misleading because it **contains false information** and is therefore untruthful, in relation to one of the items of the list provided for by Article 6(1).*

Example: use of the term "biodegradable" when that is not the case (e.g. on a product for which no tests have been carried out); use of the term "pesticides-free" when the product actually contains some pesticides.

In conjunction with Article 12 of the Directive, this means that any environmental claims must be made on the basis of evidence which can be verified by the competent authorities"

All guidelines require environmental claims to be presented in a truthful manner and to not be based on false information (e.g. the characteristics of products and their environmental benefits). Most clearly state that consumers should not be misled by environmental claims. Furthermore, all claims must be substantiated or backed by scientific evidence.

Guidelines use a variety of approaches to ensure that environmental claims are presented in a truthful manner:

- *Recommendations on the use of specific terms*

Some Guidelines provide recommendations on the **use of specific terms in environmental claims**.

For example according to the **Belgian guidelines**¹⁰²: 'Natural' may only be used for an end product that does not contain any synthetic substance, or it may be used for specific mentioned ingredients and is then limited to these components only, and 'Biological' may only be used for an end product made of or derived from an animal or vegetal organism, or it may be used for specific mentioned ingredients made, or derived from, such an organism and is then limited to these components.

- *Definition of specific type of claims*

Most guidelines provide **definitions of certain environmental benefits or characteristics** that can be used by traders and advertisers in environmental claims in order to avoid confusion.

For example the **Spanish guidelines**¹⁰³ include a definition and description of the characteristics or required conditions of certain terms such as: degradable, recyclable, reusable.

¹⁰²The Environmental Advertising Code used by the Jury for Ethical Practices in advertising. (1997)

¹⁰³Self-Regulation Code on Environmental Claims included in Commercial Communications(*Código de autorregulación sobre argumentos ambientales en comunicaciones comerciales*) (2009)

- **Degradable** is defined as any characteristic of a product or packaging that under certain conditions, decomposes to a certain degree and over a period of time. This argument should not be used in the case of goods, packaging or components that in the decomposition process release substances that are harmful to the environment.
- **Recyclable** is a characteristic of a product, packaging or component that allows avoiding disposal of waste through processes and programmes available to collect, process and reuse it as raw materials or products. When using a symbol to represent the condition of recyclable, this will be the Mobius Loop, with the form of three curved arrows forming a triangle (for graphic features of this symbol, see ISO 7000, symbol No 1135.)
- **Reusable** is the characteristic of a product or packaging conceived and designed to accomplish in their life cycle, a certain number of trips, rotations or uses for the same purpose for which it was designed. Within it, 'refillable' is the characteristic of a product or packaging that allows refilling more than once with the same or similar product, keeping its original shape without additional requirements, except for specific requirements for washing or cleaning. No product or packaging must be described as reusable or refillable unless it can be reused or refilled to its original purpose. These claims should only be used in those cases where the necessary programs, services or products required for reuse or refilling exist.

The **French guidelines** on packaging¹⁰⁴ set some recommendations on how to use the following specific claims:

- **'100% eco-designed'** for packaging must not be used if the list of environmental impacts is not exhaustive.
- **Recyclable:** The concept of a 'percentage' (e.g. 100%) affixed to the notion of 'recyclable' must not be used; a product either is recyclable, or is not.
- **Biodegradable:** traders need to provide information on the conditions under which the products are biodegradable or compostable, after use.

The **US guidelines**¹⁰⁵ set recommendations on how to use the claim '**recycled content**': it is deceptive to represent, directly or by implication, that an item contains recycled content unless it is composed of materials that have been recovered or otherwise diverted from the waste stream, either during the manufacturing process (pre-consumer), or after consumer use (post-consumer). If the source of recycled content includes pre-consumer material, the advertiser should have substantiation that the pre-consumer material would otherwise have entered the waste stream. Recycled content claims may – but do not have to – distinguish between pre-consumer and post-consumer materials. Where a marketer distinguishes between pre-consumer and post-consumer materials, it should have substantiation for any express or implied claim about the proportion of pre-consumer or post-consumer content in an item. If the source of recycled content includes pre-consumer material, the advertiser should have substantiation that the pre-consumer material would otherwise have entered the waste stream.

According to the ICC Code¹⁰⁶, **X-free claim** should be used only when the level of the specified substance does not exceed that of an acknowledged trace contaminant or background level.

¹⁰⁴ Environmental claims on product packaging: French Packaging Council, views and Recommendations (2012)

¹⁰⁵ January 2012 revised guides for the use of environmental marketing claims by the US Federal Trade Commission

¹⁰⁶ The Consolidated ICC Code of Advertising and Marketing Communication Practice

- *Re-assessment of claims*

In order to avoid 'objective misleading' practices, the **Danish guidelines** prescribe that messages must be **re-assessed and updated if necessary in view of technological development, comparable products or other circumstances** that may affect the accuracy of the message. It should however be noted that the Danish guidelines do not provide further information on the re-assessment of claims besides the above.

UK guidelines¹⁰⁷ also refer to re-assessment: "All environmental claims should be reassessed regularly and withdrawn if they are no longer capable of substantiation."

- *Instructions for comparative claims.*

Several guidelines set recommendations on **how to use comparative claims** and require that the environmental benefit of a product must be significant when compared to similar products on the market. **Clear regulation** of comparative claims is **needed** in order **to ensure** that these claims are accurate and are **not unfairly derogatory or harmful towards competitors**.

The **Spanish Guidelines** require comparative environmental claims to be **specific and make clear the basis for comparison**. For example, environmental claims should indicate the time elapsed since the completion of the improvement. Furthermore, comparative arguments must be clear in terms of what the advantage is and whether it is an absolute or relative advantage. According to these Guidelines, the comparative arguments can be based on:

- (i) rates, in which case they should be expressed as absolute differences.
- (ii) absolute values, in which case the advantages must be expressed as relative improvements.

¹⁰⁷ Best Practice Principles for Environmental claims in the automotive sector

4.3 Subjective misleading practice

Under Article 6(1) of the UCPD

"A commercial practice shall be regarded as misleading if [...] in any way, **including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct [...]**"

Under the UCPD guidance:

"Subjective misleading practice: the environmental claim is misleading because it deceives or is likely to deceive the average consumer, even if the information contained therein is factually correct.

This situation relates more to the way environmental claims are presented and put in context and the impression the commercial communication produces for consumers, suggesting an environmental benefit that may turn out to be misleading.

Example: advertisement showing a car in a green forest; use of natural objects (flowers, trees) as symbols; use of vague and general environmental benefits of a product ("environmentally friendly, green, nature's friend, ecological, sustainable"); greening of brand names or of a product's name.

Example: a manufacturer of a washing machine claims that his new model reduces water usage by 75%. This may have been true in certain laboratory conditions but within an average home environment it only reduces water by 25%.

Example: a food product is claimed to be produced in an environmentally friendly manner, based on a label or certification scheme which in fact only ensures that the farmer complies with the environmental baseline under EU law (cross-compliances)"

Through comparative analysis of the guidelines, the following recommendations and general principles to avoid/detect 'subjective misleading' practices were identified, according to the type of claims and the sectors:

- *Proportionality between the claim and environmental benefits*

Most guidelines mention that environmental claims should **not overstate environmental benefits** of products/services. Furthermore, they should not mislead consumers by suggesting more beneficial environmental impacts of the products/services than can be expected when they are **used under normal conditions**. They should accurately present the scale of the environmental benefits.

The **French guidelines**¹⁰⁸ underline that advertising messages should **not unduly suggest a total lack of negative impacts**, that the product is harmless or fully beneficial for the environment. The presentation of actions and products at an experimental stage (prototype, research and development) should clearly be presented as such and not be exaggerated.

¹⁰⁸ The practical guide to environmental claims for traders and consumers prepared by the National Consumer Council

Several guidelines suggest that claims must **specify at which stages of the life cycle of the product** (e.g. production or disposal) **the environmental benefits occur**. The French guide addresses the life cycle aspect by **allowing general environmental claims as long as an analysis of the life cycle of the product is provided with the claim**. This analysis has to prove the positive impact on the environment during the whole life cycle of the product.

- *Vague and general claims*

Most guidelines suggest traders and advertisers should **not use vague and general terms such as 'environmentally friendly', 'eco-friendly', 'friend of the environment', 'harmless', 'natural', 'sustainable'**, as they are potentially misleading for consumers.

The **Spanish Guidelines** recommend **avoiding generic or non-specific claims** about environmental benefits, **such as 'environmentally harmful', 'green', 'ecologic', or 'sustainable'** unless **the trader justifies them with quotations which should be clear, prominent, easy to understand and placed near the claim** so that they are read together.¹⁰⁹

According to the **Norwegian guidelines**¹¹⁰, if **general claims** are used **without further explanation** in the marketing of a product, the **trader must be able to document that the product harms the environment to a significantly lower degree** during its entire life cycle **'from cradle to grave'** than all other products in the same product category.

The **US guidelines** state that claims of unqualified¹¹¹ general environmental benefits are difficult to interpret and likely to convey a too-wide range of meanings. In many cases, such claims convey the idea that the product, package, or service has specific and far-reaching environmental benefits or that the item or service has no negative environmental impact. They recommend, because it is highly unlikely that marketers can substantiate all reasonable interpretations of these claims, that **marketers should not make unqualified general environmental benefit claims**. They should instead use clear and prominent qualifying language that limits the claim to a specific benefit or benefits. The guidelines then provide some examples of unqualified general environmental claims such as **'Eco-friendly', 'Greener than our previous packaging', 'environmentally-friendly improvement - 25% less plastic than our previous packaging'**. Below is the guideline's interpretation of the environmental claim 'Eco-friendly' and some recommendations on how to use it.

The brand name "Eco-friendly" likely conveys that the product has far reaching environmental benefits and may convey that the product has no negative environmental impact. Because it is highly unlikely that the marketer can substantiate these claims, the use of such a brand name is deceptive. A claim, such as "Eco-friendly: made with recycled materials," would not be deceptive if: (1) the statement "made with recycled materials" is clear and prominent; (2) the marketer can substantiate that the entire product or package, excluding minor, incidental components, is made from recycled material; (3) making the product with recycled materials makes the product more environmentally beneficial overall; and (4) the

¹⁰⁹ The Spanish guidelines do not provide further examples besides the above.

¹¹⁰ The Consumer Ombudsman's Guidelines on the Use of Environmental and Ethical Claims in Marketing

¹¹¹ Unqualified means lacking of qualification. It is another way to say vague claims.

advertisement's context does not imply other deceptive claims.

The **ICC Code** recommends that claims such as 'environmentally friendly', 'ecologically safe', 'green,' 'sustainable', 'carbon friendly' or any **other claim implying** that a product or an activity has **no impact – or only a positive impact** – on the environment, **should not be used without qualification**¹¹² unless a very high standard of proof is available. It underlines that qualifications should be clear, prominent and readily understandable; the **qualification should appear in close proximity to the claim** being qualified, to ensure that they are read together.

According to the **French guidelines**¹¹³, **general environmental claims are not prohibited as long as an analysis of the life cycle of the product is provided**. This analysis has to prove the positive impact on the environment during the whole life cycle of the product.

- *Environmental benefits under certain conditions of use*

The **Czech guidelines**¹¹⁴ underline that claims should **indicate** that environmental benefits/qualities of a product **occur only under certain conditions of use**. For example, plastic garbage bags are technically recyclable but under their normal conditions of use they end up in landfills. Therefore, claiming that these bags are recyclable is misleading even though it is technically feasible.

- *The need for a direct link between the environmental benefits of products and the claim*

Several guidelines mention that companies should **not claim environmental actions/benefits in a product when these only apply to** management of **the company** or at the head office **or are not related to the product manufacturing process**.

Furthermore, some guidelines stress that an environmental claim should **not highlight the absence of a component/ingredient/feature or impact that is not applicable or does not concern the product** or the type of activity presented in the advertisement.

For example the **Swedish guidelines on environmental claims for cars**¹¹⁵ recommend that sentences such as 'free from [x]' or 'no emissions of [...]' shall not be used in connection with substances which never appear in vehicles. The **Irish guidelines**¹¹⁶ underline that where a product has never had a demonstrably negative effect on the environment, the marketing communications should not imply that the formulation has been changed to make it safe. The **French guidelines**¹¹⁷ underline that a claim must not suggest that the product has other ecological qualities not

¹¹² The ICC Code defines the term 'qualification' as an explanatory statement that accurately and truthfully describes the limits of the claim.

¹¹³ The practical guide to environmental claims for traders and consumers prepared by the National Consumer Council.

¹¹⁴ Self-declared Environmental Claims or Fair Eco-advertising in Practice," published by CENIA

¹¹⁵ Guidance on the use of environmental claims in the marketing of new cars, trucks and buses

¹¹⁶ Manual of Advertising Self-Regulation with the Code of Standards for Advertising, Promotional and Direct Marketing in Ireland

¹¹⁷ The practical guide to environmental claims for traders and consumers prepared by the National Consumer Council

relevant to the claim. For example, a tap that reduces the rate of water flow may not have any other environmental qualities (e.g. composition or method of manufacture) in comparison to any other conventional taps.

- *Abuse of consumer concern about the environment*

Several guidelines state that environmental claims should **not abuse the consumers' concern for the environment or their lack of knowledge**.

The **Norwegian guidelines**¹¹⁸ do **not** recommend the **use of an emotional appeal** to the conscience of consumers in environmental claims (e.g. 'think about the polar bear').

- *Visual or audio presentation*

Several guidelines point out that **visual or sound/music elements must be used proportionately to the ecological arguments** and evidence that supports them. Without excluding their use, natural elements or elements evoking nature must not mislead about the environmental credentials of the product or the actions of the advertiser. The image or visual support should not suggest that the product or service has more beneficial environmental impacts than it really has.

The **Swedish sectorial guidelines on environmental claims for cars** goes a step further; 'green images' such as those featuring **leaves, trees, or vegetation should not be used unless** there is a **relevant** connection to the claim.

- *Use of vocabulary*

Several guidelines stress that the use of scientific terms should not confuse consumers. **Scientific, technical and legal terminology must only be used if relevant and if easily understandable** for consumers.

For example the **Slovenian guidelines**¹¹⁹ mention that the use of a **specialised language or pseudo-scientific jargon** should be **avoided**. **If** a scientific term is deemed **necessary, its meaning should be made clear and should be explained**. **French guidelines**¹²⁰ stress that terms used in claims should not mislead the public about the nature and characteristics of products or the actions of advertisers. Terms and wording used in a definition set by a norm/legal requirement must be employed in a way that corresponds to this definition. The words, expressions or prefixes used must not unduly reflect a lack of negative impact of the product or the activity of the advertiser.

- *Misuse of labels*

The **Danish guidelines** set recommendations on how to avoid the misuse of labelling schemes, symbols and certificates (see also section 4.5 on Clarity and accuracy of the claims). They state that even though the trader satisfies the criteria for the use of

¹¹⁸ The Consumer Ombudsman's Guidelines on the Use of Environmental and Ethical Claims in Marketing

¹¹⁹ The Slovenian Code of Advertising Practice

¹²⁰ The Sustainable Recommendations prepared by the Regulation Authority of advertising professionals

labels, symbols or certificates, **any use thereof for marketing purposes must be in accordance with the Marketing Practices Act**, which transposes the UCPD. They provide an example of a statement that may not be used: 'Buy XX-labeled bananas and eat bananas with a better conscience.' This claim misuses the label because even though the bananas might respect the environmental criteria for using the label, the claim is misleading. They also stress that the marketing message must not be overstated. This means that the trader must not use marketing statements that exceed what is justified based on the content of the scheme. Moreover, they underline that the use of labelling or certification schemes in marketing must not be misleading by referring to an entire range of products if only one product is covered by the Ecolabel or other scheme. **It must be stated in an unambiguous manner what product(s) of the trader has/have obtained the label. Certification relating to the company or its management must not be used in the marketing of the company's products.** The guidelines also recommend that traders make a clear distinction between products, activities and company when using labelling schemes.

- *Specific claims*

Several guidelines provide some examples or recommendations concerning potential subjective misleading practices - see table below.

Offset claims: Claims on the offsetting capacity of a product must not lead consumers to believe that the entire environmental impact of the product has been offset. This is rarely true because offsetting often covers only one type of impact, such as the greenhouse gas emissions, and can only be partially achieved. Where the advertising uses such mechanisms it must provide clear and 'fair' explanations. The benefits of the mechanisms that compensate indirectly for a negative impact of a product or an activity should not be attributed directly to the product or activity¹²¹.

Claims on the use of regulatory requirements: Claims referring to characteristics that are already legally binding regulatory requirements may mislead consumers into thinking that a product has attributes that are specific to that product and different from those of similar products. An advertiser cannot claim actions that are legally binding. E.g. the use of the expression 'eco-design' is banned when the action carried out merely complies with the legislation requirements¹²². The use of 'CFC free' on aerosol¹²³ or 'lead-free'¹²⁴ in decorative coatings should be avoided as they imply that the product is exceptional whereas this is a regulatory requirement.

'Free from X' claims: 'Free from X' claims cannot refer to a substance that is no longer used or has never been used in the relevant product¹²⁵. The Spanish Guidelines recommend that environmental claims of a product that does not contain an ingredient or component (for example, the product is 'free of X' or 'without X'), can only be used if the level of the substance does not exceed its limit of detection.

Common components: Generic features or ingredients, which are common to all or most products in the category concerned, should not be presented as if they were a unique or remarkable characteristic of the product being promoted¹²⁶

¹²¹ The French practical guide to environmental claims for traders and consumers

¹²² Environmental claims on product packaging: French Packaging Council, views and Recommendations.

¹²³ UK Guidance on 'CFC Free' and other environmental claims and statements on Aerosols

¹²⁴ Guidance on environmental claims on "no added lead" and other environmental claims and statements in the decorative coatings sector

¹²⁵ The practical guide to environmental claims for traders and consumers

¹²⁶ ICC Code

Use of renewable energy/produced with renewable energy: it would be deceptive to make an unqualified “made with renewable energy” claim unless all, or virtually all, of the significant manufacturing processes involved in making the product or package are powered with renewable energy or non-renewable energy matched by renewable energy certificates. When this is not the case, marketers should clearly and prominently specify the percentage of renewable energy that powered the significant manufacturing processes involved in making the product or package¹²⁷.

- *Assessment against the overall impression*

Several guidelines stress that environmental claims must be assessed against the overall impression they are likely to convey to consumers. The overall impression is the relevant criterion for assessment.

On implicit claims the **Swedish guidelines** recommend that ‘green’ imagery, featuring leaves, trees, or vegetation, should **not be used unless** there is a **relevant connection**.

4.4 Substantiation/Scientific evidence

Submission of evidence under Article 12 of the UCPD

"Member States shall confer upon the courts or administrative authorities powers enabling them in the civil or administrative proceedings provided for in Article 11: (a) to require the trader to furnish evidence as to the accuracy of factual claims in relation to a commercial practice if, taking into account the legitimate interest of the trader and any other party to the proceedings, such a requirement appears appropriate on the basis of the circumstances of the particular case; and (b) to consider factual claims as inaccurate if the evidence demanded in accordance with (a) is not furnished or is deemed insufficient by the court or administrative authority."

Substantiation/scientific evidence under the UCPD guidance

"Traders must have scientific evidence to support their claims and be ready to provide it in an understandable way in the case that the claim is challenged"

All guidelines identified mention that environmental claims **must be supported by relevant evidence using recognised methods**, but the exact information that should be provided as substantiation remains vague¹²⁸. Furthermore Member States can go further than the EU-level requirements, which prevents a harmonised interpretation of these criteria.

- For example, the **Estonian Guidelines**¹²⁹ require that technical demonstrations or scientific inventions be used in advertisements to **showcase environmental effects, only if they are based on thorough scientific work**. Environmental expressions or scientific terminology may be only used **if it is of significant importance and easily understandable** to the consumer.

¹²⁷ Revised guides for the use of environmental marketing claims by the US Federal Trade Commission

¹²⁸ One of the stakeholders indicated that there are however separate, not published documents, available (e.g. ASA in UK), that allow enforcers to check the substantiation received against a list of requirements.

¹²⁹ Self-regulation of the Estonian Association of Advertising Agencies on Environmental Advertising

- The **Spanish guidelines** require environmental claims to be based on evidence that would be generally accepted, objective, sufficient and verifiable.
- The **Czech guidelines** provide that claims must be justified.
- **Peer review of studies** is not mentioned in the guidelines as a requirement of scientific evidence except to some extent in the Danish guidelines, which require studies conducted by manufacturers to be assessed by an independent body.

Operators should be able to provide evidence upon request. Data should be easily available and accessible to consumers and public authorities. Not all guidelines assessed clearly mention the extent to which consumers should have access to substantiation information.

- The **UK general guidelines** recommend that the **information** needed to substantiate a claim should be retained by the person making the claim, be transparent about the assumptions and approach taken, and **be made available to those seeking reasonable justification of it**. These guidelines add that, if information to substantiate a claim includes confidential business information, the company should consider whether:
 - there would be adequate evidence to verify the claim if that confidential information was excluded or made anonymous; or
 - they would be willing to supply that confidential information to regulatory or enforcement bodies in confidence.

They stress that if a company is not able to verify a claim without excluding the confidential information or disclosing the information following a reasonable request, it may need to consider whether it should be making the claim at all. Finally they suggest that as a minimum, the company should be prepared to provide all information to substantiate a claim¹³⁰.

- The **Danish guidelines** mention the following: "However, **traders are not obliged to present confidential business information**, i.e., information on technical devices, methods or on operating or business matters, including know-how and patent rights. If the verification of an environmental or ethical claim requires access to confidential business information, the trader is recommended to seek advice from an independent expert prior to publication of the marketing and to give such expert access to relevant information to the extent necessary to enable **the independent expert to warrant the documentation of the claim made**. Any use of such advisory services should be mentioned in the explanation to the public. If it is not possible to publish the explanatory statement and any documentation of the properties or benefits marketed on the packaging, in the advertisement, etc., it must be stated where further information may be obtained, e.g. on the trader's website or in brochures." This implies that in Denmark authorities receive full access and consumers and competitors receive a decent explanation without revealing business secrets.
- **Article 4(2)** of the "**Directive 2003/4/EC on public access to environmental information**"¹³¹ includes exceptions to disclosure of information. It for example refers to:
 - the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest; and

¹³⁰ DEFRA Green claims guidance

¹³¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:041:0026:0032:EN:PDF>

- the refusal to disclose information due to the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public.
- According to the **Czech guidelines**, traders should **keep** the relevant **documentation for as long as the product is sold** while pursuant to the **Danish guidelines** data must be **kept for at least two years after the publication of the claim**.
- The **Italian guidelines**¹³² recommend that the information regarding the process, methodology and criteria to substantiate the claims should be **available and provided upon request**.
- One of the **Portuguese guidelines**¹³³ recommends that scientific data should be **readily available before the claim is made**.
- The **US guidelines** mention that **third-party certification does not remove the trader's obligation to ensure substantiation** for all claims reasonably communicated by the certification.

In some cases, **claims must be substantiated by scientific studies**¹³⁴ **or must receive adequate approval from an independent body**:

- The **Slovenian guidelines** recommend that advertisements should **clearly indicate where scientific opinions differ** considerably or evidence is not conclusive. It adds that advertisers should not present their claims as scientifically endorsed when that is not the case.
- According to the **Danish guidelines**, the documentation must be adequate, which normally implies that **if there is significant disagreement in different scientific studies, the trader must reflect information about this** lack of agreement in a balanced manner or refrain from marketing the message altogether. These guidelines stress that if a scientific study to support the claim was carried out by the manufacturer or the trader marketing the product, such a study must be assessed by an independent body verifying that the study has been carried out correctly and that the assessment of the results is professionally sound.
- One of the **French guidelines**¹³⁵ states that advertising cannot be supported by scientific conclusions that do not **conform to recognised scientific studies**. It further stresses that all advertising supported by scientific evidence must **indicate the source**¹³⁶ of the scientific study.
- According to the **UK general guidelines**¹³⁷, claims must be substantiated by robust and/or scientifically accepted evidence. They define specifically how to substantiate environmental performance (e.g. evidence and assessments forming the basis of the claim are objective and of a kind that can be fully traced and referenced) and targets or aspirations about environmental performance in the future (e.g. claims should be supported by publicly available plans or a strategy that provides details about the intended actions to achieve the target). The guidelines stress that substantiation by robust and/or scientifically accepted evidence **does not mean that claims have to be independently verified** but that relevant information should be available when requested (e.g. test results of biodegradability).

¹³² Regulation for the granting of IMQ-ECO label

¹³³ ICAP's Code of Conduct

¹³⁴ In the guidelines assessed, no further specification was provided about what defines a scientific study.

¹³⁵ The Sustainable Recommendations prepared by the Regulation Authority of advertising professionals

¹³⁶ The French guidelines don't specify which information needs to be provided as source information. Most probably it implies reference to research institute, author, date of publication, etc. though this is not explicitly mentioned and thus can be interpreted differently.

¹³⁷ DEFRA Green claims guidance

Specifically on the **substantiation of labels**, some guidelines require **demonstration of compliance with the labelling scheme environmental criteria**.

- The **Danish guidelines** require traders to provide documented evidence that the criteria for the use of both public and private labelling schemes are satisfied.

Examples of substantiation required in guidelines are:

Origin of the resources (French guidelines¹³⁸)

Percentage of renewable material should be justified by mentioning the method of measurement used. The method of calculation should be readily available to all consumers¹³⁹. The percentage should be significant, i.e. higher than the uncertainties usually encountered for the given data.

Environmentally friendly (Icelandic guidelines¹⁴⁰)

According to the Icelandic guidelines, when **general claims** such 'environmentally friendly' are used, a **detailed report on the environmental impact of the production, use, and the disposal of the product must be available**.

Claims on percentage of materials in substances (UK guidelines on growing media¹⁴¹)

Guidelines for growing media require producers to provide **evidence that the claim does not indicate an excessive number to the stated percentage**. These guidelines mention that the documentation related to the claim should be kept at least as long as the product is on the market, taking into account expected shelf-life.

Comparative claims (UK guidelines on growing media)

UK guidelines on growing media recommend that comparative claims should be based on accurate calculations and that adequate information on the content of the previous version should be kept in order to demonstrate that the stated reduction/improvement has occurred.

Degradable claims (US guidelines)

A trader making an unqualified degradable claim should have competent and reliable scientific evidence that the entire item will completely break down and return to nature (i.e., decompose into elements found in nature) within a reasonably short period of time after customary disposal.

'Non-toxic' claims (US guidelines)

'Non-toxic' claims aim at conveying that a product, package, or service is non-toxic both for humans and for the environment generally. Therefore, marketers should have reliable scientific evidence of their 'non-toxicity' for humans and for the environment or should clearly qualify their claims to avoid deception.

¹³⁸ Environmental claims on product packaging - French packaging council

¹³⁹ The French guideline does not provide further detail on what is meant by readily available to all consumers and in which way it handles transparency/privacy versus business secrets.

¹⁴⁰ Guidelines on Advertising and Environmental Protection

¹⁴¹ Guidance on environmental claims on growing media, Growing Media Association, DTI and DEFRA

4.5 Clarity and accuracy of the claims

UCPD guidance on clarity and accuracy of the claim:

Clarity and accuracy of the claims are important criteria for the assessment by national enforcers. In particular, it should be mentioned in a way to be clear for the average consumer:

- whether the claim covers the whole product or only one of its components (e.g.: recyclable packaging where the content is not recyclable or a part of the packaging if the packaging is only partially recyclable);
- whether the claim refers to a company (applying to all its products) or only to certain products;

if the claim does not cover the product's entire life cycle, it should be mentioned which stage of the lifecycle or the product characteristics the claim exactly covers;

All guidelines identified mention that claims should be **clear and accurate**. This is a condition to avoid misleading consumers, as set out in the previous sections (objective and subjective misleading practices). According to the assessment of all guidelines identified in this study claims should:

- **Be clear on the aspect or features** of the product or service to which the claim applies.
- **Not use vague or general terms** such as 'environment friendly' or 'good for the environment' **unless further qualification/explanation**¹⁴² is given.
- **Refer to the context** to which the claim applies or clearly present this context.

Several guidelines set out rules on how **specific claims** should be worded or presented to be clear and accurate:

- Claims must specify the **renewable materials** used for packaging (*French guidelines on packaging*):
 - the component of packaging that uses of a renewable resource;
 - the nature of the renewable material; and
 - the percentage of renewable material.
- **Recycled content** (*French guidelines on packaging*): 'recycled content' being different from 'recyclable', both terms should be used appropriately in order to avoid misleading the consumers;
- **Degradability** (*French guidelines on packaging*): the claim 'degradable' cannot be used alone, without precision, as it is too vague.
- **Biodegradability** (*UK guidelines*): this claim should specify whether this applies to the components of the product or to the packaging.
- **Labels/logos**: the Danish guidelines stress that information about the meaning of claims must be provided on the packaging and where possible it should be indicated where additional information on the labelling scheme or symbol might be obtained (e.g. trader's website). The Danish guidelines also mention that traders must bear in mind that the use of many different private labelling schemes, symbols and certificates makes it difficult for consumers to understand their meaning. This applies as well to official labelling schemes or certifications. The US guidelines take the same approach, underlining that marketers should use clear and prominent qualifying language that clearly conveys that the certification or seal refers only to specific and limited benefits

¹⁴² See also the USA guidelines in this regards

4.6 Reference to Annex I of prohibited practices in UCPD

Provisions of Annex I to the UCPD that could be relevant in the context of environmental claims:

1. Claiming to be a signatory of a code of conduct when the trader is not.
2. Displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation.
3. Claiming that a code of conduct has an endorsement from a public or other body which it does not have.
4. Claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation.

Several guidelines refer to the above-mentioned prohibited practices.

Belgium

The Environmental Advertising Code contains a general statement that **signs or symbols may not falsely induce a belief of official approval.**

Czech Republic

The guidelines state that declarations on approval, certification or permission for use of labels when this is not the case, or where the product does not conform to the conditions of such approval, certification or permission, may be in **breach of the Czech Consumer Protection Act.**

Denmark

The Danish guidelines specify that a trader may collaborate with particular NGOs, trade associations, etc. for the purpose of having specific products recommended or approved by that organisation or association which would give the product a stamp of approval. It stresses that **if** the organisation or association receives **payment** or other compensation for the collaboration, **this must be stated** and the **requirements of the Marketing Practices Act** and of this Guidance must be satisfied, including the documentation requirements.

Estonia

The Estonian guidelines provide that signs and symbols may be used in advertising only if a **clear reference is made to their origin** and no confusion exists as to their meaning. They add that such **signs or symbols may not create a false impression of official authorisation.**

France

The practical guide to environmental claims for traders and consumers refers to a list of **22 unfair practices** in the Code of Consumers (Article L-121-1-1) that transposes the relevant Annex I prohibited practice of UCPD. These include:

- Signs or symbols may be used if their origin is clearly indicated and if there is no confusion as to their meaning.
- Signs should not be used to suggest official endorsement or a certification by a third party where it is unfounded.
- A label created without a certification system or control from an independent organism is prohibited.

- Logos, pictograms and private self-reported signs, even if they are registered trademarks, should avoid any resemblance to certified independent third-party signs.
- The logos, pictograms, and private self-reported signs must not cause confusion among consumers regarding the environmental virtues of the packaging simply because they are displayed near the logos of institutional entities acting for sustainable development.

Ireland

The Irish guidelines state that symbols may imply environmental claims in themselves. They should be simple and used in such a way that they do **not convey false impressions about the characteristics** of goods or services.

Netherlands

The guidelines¹⁴³ refer to the unauthorised use of logos and symbols. According to the guideline the use of labels, symbols and logos is prohibited except where the origin is clear and there is no confusion about its significance. In practice this means that it is recommended that the advertiser **mentions its origin and explains its significance** in the advertisement.

Poland

The Code states that environmental signs or symbols should only be used in an advertisement if it is **clearly indicated what they stand for**. It mentions that such signs and symbols **should not falsely suggest that their use reflects a decision of a government administration authority, local government authority, or other institution**.

Portugal

The two guidelines identified expressly **prevent** the use of symbols and signs **to falsely claim the approval or endorsement of a product by a public authority or by a third party**. However, the guidelines do not refer to unauthorised use of logos, the false claim of adherence to a code of conduct or a false claim that a code of conduct has been endorsed by a public or private body, as required by the Annex I of UCPD.

Spain

According to the Spanish guidelines, the signs and symbols used in commercial communications should not be misleading as to their source, meaning, or characteristics of the goods or services they accompany. They must be easy to distinguish from other signs and symbols, and should not falsely suggest the existence of official approval or third party certification. The guideline specifies that when a symbol appears on a product because the manufacturer has **sponsored or contributed financially** to the organisation whose symbol is shown, that fact **must be made clear and in particular, it should not imply that the use of the symbol represents an endorsement by the sponsoring entity**.

Norway

According to the Norwegian guidelines, labelling systems in marketing may not lead to misleading 'greenwashing' of a brand label or product series. The **criteria for use** of labelling systems or symbols must be such that they **can be checked and controlled**. **Use of private labelling systems in marketing is discouraged**.

¹⁴³ The Environmental Advertising Code used by Advertising Code Commission

The UK

The guidelines in general **suggest using an existing labelling or product declaration scheme** (e.g. EU Eco-label,) to avoid confusion or falsely suggested endorsement. They otherwise recommend that the labels or symbols are clear and relevant. The general guidelines¹⁴⁴ underline that a logo or symbol should not be created or presented in a manner that may imply it has been endorsed by another organisation when it has not; organisations must not use the names or logos of a government agency or other recognised organisation if a product or service has not met the relevant standards, criteria or received appropriate certification in compliance with legal requirements.

The US

According to the US guidelines, a marketer's **use of** the name, **logo**, or seal of approval of a third-party certifier or organisation may be an endorsement, which **should meet the criteria for endorsements** provided in the FTC's Endorsement Guides, 16 C.F.R. Part 255, including Definitions (§ 255.0), General Considerations (§ 255.1), Expert Endorsements (§ 255.3), Endorsements by Organisations (§ 255.4), and Disclosure of Material Connections (§ 255.5).

ICC Code

The Code provides that environmental signs or symbols should be used in marketing communication only when the **source of those signs or symbols is clearly indicated** and there is no likelihood of confusion over their meaning. Such signs and symbols should not be used in such a way as to falsely suggest official approval or third-party certification

None of the guidelines in Finland or in Iceland, Italy, Luxembourg, Romania, Slovenia or Sweden explicitly refer to Annex I of the UCPD, nor do they list all of the **prohibited practices** thereunder.

- However, guidelines in Iceland refer to the Nordic Swan label in general and to how a producer can apply for permission to use it, as well as identifying the competent authority when it comes to the Swan label and other eco-labels.
- In Romania, the Guidelines specifically prohibit use of signs and symbols in order to suggest an official approval if such approval is not granted.

4.7 Summary

The results show that **a large number of the countries examined (EU and non-EU countries) have developed guidelines either for enforcers, traders, advertisers or consumers** that recommend how to avoid and detect misleading environmental claims.

The following general conclusions can be drawn from the analysis undertaken:

- Even though the examined guidelines are set in different languages, target different audiences and sectors and vary largely in terms of length and detail, **no major inconsistencies were identified** across the recommendations and principles they set.
All **guidelines require that environmental claims are presented in a truthful manner** and are not based on false information (e.g. the characteristics of products and their environmental benefits). The claims must be **clear** and **accurate**.

¹⁴⁴ DEFRA Green Claims Guidance

- **Most guidelines suggest that vague and general claims of the type “green” “eco-friendly” and similar, should be avoided** unless they are clarified with a clear, prominent and readily understandable qualification, that is sufficiently specific regarding the claimed environmental benefit; furthermore a product or service that is referred to with such a claim should be demonstrated to be environmentally-friendly throughout its entire life cycle.
- Most guidelines set recommendations on the **use of specific terms**, in order to prevent inaccuracy in the meaning of the claim.
 - Typical terms that are defined, or that are subject to certain conditions, are: “degradable”, “recyclable”, “reusable”, “bio”, “non-toxic”.
 - Some guidelines set requirements for the use of certain terms referring to the absence or minimised presence of harmful characteristics, such as “x-free”, “free of x”, “zero x”.
- Several guidelines clarify that there must be a **direct and accurate link between the environmental benefits of the relevant product and the related claim**:
 - the claim should refer clearly to the aspect, feature or life cycle of the product or service to which the claim applies (e.g. a claim relating to biodegradability should specify whether this applies to the components of the product or to the packaging) and it must refer to a correct quantification (e.g. x% of the product is made from recycled material);
 - no confusion should be created between general ‘corporate attitude claims’ and the relevant product that is presented with the claim;
 - third party labels are only applied in connection with the specific products covered by the label;
 - no specific environmental benefit is emphasised where a product presents unacceptable harmful characteristics;
 - the environmental benefit of a product should not be overstated;
 - when the environmental benefit of a product is subject to certain conditions that must be fulfilled, such conditions must be clearly disclosed;
 - the claimed benefit is relevant and significant in view of the applicable legislation (e.g. that the absence of certain characteristics prohibited by law is not emphasised as a benefit of the particular product);
 - the claimed benefit is significant when compared to similar products on the market or older versions of the product;
 - the context and the life cycle of the product is taken into consideration.
 - the claim must be actual and relevant: e.g. the Danish and UK guidelines recommend a periodic re-assessment of the environmental claims in view of technological development, the legal framework, comparable products or other circumstances that may affect the accuracy of the message, in order to ensure that the claim is (still) truthful.
- All identified guidelines require that environmental claims **must be substantiated** by relevant evidence or (scientifically) recognised methods (e.g. calculation methods and test methods). In certain cases, the claims must be supported by recognised scientific studies or by a confirming statement from an independent authority. However, **most guidelines do not contain very specific requirements, or harmonised requirements**, regarding the substantiating documentation that would be needed. **Peer review of studies** is not mentioned in the guidelines as a requirement of scientific evidence except to some extent in the Danish guidelines, which require that studies prepared by manufacturers must be assessed by an independent body

- Specific guidelines are concerned with possible **subjective misleading practices**:
 - Certain **visual or audio presentations** must not mislead consumers as referring to environmental benefits (e.g. green images in a certain context featuring leaves, trees, or vegetation should not be used unless there is a relevant connection to an environmental claim or benefit);
 - Environmental claims should **not abuse consumers' emotional concern** about the environment (e.g. "think about the polar bear").

5 Assessment of claims against Unfair Commercial Practices Directive and the voluntary food labelling guidelines

5.1 Introduction

This chapter provides an overview of the analysis of a selected number of claims against the UCPD¹⁴⁵ and its 2009 Guidance document¹⁴⁶. In addition, a selection of logos is assessed against the Commission guidelines for voluntary food labelling schemes¹⁴⁷. Although the guidelines of the voluntary food labelling scheme are not specifically designed for non-food schemes, most recommendations could be applied to non-food labelling.

The objective of this chapter is to identify the gap between current practice in the use of green claims and the legislative framework that protects consumers from misleading practices.

The selection of environmental claims consisted of a random selection of textual claims and logos for each of the 30 categories studied, aiming for a spread by geographical region. The selection was taken from the inventory of claims established for this study (gathered via the various sources/methodologies: desk research, Ebiquity database scan, mystery shopping and stakeholder consultation).

This assessment is based on an **assessment of the 53 selected claims against the principles of the Unfair Commercial Practices Directive and its 2009 Guidance document** without the involvement of competent enforcement authorities and courts in the Member States; and without prejudice to any decisions taken by those authorities and courts. **9 logos were assessed against the voluntary food labelling guidelines.** Some claims were assessed against both.

The analysis has been carried out in particular through desk and website research and, when no information could be found, by directly contacting manufacturers, traders, scheme managers or relevant organisations¹⁴⁸. Questions were related to the environmental performance of the product and the information available to substantiate the claim. The aim of the analysis was not to compare types of products, nor to identify proportions of non-compliant claims (as the sample size is far too small to draw such conclusions by product type). Nor was the analysis intended to point to individual companies or organisations. The aim was to provide an **overview of some trends in the compliance of environmental claims in non-food products and to draw conclusions and lessons that might inform future policy actions**, in particular future EU guidance. The full analysis is available in Appendix 5. Names of companies or organisations have been deleted or anonymised in order to respect business/organisations' interests.

¹⁴⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:EN:PDF>

¹⁴⁶ Commission Staff Working Document guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices, Brussels, 3 December 2009 SEC(2009) 1666

¹⁴⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0005:0011:en:PDF>

¹⁴⁸ Out of the 30 request for additional information, only 2 responses were received which only repeated the information that was on the website. In 2 other cases the producer could be reached by phone and provided further information/evidence.

5.2 Assessment against the UCPD

Directive 2005/29/EC on unfair commercial practices (the UCPD)¹⁴⁹ is the main general body of EU legislation regulating misleading advertising and other unfair practices harming consumers' economic interests. It applies to all business-to-consumer commercial practices including those involving environmental claims.

Under its Article 5, commercial practices that are contrary to the requirements of professional diligence and are likely to materially distort the economic behaviour of the average consumer with regard to the product are unfair. The Directive prohibits unfair practices. The Directive defines two main categories of unfair practices, those that are misleading (either by action or omission) and those that are aggressive.

According to Article 6 on misleading actions, a commercial practice will be regarded as misleading if:

- it contains false information and is therefore untruthful or deceives, in any way, including overall presentation, or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more elements such as the existence or nature of the product and the main characteristics of the product (e.g. its benefits, risks, composition, fitness for purpose, geographical origin, the results to be expected from its use, the results and material features of tests or checks carried out on the product); and
- in either case causes or is likely to cause the average consumer to take a transactional decision that she/he would not have taken otherwise.

Annex I to the Directive contains a list of 31 practices that shall in all circumstances be regarded as unfair. Several of its provisions may be particularly relevant in relation to environmental claims:

- displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation (No 2);
- claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation (No 4);
- claiming to be a signatory of a code of conduct when the trader is not (No 1);
- claiming that a code of conduct has an endorsement from a public or other body which it does not (No 3).

The Guidance document on the implementation and application of the UCPD¹⁵⁰ (the UCPD Guidance document) adopted in 2009 provides clarification on the application of the Directive to environmental claims.

The application of the provisions of the UCPD to environmental claims is summarised by the 2009 Guidance document **in two main principles:**

- (a) based on the Directive's general clause, traders must, above all, present their green claims in a specific, accurate and unambiguous manner;
- (b) traders must have scientific evidence to support their claims and be ready to provide it in an understandable way if the claim is challenged.

Five criteria derived from the UCPD and its Guidance document, have been used to assess a selection of environmental claims. These criteria are the following:

¹⁴⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:EN:PDF>

¹⁵⁰ Commission Staff Working Document guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices, Brussels, 3 December 2009 SEC(2009) 1666

▪ **Objective misleading practice**

The environmental claim is misleading because it contains false information and is therefore untruthful.

▪ **Subjective misleading practice**

The environmental claim is misleading because it deceives or is likely to deceive the average consumer, even if the information contained therein is factually correct.

▪ **Scientific evidence to be verified by competent authorities**

Any environmental claims must be made on the basis of evidence that can be verified by the competent authorities. Under Article 12 of UCPD traders should be able to provide evidence of the accuracy of factual claims in relation to a commercial practice.

▪ **Clarity and accuracy of the claims**

The environmental claim should be mentioned in a way to be clear for the average consumer

▪ **Reference to relevant Annex I prohibited practices in UCPD**, namely:

- displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation (No 2);
- claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation (No 4);
- claiming to be a signatory of a code of conduct when the trader is not (No 1);
- claiming that a code of conduct has an endorsement from a public or other body which it does not have (No 3).

5.3 Findings of the assessment against the UCPD

A summary of the key findings is presented below.

In general, **few claims would be considered to be completely in line with the 5 specified criteria set out above**. Many use vague terms or could be considered as subjectively misleading. Some claims were identified as objective misleading practices, using incorrect information or not able to provide substantiation for the claims made (based on the information provided or available on the website). Substantiation of claims was identified as an area that needs clarification in terms of the amount and type of information made public and the amount and type of information that should be available to enforcement authorities on request. Lack of accuracy and clarity is a recurrent problem in commercial communications.

Complaints related to misleading environmental claims are particularly common for products related to the automobile and energy sectors (see chapter 6 Enforcement). Products such as appliances, cleaning products, cosmetics (including shampoos), building products, paper, textiles and even services are less subject to complaints. This assessment however also found that environmental claims for these product groups do not always fully comply with the UCPD Guidance document.

5.3.1 Objective misleading practice

Most traders are careful to ensure that the information provided about the product in the claim is correct. However some cases of (possibly) objective misleading claims were found.

Example:

- The claim '**Energy saver**' used in washing machines was considered as objectively misleading as, according to the product fiche, the product is rated as A+ when there are higher level of efficient products of the same type in the market reaching up to A+++ , within the new Regulation. Therefore the "Energy Saver" logo could be interpreted as misleading because it is not the most energy efficient of all the products in the market.

5.3.2 Subjective misleading practice

Several claims for which problems were identified could conceivably be considered as subjectively misleading.

Examples:

- A claim **Liquid Mercury Free** on light bulbs and lamps was interpreted as subjectively misleading for the following reasons: while the text of the claim contains correct information about the environmental performance of the product (i.e. the product is liquid mercury free) the logo used could generate the impression that it is a label backed by a certification scheme. Since the logo does not correspond to any labelling scheme and there are not specific environmental standards and procedures to control the logo's use, the claim could be considered as subjectively misleading.
- The word "organic, biological, ecological" and related abbreviations/derivatives such as "**bio**" and "**eco**" are often used for non-food products such as cosmetics, cleaning products or textiles. These terms are protected in EU legislation for food products, which means they can only be used when complying with the organic farming regulation¹⁵¹. No such rules in EU legislation are currently applicable to non-food products. However, the rules applicable to food products may have generated consumer expectations that all "bio" products are organically farmed and certified according to a recognised standard. Consumers are unlikely to know that the protection of the terms in Article 23 of the Organic Farming Regulation only refers to food products. The use of the protected term in the labelling of non-food items is therefore creating consumer confusion¹⁵².

¹⁵¹ Regulation (EC) n°834/2007, Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91, OJ L 189. 20.7.2007

¹⁵² The report "Evaluation of the EU legislation on organic farming" also examined whether there is a case for the inclusion of additional products under the scope of the Regulation, such as non-food products partly made from agricultural raw materials (e.g. textiles, cosmetics) or products closely related to agriculture (e.g. beeswax, maté, essential oils). The report concluded that the scope of the Regulation is mostly adequate to match the current needs of organic farming supply and distribution chains, but is not fully adequate to meet the needs of consumers of organic products. Private standards and international initiatives exist which are developing harmonised and accepted minimum criteria for the regulation of such products. For example, in the case of cosmetics an ISO working group exists which is aimed at defining valid organic claims for these sectors. http://ec.europa.eu/agriculture/evaluation/market-and-income-reports/2013/organic-farming/chap6_en.pdf - http://ec.europa.eu/agriculture/evaluation/market-and-income-reports/organic-farming-2013_en.htm

- The claim "**Green energy**" could conceivably be considered as subjectively misleading. Although the company provides information on the environmental performance of its energy services, the consumer could be misled to believe that all services provided by the company are 'green' and environmentally safe, whereas 30% of energy supplied by the service provider comes from 'unknown origin' including 48% of fossil fuels and 25% of nuclear power. Furthermore, 13% of energy generated does not come from renewable sources (i.e. it comes from hard coal, natural gas and oil, which are more harmful to environment when compared to renewable sources of energy).
- The claim '**recycle**' could conceivably be considered subjectively misleading as it could lead consumers to believe that it refers to a recycled product. Further examination indicated it was not clear whether this term covered the entire product or the packaging only.
- Comparative claims that do not present the specific environmental benefit of the product that would represent a significant advantage in relation to competitors such as "**the first ecological shoes...**" is considered as subjectively misleading.
- An '**environmentally friendly production**' claim found on jackets referred to the companies' general overall climate and environmental awareness and objectives but not necessarily to the product itself. The website elaborates that in the spring/summer collection, 22% of all fabrics will be made from recycled materials and 18% will use - under a certification scheme approved - fabrics and that the aim is to gradually increase these proportions. However this implies that the whole production process cannot be considered as "environmentally friendly" (as 60% is not covered). As such, the claim 'environmentally friendly production' applied to the specific product could conceivably be regarded as incorrect or an exaggeration.

A special reference under the subjective misleading criteria needs to be made to the use of **vague or general (non-specific) claims**. The analysed claims use terms that **refer to general environmental considerations without specifying the concrete environmental benefit of the product**. The use of general and vague terms might be explained by marketing techniques that use catchy phrases or "shortcuts" to draw consumers' attention. In general, vague claims have only been considered as plausibly contrary to the UCPD when they could be considered potentially misleading for the consumer, and no further information was available or provided. Among the vague claims assessed, some producers provide valid scientific information to explain and sustain their claims (mostly on their website). Where these claims were backed up with such information, the analysis did not conclude that these claims were misleading according to the UCPD.

Examples:

- A term like '**Eco**' or '**Ecology**' was identified on several products (e.g. showerheads, light bulbs), without providing further explanation on the environmental benefit or specifying details of performance. For example in the case of LED bulbs, this could give the consumer a false impression that e.g. LEDs bulbs are wholly ecological or have an overall positive impact on the environment, whereas the main environmental performance relates exclusively to energy efficiency. Questions related to hazardous waste or toxicity are not addressed by the claim. In this respect, the claim could have been more specific and should refer to the aspect of the product for which performance is claimed.
- A claim on Eco tyres using the terms "**Eco2-friendly** is Lovely. **Better Environment**, Better world. With **eco-friendly** materials" is based on vague wording which does not specify the potential environmental benefit.
- A claim '**worthy alternative to**' competitors' products used for the marketing of LEDs in comparison to halogen lighting could be considered as vague as it did not provide information about why halogen would be less environmentally friendly and the advantage of LED (e.g. it saves energy or it is more energy efficient than the halogen lighting).

5.3.3 Substantiation/Scientific evidence

The **scientific evidence** of environmental claims **is difficult to assess because often the technical information justifying the environmental benefits of the product is not readily available or is difficult to assess because one would need to undertake laboratory tests which was outside the scope of this exercise**. Other types of information, such as statistics or statements, imply that the producer has this information. Furthermore, it is not clear how much technical and scientific information is required to fulfil the requirements of the UCPD. In the context of this study, when the claim either related to certification schemes or a trader had included enough factual information on the website, the assessment assumed that the trader had the necessary scientific evidence to support the claim and would be ready to present it if the claim was challenged.

The information available to substantiate claims was in several cases made available in the **company's environmental performance report**, which is however **not related to a specific product**. Specific figures and percentages referring to the environmental performance of products were not easily available. Life cycle assessments are not executed systematically on all products. In balancing transparency versus commercial sensitivity, additional scientific information about products' composition or production processes should be made available to enforcement authorities but not necessarily to consumers.

Examples:

- The textual claim "**with organic cotton**" on the package of newborn nappies was considered as insufficiently substantiated for following reasons: the website of the manufacturer stated that organic cotton was used for the production of the nappies, but no further substantiating statements were provided. No information was available on the website or given in answer to questions raised, on the percentage of organic cotton the product contains; which part of the diaper exactly contains the organic cotton; where it was sourced or how it was processed.
- A claim for baby bottles stating '**We also (...) reduce our carbon impact on the environment**' was not accompanied by the necessary information (through the website or during contacts with the producer) to determine its truthfulness.

5.3.4 Clarity and accuracy of the claims

A number of claims identified can be considered as not fully clear or accurate.

There are guidelines on environmental claims in several Member States¹⁵³ stating that 'companies should not claim environmental actions/benefits in a product when they only apply to management of the company or at the head office and that are not related to the product manufacturing process'. Examples of such claims (i.e. claims present on products that relate to the environmental awareness of the company in management or production processes and do not refer to the specific product itself) have been also identified during this assessment. Within the UCPD or its 2009 Guidance Document, there is no reference to company claims versus product claims.

Examples:

- "Green energy" found on energy generation and energy supply services was interpreted to be vague and not fully in line with the UCPD principles. In this particular case, the phrase refers to a generic term 'green' alluding to environmental objectives, without any further specific information. Furthermore the word 'energy' - in the claim analysed - broadly refers to the type of services provided by the Electricity company, without specifying the type of energy production.
- Another claim related to tyres stating 'a better grip on ecology' could plausibly be considered unclear for the consumer as to whether the environmental performance relates to all tyres of the same manufacturer or only to one type. Furthermore it is not accurate as the environmental performance claimed (fuel efficiency and greenhouse gas emissions) relates only to another type of tyre which received the A tyre labelling, whilst the product analysed only have B or C classification in the tyre label information. Furthermore, the claim is not accurate as the environmental performance does not depend only on the tyres used but also on the driving style and the maintenance of the tyres.
- A claim linked to a participation fee for **contribution to a packaging system** could conceivably be considered as unclear and vague. The logo and textual claim granted for use on products in reality only indicates that a company has contributed financially to the development and functioning of a legally binding recycling and recovery system for packaging waste in the Member State in question. However, this does not necessarily mean that the packaging or any other element of the product is fully recyclable or has any other environmentally friendly attributes. Since the claim does not refer to any particular environmental benefit of the product (or its packaging), it could be considered as unclear and also potentially misleading.

5.3.5 Reference to Annex I of prohibited practices in UCPD

In general, no major problems have been found in relation to the unauthorised use of logos. However one issue identified was use of certain logos resembling public institutions logos.

¹⁵³ The practical guide to environmental claims for traders and consumers prepared by the French National Consumer Council (*Conseil National de la Consommation*) with the support of the French Ministry of Economy, Finance and Industry and the Ministry of Ecology, Sustainable Development, Transport and Housing

http://www.economie.gouv.fr/files/files/directions_services/dgccrf/documentation/publications/brochures/2012/Guide_allegat_environ_en_2012.pdf

The Icelandic Code of ethics of the Icelandic Advertising Agency Association.

Examples:

- One of the elements of an environmental label included the symbol of the United Nations Environment Programme (UNEP), which was at first sight considered as potentially misleading as it could give the impression that the product is linked to UNEP. However, since UNEP had authorised the organisation to use their symbol, the environmental claim and use of the logo was not considered an unfair commercial practice.
- However another logo on televisions includes the European blue flag with stars on it, which may conceivably be regarded as misleading consumers to believe that the product is endorsed by an official European institution, which is not the case.

5.4 Assessment against the voluntary food labelling guidelines

A selection of 9 logos was analysed in relation to the recommendations set by the EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs (hereafter called the **EU guidelines on voluntary food labels**)¹⁵⁴. The logos examined were part of schemes that were both private and public; third party certified and self-declarations.

The EU guidelines on voluntary food labels include recommendations for labelling schemes **requirements** as follows:

- **Participation:** schemes are required to be open and subject to transparent and non-discriminatory criteria to all participants willing and able to comply with the specifications. Schemes should have a supervisory structure that allows for the contribution of all concerned stakeholders and the scheme should enable the participation of all concerned stakeholders in the scheme development and in drafting inspection criteria.
- **Clarity and transparency** of the scheme, including its scope, and of the claims: Schemes should clearly state the social, environmental, economic and/or legal objectives; furthermore the claims and the requirements or standards for products to use the label should be clearly linked to the objectives of the scheme.
- **Evidence based:** all claims should be based on objective and verifiable evidence and scientifically sound documentation that should be freely available.
- **Certification and inspections:** the EU guidelines on voluntary food labels recommend the certification of compliance with the scheme requirements to be carried out by an accredited independent body. The inspections should be effective, clear, transparent, based on documented procedures and related to verifiable criteria. They also require that any unsatisfactory inspection results should lead to appropriate action. Auditors or inspectors should be impartial, qualified and competent, should have the relevant knowledge in the specific sector and should work for certification bodies that are accredited.
- **Costs:** the EU guidelines on voluntary food labels recommend scheme managers to make public the membership fees (if any) and certification bodies to publish the costs associated with certification and inspection for different types of scheme participants. Any variance in fees charged to different scheme participants should be justified and proportionate.
- **Mutual recognition of schemes:** the EU guidelines on voluntary food labels recommend schemes make explicit reference (e.g. on their website) to other relevant schemes operating in the same sector, policy area and geographical region

¹⁵⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0005:0011:en:PDF> Website of DG AGRI http://ec.europa.eu/agriculture/quality/certification/index_en.htm

and identify where approaches converge. They should actively explore possibilities for mutual recognition for parts or all of other relevant scheme requirements.

Although these EU guidelines on voluntary food labels are used as a model for food products, many of the requirements are not food specific and can be considered as relevant for all (including non-food) labelling/certification schemes.

The EU guidelines on voluntary food labels also **include some useful definitions**. For example, it defines the term '**self-declaration schemes**' as "collective schemes and label claims that are not certified, and which rely on the producer's self-declaration". **Certification** is defined as "third-party attestation related to products, processes, systems or persons". Inspection is defined as "the examination of a product design, product, process or installation and determination of its conformity with specific requirements or, on the basis of professional judgment, with general requirements".

As mentioned in section 3.4, when well designed, recognised, understood, trusted and perceived to be relevant by consumers, environmental **labels can have a significant influence on consumers' purchasing behaviour**. Under these conditions, labels can be a powerful tool to guide and shape consumer behaviour towards more environmentally friendly choices. **Using a reputable labelling scheme with clear criteria will often be one of the most effective ways for businesses to demonstrate to consumers that they are meeting high environmental standards.**¹⁵⁵

5.5 Findings of the assessment against the voluntary food labelling guidelines

A summary of the key findings **is presented below**.

The analysis of the research undertaken within the framework of this study shows that the **requirements** suggested by the EU guidelines on voluntary food labels¹⁵⁶ **are generally well respected by certification schemes but to a lesser extent by self-declaration systems**. However, as no major differences seem to be perceptible to consumers between these types of schemes, this can result in uninformed or misleading decisions.

Some shortcomings have also been identified in relation to the certification schemes; certain certification schemes examined have no or limited information on the:

- supervisory structure;
- process for development of scheme requirements; or
- certification and inspection procedures.

This made it difficult to determine whether or not a logo is linked to third party certification.

5.5.1 Scheme standards or requirements (including clarity and transparency)

The EU guidelines on voluntary food labels promote the clarity and transparency of scheme requirements linked to the objectives of the labelling scheme. **Most schemes analysed state clearly the requirements for the use of logo**. However, few other

¹⁵⁵ See also section 4.5 in the 2013 MDEC report: http://ec.europa.eu/consumers/documents/consumer-summit-2013-mdec-report_en.pdf

¹⁵⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0005:0011:en:PDF>

schemes did not provide full clarity concerning the requirements and their applicability to products. In particular cases, the key prerequisite for obtaining the right to use the logo is compliance with company and factory requirements and procedures that do not relate to the product itself. Therefore those schemes do not follow the EU guidelines on voluntary food labels that are based on conformity with specified product requirements.

5.5.2 Evidence based

The EU guidelines on voluntary food labels specify that certification schemes should be based on a system where evidence of claims is required. **Most of the schemes analysed required evidence of compliance with the scheme's requirements.** The evidence needed by applicants to demonstrate compliance with the scheme requirements is generally listed in clear documents available on the website or on request.

5.5.3 Specification exceed legal requirements

There was information available for most certification schemes that they go beyond legal requirements in relation to environmental performance.

An interesting case is an energy label on windows that goes beyond legal requirements and has also been the origin of legislation imposing minimum requirements under the UK Building Regulations that were developed on the basis of the criteria for this label.

5.5.4 Scheme participation and development

The schemes examined were generally open to companies, members of the association or nationals. Some schemes are purely national while others apply to more than one country. Some national or regional schemes examined were open to companies outside the regional or national context but participation in scheme development is only possible for stakeholders from the specific country or region

The standard-setting process and criteria are **generally transparent and accessible to the public and are the same for all participants.**

Stakeholder participation in the development of scheme requirements and criteria **is ensured in most schemes but not** for the development of criteria to be applied in the **inspection process.** Some certification schemes enable participation of certain types of stakeholders but not others. For example, a scheme related to cleaning products lacks stakeholder participation (consumer organisations or environmental organisations) in the development of the scheme criteria. Other schemes did not provide clear information on the supervisory structure.

5.5.5 Scheme certification and inspections

Certification schemes are generally based on **certification of compliance with the scheme requirements** carried out **by independent accredited bodies and periodical or even unannounced inspection procedures.** However, the recommendations¹⁵⁷ under the EU guidelines on voluntary food labels for carrying out

¹⁵⁷ As a general principle, inspections should be effective, clear, transparent, based on documented procedures and relate to verifiable criteria underlying the claims made by the certification scheme. Unsatisfactory inspection results should lead to appropriate action.

inspections are not always applied since **on-site inspections are not foreseen in some cases or are not possible or difficult due to the nature of the product** (energy supply). **A lack of transparency on the inspection rules was observed in several schemes.**

5.5.6 Costs

The Guidance requires publicity of membership fees (if any) and the costs associated with certification and inspection. Possible variance in fees charged to different scheme participants should be justified and proportionate. **No particular problems were identified in relation to cost of the certification schemes.**

5.5.7 Sanctions and knock out criteria

The **withdrawal of the right to use a logo** is the most common sanction for label schemes where scheme requirements are breached. Some schemes even establish that in case of serious breaches of criteria the label can be withdrawn retroactively. Certain schemes consider the occurrence of five or more major non-conformities in one surveillance evaluation as a total breakdown of the company's management system to justify the imposition of the strongest sanction: suspension of the certificate.

However some labelling schemes do not include information on their websites about the sanctions applied for the misuse of the logo or the infringement of the standards. Other schemes are based on criteria established in contracts and therefore there is no public access to information on the penalties arising from the infringements against those criteria.

Other types of sanctions include **Corrective Action Requests or the suspension of the certificate**. Furthermore, deliberate and fraudulent use of the label by a registered label license holder may result in all current labels issued to the label license holder being suspended until the registered company demonstrates compliance.

Certain certification schemes provide public access to **information on the infringing companies** by including a list on their website.

Other schemes impose **financial sanctions**. For example, one scheme stipulates that if random testing reveals a deviation from the limit values on which the tests are based, an additional test will be undertaken on a different sample as a check and costs will be charged to the certificate holder.

Some schemes include a link to the **public enforcement legal system**. Unauthorised use of a logo in one particular case would be reported to the relevant national competent body for appropriate legal action.

Regular inspections of scheme participants should be carried out. There should be clear and documented procedures for inspections, including frequency, sampling and laboratory/analytical tests in parameters related to the scope of the certification scheme.

Unannounced inspections and inspections at short notice should be used as a general rule (e.g. within 48 hours).

Inspections and audits should be based on publicly available guidelines, checklists and plans. The inspection criteria should be closely linked to the requirements of the scheme and the corresponding claims.

5.6 Summary

This chapter provided an overview of the **analysis** of 53 selected environmental **claims against** the principles of the Unfair Commercial Practices Directive¹⁵⁸ **and its Guidance document**¹⁵⁹. The assessment covers different types of environmental claims including textual claims and logos. **9 logos were also assessed against the EU guidelines on voluntary food labels**¹⁶⁰. Some claims were assessed against both.

In general, **few of the claims assessed would be considered 100% in line with a strict application of the assessment criteria derived from the UCPD and the 2009 Guidance document.** Many of the claims use vague terms or could be considered as subjectively misleading. Some claims were identified as objective misleading practice using untruthful statements or unable to provide substantiation for the claims made (based on the information provided or available on the website). The required substantiation for claims was identified as a requirement that needs further clarification in terms of the amount and type of information that is made public and the amount and type of information that should be made available to the enforcement authorities on request. Furthermore, the required accuracy and clarity of environmental claims is a recurrent problem in commercial communications. Such misleading - or potentially misleading - practices may come rather from the ignorance of businesses about the applicable rules than from a real intention to mislead consumers¹⁶¹.

The analysis undertaken in the context of the EU guidelines on voluntary food labels shows that the **recommendations of the guidelines are generally well respected by certification schemes but to a lesser extent by self-declaration systems.** However, as no major differences between the two are perceptible by consumers, this can result in uninformed or misleading decisions.

Some shortcomings were **identified in relation to the certification schemes**, for example:

- Certain certification schemes examined had **no or limited information on the supervisory structure, the process for the development of the scheme requirements or the certification or inspection procedures.**

Certification schemes are generally based on the certification of compliance with the scheme requirements carried out by independent accredited bodies and periodical or even unannounced inspection procedures. However, the recommendations¹⁶² under the EU guidelines on voluntary food labels for carrying out inspections are not always applied. Sometimes this is due to the fact

¹⁵⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:EN:PDF>

¹⁵⁹ Commission Staff Working Document guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices, Brussels, 3 December 2009 SEC(2009) 1666

¹⁶⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0005:0011:en:PDF>

¹⁶¹ This was a remark from a UCPD workshop on the application of environmental claims in May 2014.

¹⁶² As a general principle, inspections should be effective, clear, transparent, based on documented procedures and relate to verifiable criteria underlying the claims made by the certification scheme. Unsatisfactory inspection results should lead to appropriate action.

Regular inspections of scheme participants should be carried out. There should be clear and documented procedures for inspections, including frequency, sampling and laboratory/analytical tests in parameters related to the scope of the certification scheme.

Unannounced inspections and inspections at short notice should be used as a general rule (e.g. within 48 hours).

Inspections and audits should be based on publicly available guidelines, checklists and plans. The inspection criteria should be closely linked to the requirements of the scheme and the corresponding claims.

that on-site inspections are not foreseen or are not possible due to the nature of the product (e.g. the example of the supply of 'green' energy), whereas the verification can be done through documentation. However in several cases there is a **lack of transparency about the inspection rules**.

6 Enforcement

6.1 Introduction

According to the UCPD, **Member States shall ensure that those persons or organisations with a legitimate interest may bring a court action or an administrative appeal against illicit advertising.** Therefore, Member States' courts or administrative bodies must be able to order the withdrawal of illicit advertising, or prohibit illicit advertising that has not yet been published.

In addition to court action and administrative appeal that can be referred to as public enforcement instruments, several countries have self-regulatory organisations that can also act on such infringements. The UCPD does not exclude the control of unfair commercial practices by the owners of (sectorial) codes of conduct and self-regulatory organisations (SROs), nor does it exclude recourse to such bodies if proceedings before such bodies are in addition to the court or administrative proceedings referred to in art. 11 UCPD. The Member States may encourage such control, but it shall not be deemed the equivalent of judicial or administrative recourse (art. 10 UCPD).

Enforcement and self-regulatory systems should be complementary in ensuring that environmental claims are truthful and that they effectively help consumers to make truly sustainable choices. This is even more necessary given that a majority¹⁶³ of consumers never look for evidence to check that an environmental claim is correct.

The aim of this chapter is to present the characteristics and effectiveness of both public and self-regulatory systems in key countries from a consumer point of view, based on analysis of current circumstances and best practice. The study also focused on the relationship between self-regulation and public enforcement and on the challenges of these interacting systems.

The data for this chapter was collected through collaboration with national experts in the legislative field and stakeholder consultation. **The results are compared across selected EU Member States (France, UK, the Netherlands, Germany, Poland, Italy and Spain), and between the EU Member States and two non-EU countries (the USA and Norway).**

'Enforcement' refers to the prevention, surveillance, correction and sanctioning of violations of the applicable legislation, by public, judicial or administrative authorities. Enforcement can focus on preventive control, such as an obligation to submit intended advertising to a verifying body or an obligation to audit a practice before using a claim, or it can focus on post-marketing compliance, based on complaints of consumers, organisations, competitors or other third parties, or based on an active surveillance of the market by agents.

In self-regulatory (SR) systems, guidelines or codes of conduct usually regulate issues encountered in a specific business sector or a specific sector of media (e.g. advertising, broadcasting, automotive, etc.). They are thus better tailored than broad legal regulations. Although *sectorial codes* have been identified, the study did not

¹⁶³ According to the consumer survey 56% never look for evidence to check that an environmental claim is correct, while 7% do it systematically and 31% from time-to-time). It should be noted that the proportion of consumers verifying claims is higher in the Southern countries assessed (Italy and Spain) and in Germany, with respectively 60%, 46% and 52% of the consumers in these countries verifying the evidence of green claims to check on correctness

identify *sectorial enforcement organisations*. Organisations that issue codes as an instrument of certification (labelling schemes such as Blue Angel or Nordic Swan), and that may withdraw the use of the label or apply other knock out criteria as defined under section 5.5.7, were not considered as enforcement organisations. Such codes/logos/certification schemes are covered in Chapter 4 and Chapter 5 of this report.

The study investigated the following two issues:

- the differences between diverse models of enforcement and self-regulation, as well as their effectiveness with a view to consumer protection;
- the extent to which private enforcement by means of SR must be regarded as an effective tool for enforcement:
 - do SR tools provide a neutral and impartial system that effectively sanctions and guards against inappropriate environmental marketing i.e. are they effective tools to protect consumers?
 - to what extent does SR fill certain gaps or weaknesses of the official enforcement systems?

The enforcement systems were assessed against 5 criteria:

- **Existence of a public/private system**, the latter referring to the presence of a Self-Regulatory Organisation (SRO). The analysis of public enforcement systems was mainly focused on the practice of administrative organisation(s) and included a general description of the available court action. The study also examined whether there is a clear predominant system or a balanced co-existence between the public and the private enforcement, and whether the combination of both systems in a country results in specific problems.
- **Effectiveness of the enforcement system(s)**; the study assessed whether the rights of the stakeholders, particularly individual consumers and consumer organisations and environmental organisations, are protected by sufficient access rights (possibility to file complaints). Furthermore, the study examined whether effective protection is warranted by a neutral and impartial assessment, whether the burden of proof and substantiation requirements are placed on the trader or advertiser, and whether effective remedies are applied (does the enforcement system have a positive effect?). Furthermore, the study examined the effectiveness of the relevant system from the point of view of a quantified outcome (is the enforcement mechanism actually applied?).
- **Clear guidance**; the study examined whether the enforcement organisations are able to base their assessment on clear guidance and whether they provide clear guidance on the market to the relevant stakeholders. The availability of published decisions was studied as well. This builds further on the analysis of Chapter 4 as well as stakeholder interviews.
- **Surveillance activity**; the study examined whether the organisations conduct surveillance activity on their own initiative, which is not necessarily based on complaints.
- **Pre-clearance**; the study examined whether prior assessments are performed before environmental claims are used in the market (copy advice), and whether or not such assessments have a binding effect, safeguarding a marketer or advertiser from prosecution (pre-clearance).

6.2 Existing enforcement systems

6.2.1 Diversity

Enforcement systems are very diverse in the countries examined. **Some countries rely almost entirely on public enforcement (Norway), some rely mainly on self-regulatory enforcement (Netherlands, Germany), but most rely on a mixture of both systems, which is in general fairly balanced.** Three national systems particularly stand out.

In **Norway**, the Consumer Ombudsman and the Market Council are responsible dealing with infringements of the rules regarding environmental claims. As in other Scandinavian countries (e.g. Denmark), there is a tradition of consumer protection by the government that is effective and well-accepted, and there is no need for self-regulation. As the Consumer Ombudsman has a legal obligation to try to remedy infringements with 'soft' action in the first instance, it is possible to state that it partially fulfils the 'soft' role of SROs in other countries.

In the **Netherlands**, there is a long tradition of self-regulation. The public authority responsible for supervising market practices has a statutory option to 'outsource' handling of certain complaints to SROs. In practice, a joint organisation created by the Authority for Consumer and Markets, and the telecommunications and competition authorities, acts as a support desk (named 'ConsuWijzer'). This organisation is very accessible to consumers and is well-known¹⁶⁴. ConsuWijzer refers complaining consumers to the national SRO for the Advertising Sector (the DACA, Dutch Advertising Code Authority). In 96% of cases¹⁶⁵ the infringing trader will comply with the recommendation of the SRO. Similarly, the **French** authority that is responsible for market practices towards consumers (the DGCCRF) sometimes refers complainants to the French SRO (the ARPP) when the complaint regarding advertisements seems relevant (this is however not a standard practice).

In **Germany**, it is not public authorities but rather market participants that supervise market practices, including the rules on environmental claims made in advertising and on packaging. The Wettbewerbszentrale (ZBW) is an association of companies and of trade associations from all industry sectors, including the Chambers of Commerce. Any stakeholder (including consumers) or any authority can file a complaint with the ZBW. When a complaint is considered to be an infringement, the ZBW will ask the infringing trader (not necessarily a member of the association) to sign an undertaking to amend or discontinue the advertisement/commercial practice. The declaration contains a penalty clause that will, when signed, prevent further infringements. If the trader refuses to sign the declaration, the ZBW will try to obtain an amicable agreement within the Board of Conciliation of the regional Chamber of Commerce. If this approach is not effective, the ZBW may undertake court action. In urgent cases (assumed for market practice cases), the ZBW can claim a preliminary court injunction (a temporary court order) prohibiting the misleading practice. In practice, the court usually upholds the claim and an immediate order may be issued within one day (notwithstanding a possible fine of up to 250.000 EUR). Main proceedings in court may follow thereafter (or may be undertaken without preliminary proceedings).

In Germany, a second circuit can be followed. The Verbraucherzentrale (VZB – Federation of German Consumer Organisations) is an association for consumer

¹⁶⁴ The awareness and user-friendliness of ConsuWijzer was not assessed under the consumer survey within this study. The statement therefore refers to the input of the stakeholders.

¹⁶⁵ Based on stakeholder input.

protection that has been granted the authority to enforce the rules on environmental claims through its consumer centres in the federal states. These centres support and inform consumers. They can make settlements and/or pursue infringements before court when necessary. Although mainly funded by the government, the VZB can be considered as a mechanism of private enforcement.

The relevant *public* action in Germany is court action initiated by the above mentioned associations or between private parties, initiated by competitors, consumers or consumer/environmental organisations.

In most countries, a **mixed system** of public and SRO enforcement is in place that is balanced. In general, both systems coexist well and this dualism is not perceived as problematic.

6.2.2 Centralised organisations

Centralised vs. sectorial / regional structure: Public enforcement

In most countries the **public authorities** that are involved in the enforcement of environmental claims, are centralised. As is the case for most “court action” (regardless of whether it considers infringements on environmental claims or other issues), **consumers are rarely familiar with the system and procedures. However, consumers can usually easily identify the responsible authority when needed.**

In some countries **the authorities that particularly focus on misleading environmental information on products and packaging may differ from the organisation that is focused on the enforcement of the advertising rules** (e.g. the Trade Inspection in Poland). In the United States the FTC enforces the general rules regarding misleading advertising, whereas the Environmental Protection Agency may become involved with environmental claims from a labelling perspective. However, when the relevant environmental information involves an issue of product safety, the Consumer Product Safety Commission is responsible. The line between ‘environmental requirements’ and ‘safety requirements’ is not always very sharp. In the Netherlands, the public authority that is in theory responsible for the enforcement of environmental claims is the ACM (Authority for Consumers and Markets). The Netherlands Food and Consumer Product Safety Authority is responsible for the enforcement of the correct labelling of the energy consumption of household products.

In some countries (Netherlands, United Kingdom, Poland) **a distinction is made regarding the enforcement system that must be addressed to file a complaint depending on the level of impact of the infringement on the market.** In cases where a particular consumer claims to be harmed by a certain practice with a limited scope (e.g. in case of ‘ad hoc’ environmental claims by a local retailer), a different authority will be responsible than in cases where the breach of the regulations has a more general impact on the market. The level of impact on the market may indicate

the competent authority¹⁶⁶. Misleading environmental claims will normally impact on the collective interests of consumers¹⁶⁷.

Responsibilities may be distributed at a national/federal, regional (or state), or local level. In the United States federal law contains relevant provisions regarding misleading practices and claims¹⁶⁸. Whereas the federal FTC will enforce the rules, state law may contain provisions enforced by the state attorney generals. In the United Kingdom, specific authorities exist for Scotland and Northern Ireland. In Spain the attribution of responsibility within the administration is perceived as rather complicated (responsibilities are allocated on a national, regional and local level). Usually local Consumer Information Offices (public organisations) will receive complaints from consumers and will guide them towards the relevant authority. In the United Kingdom, citizens are encouraged to contact 'Citizens Advice' as a first step in resolving questions or complaints. Similarly, the administration of the Netherlands has a central 'desk' where citizens may ask for information: the organisation 'ConsuWijzer' which is well-known and accessible. The study did not reveal problems in relation to accessibility of the relevant administration.

In several countries there is a growing trend in the development of a more local or regional responsibility for consumer complaints. In the United Kingdom, the local Trading Standards authorities have since 2013 been vested with the most important enforcement authority regarding the market practices studied. In France, the *Commissions de règlement des litiges de consommation* may try to come to negotiated settlements between consumers and traders (as far as known however, this does not occur in practice in relation to environmental claims). These Commissions are in an experimental stage. In theory, local arbitration authorities may handle cases in Spain, but this does not occur in relation to environmental claims in practice.

Centralised vs. sectorial or regional structure: Self-regulatory

In most countries one centralized SRO is involved in the enforcement of the rules regarding environmental marketing¹⁶⁹. This is usually the national SRO that supervises the advertising sector. As stated above, in Germany private enforcement organisations have supervising authority over larger business sectors in general, and are either grounded by the overall business sector with the chambers of commerce, or grounded in consumer protection.

Sectorial SROs that supervise environmental marketing claims within a specific business sector were not identified. On the other hand, the interviews

¹⁶⁶ The Dutch Authority for Consumers and Markets (ACM) is only competent for infringements on the regulations concerning market practices that have an impact on the market, where collective interests are harmed. When only a particular consumer is harmed, the issue will be handled by the SRO. In the United Kingdom, where the legal framework was modified in 2013, the OFT will only focus on general breaches of legislation, whereas local Trading Standards authorities will focus on individual cases. In Poland, the President of the Office of Competition and Consumer Protection is only competent for breaches with an impact on collective interests. Mere individual cases are handled by the civil courts.

¹⁶⁷ Still, in the Netherlands, the authority of the ACM is theoretically set forth by the law with respect to infringements on *advertising regulations*, even if these have a collective impact on the market; such cases are in practice referred to the Dutch SRO.

¹⁶⁸ Sections 5, 12 and 13 Federal Trade Commission Act refer to deceptive practices and the authority of the FTC to act against infringements; these provisions do not refer explicitly to environmental claims.

¹⁶⁹ Product information on packaging (product labelling) that contains a commercial message is in some countries considered as advertising under the supervision of the SRO (e.g. Spain, Germany, United States, the Netherlands, Italy). This is however not the case in the United Kingdom, France, Poland where the SROs don't supervise product labelling.

conducted indicate that **most environmental claims that are handled through the public and private enforcement mechanisms have been issued in the car industry and energy sector.** Not coincidentally, the Spanish Code of Conduct on environmental claims focuses specifically on these sectors.

The SRO supervises the activity of 'advertising', which is defined in a broad sense and often includes product statements or labelling (¹⁷⁰). In the United Kingdom, the ASA supervises both the broadcasting and non-broadcasting sector, but it applies two different codes to each sector. In Spain, the Code of Conduct on environmental claims is specifically focused on the energy and automobile sector, but nevertheless the SRO Autocontrol resolves complaints regarding environmental claims in other business sectors, based on the General Advertising Code of Conduct and the applicable legal norms. In the United States, there is some diversification under one umbrella organisation (the Advertising Self-regulatory Council), of which the NAD (National Advertising Division) is the primary SRO for environmental claims. However, when an environmental claim targets children, the Children's Advertising Review Unit may be responsible and in the case of electronic retailing the Electronic Retailing Self-regulation Program may be involved.

SRO organisations have a board or panel that is responsible for overall management including procedural regulations and the creation of codes of conduct for advertising. Specific panels decide on alleged infringements of the applicable rules. The possibility of appeal against SRO decisions is regulated in different ways in the countries examined. Some SRO systems provide for the possibility of an appeal within the same organisation, albeit before a different kind of panel, or before a 'higher' umbrella SRO (e.g. United States, United Kingdom) and in such cases the courts may or may not have a concurrent jurisdiction in order to withdraw or modify the decision of a SRO, while in other cases an appeal or judicial review may be launched before the courts (e.g. United States, United Kingdom, Poland). In some SRO procedures there is no appeal possible against the SRO's decision (Italy). Concurrent jurisdiction of the public and the SRO enforcement systems may occur as a form of appeal or judicial review, but is also possible while the procedure before the SRO is still pending. The Spanish rules provide that when a public enforcement procedure has been started, the case pending before the SRO is suspended. This is however not common practice in the other countries examined.

Where enforcement is quite centralised within countries, it must be taken into consideration that marketing actions may occur in a transnational (cross-border) context. In such cases, marketing actions with transnational components may be subject to different enforcement procedures in the countries involved.

6.2.3 General court actions

In the framework of enforcement of the rules regarding environmental claims, general court actions are usually part of the enforcement system, although in some countries an administrative organisation may have an exclusive authority to sanction infringements (e.g. in Italy, where courts have no such authority). Court actions may be initiated after an administrative procedure (e.g. judicial review of an administrative decision or action initiated by the administrative enforcement agency), or they may be initiated directly by stakeholders (consumers, consumer organisations or environmental organisations, competitors). **Court actions do not occur often in practice. The courts are often not considered as sufficiently specialised, the**

¹⁷⁰ See the previous footnote.

duration of proceedings is sometimes a problem, and the procedures are more expensive. These concerns are common across the countries examined. In the field of 'advertising issues' in general, there is a tendency between competitors to submit an encountered issue to the SRO for the advertising sector. However, court action can be important if a party (e.g. a consumer) seeks *damage* compensation, since claims for damages are not handled by administrations or SROs.

6.2.4 Co-existence and synergy of enforcement systems

Where public and private enforcement systems co-exist (i.e. in most countries), there is often a **synergy** between these systems, which may complement each other's weaker characteristics.

Although SROs can apply practical and moral remedies against offenders, which are generally considered adequate and effective, they ultimately have to rely public enforcement authorities to impose 'hard sanctions' where necessary¹⁷¹. The threat of public prosecution is undeniably an underlying support for private enforcement actions. In certain countries, the SRO will bring a complaint to the public enforcement authority (administration or courts) in a case of non-compliance with its recommendation. This practice is known in the United States and particularly regulated in Germany in order to provide a fast track procedure.

In some countries the administrations and courts recognize the authority and specialised knowledge of the SRO. The government of the United Kingdom hails the SRO (ASA) as a very effective remediation system. The national legislator may recognise the authority of the SRO, as is the case in Spain¹⁷². Administrations and courts may apply the specific 'case law' of the SRO (a practice that occurs in the United States, at least on the federal level of the FTC); they may refer to decisions made by the SRO or they may suspend procedures in order to obtain a decision of the SRO (United States¹⁷³).

In some countries, the public enforcement authorities refer complainants to the relevant SRO (as is e.g. the case in the Netherlands). The Spanish regulations¹⁷⁴ provide that a complainant submits a complaint to the SRO Autocontrol prior to going to court when a request to cease or modify the dissemination of advertisements is based on the breach of a Code of Conduct by a company adhering to such a Code.

Cooperation between the public and private enforcement organisations, as well as relevant stakeholders, can be strengthened through joint projects. The Spanish Code of conduct on environmental claims is the result of a co-regulation agreement between the Environment Ministry, the SRO Autocontrol and leading companies in the Energy and Automotive industries. This Code also provides for the creation of a Monitoring Committee that meets periodically and that comprises representatives of all the relevant parties and is chaired by the Authority.

In other countries, the public and the private enforcement systems seem rather separated (e.g. Italy, Poland). In these countries, there seems to be no interaction

¹⁷¹ The sanctions and remedies are explained in more detail further below under "effectiveness".

¹⁷² The Spanish Unfair Commercial Practices Law states in article 39 that where a legal action is based on the infringement of a Code of Conduct by an adhering organization, the case must be brought before the relevant SRO before judicial proceedings may be entered (which may be entered e.g. by way of appeal).

¹⁷³ This is also explicitly provided in the legislation of Italy, although in practice the study revealed not a strong interaction between the administration and the SRO.

¹⁷⁴ Article 39 Unfair Commercial Practices Law.

and a dualistic set of rules is applied (where the SRO applies its own code and the public authorities apply the law and guidance).

6.3 Clear guidance

The study examined whether the enforcement organisations are able to base their assessment on **clear guidance** and whether they provide clear guidance to the relevant stakeholders in the market. The availability of published decisions, which may complement Guidance documents, equally was studied.

6.3.1 Public enforcement

In general, the stakeholders interviewed seem satisfied with the guidance issued and/or used by the public enforcement authorities, although the **Guidance documents available in the United States and the United Kingdom have been cited as practical examples for better guidance in other countries**. In particular public enforcement can be supported by these Guidance documents (in the U.S.: the Green Guides of the FTC¹⁷⁵, which were updated in 2012 after a broad stakeholder consultation. Furthermore, interesting initiatives were taken by the FTC such as publications targeting the industry and consumers and organising workshops. Also in the United Kingdom, particularly the DEFRA code¹⁷⁶ is developed, which is considered very practical and full of visual examples as reference. **Similarly the Code of the Norwegian Consumer Ombudsman¹⁷⁷ is considered as a complete, extensive Guidance document**, although less 'visual'). Referring to possible synergy between the enforcement systems, as well as the flexible approach of SROs, **SROs sometimes apply good guidance made in the public framework, notwithstanding the availability of their own codes of conduct** (e.g. in the United States and the United Kingdom).

The relevant regulations are fragmented over different legislative domains, such as advertising law, market practices law, as well as regulations and standards on product safety and labelling, including often separate legislation regarding energy labelling and environmental information required in relation to automobiles. Furthermore, regulations can be national/federal, regional (or state law), or local. **For certain agents within public enforcement agencies it is sometimes not sufficiently clear that environmental marketing claims are part of the regulations that they must apply**, where for example the regulations contain only more general rules and environmental claims are not explicitly mentioned (as was indicated in Poland).

6.3.2 Self-regulatory

In **self-regulatory systems**, guidelines or codes of conduct usually regulate issues encountered in a specific business sector or a specific media sector (e.g. advertising, broadcasting, automotive, etc.), and the assessment panel can be tailored to that specific sector. They are thus **often better tailored than broad legal regulations**. However, self-regulatory control does not usually include the option to sanction violations directly. In most cases, decisions of self-regulatory bodies rely more on their persuasive or moral value, as explained above.

¹⁷⁵ <http://www.ftc.gov/news-events/press-releases/2012/10/ftc-issues-revised-green-guides>

¹⁷⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69301/pb13453-green-claims-guidance.pdf

¹⁷⁷ <http://www.forbrukerombudet.no/id/11040523.0>

Many SRO systems encountered are based on codes or other guidance issued by the SRO. This is particularly the case for the SROs that are part of EASA's self-regulatory system¹⁷⁸, which refers largely to the ICC's codes¹⁷⁹ in the field of advertising.

Nevertheless, in some countries the guidance created by public organisations is considered very helpful. Examples are the United States (the Green Guides of the FTC) and the United Kingdom (in particular DEFRA's code, although DEFRA is not an enforcement authority). The SRO that acts as a self-regulatory enforcement authority in the United Kingdom, ASA, is also actively involved in general prevention through guidance and education.

SROs typically have a flexible approach to remedying alleged infringements.

Decisions are sometimes based on general 'good practice'. This approach is useful in an evolving market, where tendencies may come and go, and where the meaning and truthfulness of marketing claims can be complicated from a technical point of view. Such a flexible approach may provide a solution where legislation or guidance would be outdated and cannot easily be adapted. The published decisions are important where they provide an insight into the most recent tendencies.

6.3.3 Publication of decisions

The 'case law' created by the decisions of public authorities and SROs is often published and this is an important addition to the clarity of the guidance (e.g. publications occur at fixed frequencies in the United Kingdom, and regularly in the United States, Germany, Netherlands, etc.). The advertising sector and its legal consultants however must be aware of practical applications of the guidance and the codes, as a continually evolving environment cannot always be incorporated in written documents. An online database with a good search system that may easily filter out decisions on environmental claims is regarded as good practice (e.g. in the United States (Better Business Bureau website¹⁸⁰), the Netherlands, the United Kingdom). In well-centralised public enforcement systems, the case law of the authority can be included in the updated Guidance documents, which is certainly practical (e.g. the guidance of the Consumer Ombudsman in Norway).

As a practical example: it is explicitly accepted in Germany that the self-binding codes of conduct of companies and company groups may be subject to an assessment in the framework of enforcement if these affect consumer behaviour. Published summaries of such decisions reveal this tendency, which is not included in regulations or Guidance documents.

6.4 Effectiveness

The study examined the (perceived) effectiveness of the enforcement systems from several different angles:

¹⁷⁸ EASA is the European Advertising Standards Association, an umbrella organisation of which the European and some extra-European SROs are members. Its purpose is to promote a professional and ethical SRO practice.

¹⁷⁹ The International Chamber of Commerce (ICC) issued a consolidated Code of advertising and marketing communication, including the ICC framework for responsible environmental marketing communications (2011). The Code is endorsed by the EASA and promoted to serve as a base for the national codes of the SROs.

¹⁸⁰ <http://www.bbb.org/council/>

- whether the rights of the stakeholders (individual consumers, consumer organisations and environmental organisations) are protected by sufficient access rights (possibility to file complaints) and rights of defence.
- whether effective protection is warranted by a neutral and impartial assessment.
- whether and how the enforcement organisations require substantiation of environmental claims.
- whether effective protection is warranted by effective remedies (does the enforcement system have a positive effect?).
- the effectiveness of the relevant system from the point of view of a quantified outcome (is the enforcement mechanism actually applied?).

6.4.1 Right to file complaints and right of defense

The right to file complaints is safeguarded and the interests of stakeholders (consumers, consumer and environmental associations) are usually well protected. Consumers can file complaints under the public enforcement system as well as under the self-regulatory system. In some countries (or some categories of procedures) a complainant is only considered as a complainant who *initiates* an ex officio action, and who is not involved any further (e.g. in the Polish procedure before the President of the Competition Office and in Germany). In such cases, stakeholders such as consumers or associations have no right to be heard and depend on the discretion of the administration's officers. Whereas, in such cases, the relevant consumer may remain anonymous, and some consumers may prefer to remain anonymous (as is the case in the German procedure before the ZBW and later in court, where the ZBW will act as claimant), the authority should still warrant that consumers and associations are always able to defend their point of view if they wish. In several countries, it was revealed that the administration may decide at its own discretion whether or not it will prosecute on the basis of a certain claim. If the infringement is not high on the priority list of the relevant administration, this could lead to insufficient protection of the interests of consumers.

Rights of defence of the complaining party, as well as those of the trader or advertiser, are in general safeguarded (except for cases where a complainant is not further involved in the case after the submission of the complaint).

6.4.2 Neutral and impartial assessment

Public authorities are considered as neutral and impartial. Whereas *a priori* more uncertainty could exist regarding the neutrality of SROs, the study concludes that SROs are usually regarded as impartial. SROs codes are usually issued by a panel involving advertising and media stakeholders and possibly others from specific targeted sectors and academics or advertising specialists. Representatives of consumer organisations are often, but not in all countries, involved in this process (e.g. not in Italy, but they are substantially involved in Spain and the Netherlands). Similarly, the SRO's panel that decides on alleged infringements usually consists of advertising and media sector representatives, as well as advertising specialists and academics (e.g. the Jury of the ARPP in France and the Jury of IAP in Italy, which also includes consumer law experts¹⁸¹). Overall, the SRO's panels are considered neutral, objective and knowledgeable. They can often be tailored to a specific sector and they can quickly include internal or external experts when necessary.

¹⁸¹ This means that Italy includes consumer law experts, but not consumer organisations.

6.4.3 Substantiation of environmental claims

Substantiation requirements are *in principle* similar in the countries examined, and are similar for public enforcement authorities and SROs. The **burden of proof** of the validity of an environmental claim is always upon the marketer. According to the information received, the substantiating *documentation* (such as scientific articles and test reports) is usually examined upon its merits; insofar it complies with the requirements of scientific objectivity. The study revealed few detailed rules or requirements in that respect – these requirements of substantiation seem rather decided case by case - and this may result in different requirements in the countries examined. In certain countries it was found that the enforcement organisation performs technical examinations (e.g. some Italian case law). In other countries, the laboratory facilities of other public authorities can be used.

6.4.4 Effective remedies

- The **sanctions** that may be imposed by **public authorities** (administrations and courts) are deemed effective¹⁸². **They typically encompass fines and possibly, in theory, penal sanctions such as imprisonment**¹⁸³. Certain administrations may impose specific sanctions (e.g. cease and desist orders with penalties, obligation to correct advertising, disclosures, imposed publication of corrective statements, withdrawal of products) but this is not the case in all countries examined. Certain administrations are entitled to order a provisional suspension of the practices (e.g. in Italy). Some administrations state that, in case of infringements, they try to apply a soft approach in the first instance, focusing on negotiation and persuasion (which is a legal obligation for the Ombudsman in Norway). Other administrations immediately revert to an approach of hard sanctioning.
- The **SROs** typically undertake a 'soft approach' where they try to persuade an infringing marketer, and they typically issue recommendations instead of hard sanctions. This approach is in general considered effective; there is generally a high percentage of compliance with the recommendations (particularly emphasised in the United Kingdom, where the ASA has been hailed by the Government as a very effective remediation system, and in the Netherlands, where 96% of offenders comply with the recommendations). The moral impact of a decision in the business sector of advertising and media, and the **practical remedies** applied by certain SROs seem to work well. Practical remedies **may encompass the withdrawal of the right to use the 'membership' label of the SRO**. Interestingly, members that comply with the rules of the Advertising Council in Poland may use the statement "I advertise ethically" which is based on a licence. This right may be withdrawn for non-compliance. (In other countries however, the use of the logo of the SRO is always prohibited: e.g. in Italy, the use of IAP's logo is prohibited by IAP). Offenders may be expelled from the Spanish Autocontrol system. In that case they can only re-enter after a period of at least one year if they commit to comply with the rules. Other practical remedies are: **negative publicity, press releases about infringing behaviour and blacklisting on the SRO's website** (the Netherlands). The **media** are usually persuaded to **refuse to publish or**

¹⁸² At least, the theoretical framework for important sanctions is available; the actual application of the sanctions in particular cases is not warranted. In general, it is stated that the threat of fines imposed by administrations and/or courts is an important deterrent that has an impact on the effectiveness of the decisions of the SROs, since infringing marketers want to avoid such sanctions.

¹⁸³ There are only general sanctions in the law for all kinds of misleading behaviour, no specific sanctions for green claims, as a consequence imprisonment would, in theory, be a possible sanction for misleading green claims.

broadcast non-compliant advertisements. Compulsory copy advice (vetting) **can be imposed** on offenders (United Kingdom).

6.4.5 Additional remarks regarding effectiveness

The public enforcement and SRO enforcement routes both have characteristics that are considered positive and negative.

Positive features of SRO enforcement are: the soft approach through warnings and negotiation, the possibility to apply practical remedies, the flexible assessment of infringements, the (usually) short duration of procedures (e.g. often 1-2 weeks after the complaint in Germany; an average of 12 days for the Italian IAP; often less than 30 days in Poland and less than 60 days in the United States), the specialist panel and availability of experts when necessary, the minimal costs for complainants¹⁸⁴. Whereas budget restraints of the public authorities may result in a setting where environmental claims are often not given high priority, such constraints were not noticed in the SRO framework. On the contrary, SROs are in most cases funded by the business sectors and in particular the advertising sector and the handling of complaints within the sector seems less influenced by policy or budget priorities.

Public enforcement systems are in general considered effective, although stakeholders sometimes believe that there are flaws. The most **positive** characteristic of public enforcement, compared to SRO systems, is the option to apply hard sanctions such as fines and corrective action (the latter is not possible in all countries). On the **negative** side, the study revealed some recurring comments concerning lack of funds (e.g. United States, Italy), resulting in environmental claims not being accorded priority, the duration of procedures and costs (both remarks in particular applicable to court actions), lack of specialised knowledge where such knowledge is important. The study revealed however that public enforcement can be effective, as was demonstrated in Norway, where the Consumer Ombudsman is deemed to have an important effect on the market through good guidance and knowledge of the market and no need to create a SRO was recognised.

As stated above, in an **ideal approach**, a synergy can be found between both systems. In cases where hard sanctions are necessary in order to obtain compliance, a SRO may refer the matter to the competent administration or court. SROs sometimes refer serious (or repeat) offenders to the public enforcement authorities. This system is very well interwoven in the German private enforcement procedures, where fast injunctions can be obtained within a day), but in other countries the transfer between SRO and public enforcement organisations is not specifically regulated. Thus it often occurs that the SRO acts as a first option and the public enforcement as a second stage when this is necessary.

Looking at the effect of enforcement actions on the market, **it is necessary to emphasise the importance of prevention and good guidance in the first place**. As will be indicated below, the number of complaints against environmental marketing actions has declined considerably in the United Kingdom since 2007. It is believed that this decline is at least partially¹⁸⁵ due to a stronger preventive approach of ASA (SRO) and DEFRA (public authority). The voluntary prior assessment of claims (copy advice) in France resulted in modifying recommendations on 70% of submitted marketing

¹⁸⁴ Except for companies/competitors filing complaints: these may have to pay a considerable fee, albeit that in some countries, if the complaining company is a member of the SRO, the cost is included in their membership fee.

¹⁸⁵ The economic recession may have an impact as well, whereas marketers focus more on marketing arguments in relation to the consumers' financial and economic concerns rather than environmental benefits.

actions. France noticed also a decline on the number of infringing campaigns¹⁸⁶. This indicates that prevention through general guidance and individual copy advice may have important merits.

6.4.6 Output of official actions

The output of official decisions from both channels, public enforcement and SRO, regarding environmental claims **is limited**. Furthermore, a distinction between environmental claims on products/packaging versus in advertisements was not available. In Germany, it is estimated that the ZBW (SRO) handled about 100 environmental claims cases between 2009 and 2013. The French JDP handled 36 cases in 2011 and 21 cases in 2012. In 2012, 45 cases were handled by the United States' SRO. The Dutch SRO (DACA) received 20 complaints regarding environmental claims in 2011 and 9 in 2012. The Spanish SRO Autocontrol handled 32 cases¹⁸⁷ between 2010 and 2013. In Italy, the SRO (IAP) handled only 2 cases about environmental claims in 2013. The output is more elevated in the United Kingdom (in 2012, the SRO ASA received complaints on 102 advertisements with environmental claims). The output in numbers of public action (administration and various courts) is usually not known, but is in general considered as limited. In Italy, the public authority AGCM issued between 2008 and 2012 between 1 and 3 decisions per year. During the former years, the Norwegian Ombudsman handled 3 to 8 official cases per year. However, it must be noted that preventive and soft actions by the organisations are not included in these figures and it has been difficult to obtain a transparent view of this, though there is a general feeling that the output is limited. Lack of public awareness, or lack of concern, is sometimes cited as the cause of a low number of consumer complaints. However, good preventive action may also have a limiting effect on infringements.

As an overall average, complaints regarding environmental claims make up about 1 to 2% of the complaints regarding advertising in general (4% in Spain). Most complaints are related to the automobile sector and the energy sector (not coincidentally, these sectors are also the only sectors that are covered in practice by the Spanish Code of Conduct on environmental claims).

Remarkably, the number of official cases regarding environmental claims is in the most recent years diminishing in some countries¹⁸⁸. This is in particular clear in the United Kingdom, where the SRO ASA received 408 complaints in 2007, a number that steadily declined to 102 in 2012. Possibly stronger preventive action, better guidance and better awareness of the business may have had a positive impact on the number of infringements (ASA undertook broad surveys in 2008, resulting in quite a proactive approach). On the other hand, the impact of the economic recession should be taken into consideration. Marketers adjust their approach in recession, focusing less on the environmental benefits of products in favour of other attributes that are considered more appealing in times of recession.

6.5 Copy Advice and Pre-clearance

A voluntary *a priori* assessment of intended marketing and advertising actions is possible in all countries examined, within the framework of public as well as SRO enforcement. This approach is sometimes encouraged (e.g. in the United Kingdom by the SRO ASA, in Spain by the SRO Autocontrol). **In most cases such assessment ('copy advice') should be regarded as advice only, a general tool for risk**

¹⁸⁶ ARPP, Bilan publicité et environnement 2012.

¹⁸⁷ 2010: 6 cases; 2011: 9 cases; 2012: 13 cases; 2013: 4 cases

¹⁸⁸ United Kingdom, France.

management, which will not bind authorities or third parties, and which will not safeguard the marketer against possible actions or complaints. The SROs usually provide this facility for their members only.

An official and compulsory pre-clearance system is in place in France for national TV campaigns including environmental claims. The national advertising SRO, the ARPP must issue advice within 48 hours on the basis of the supporting documentation submitted by the advertiser. In 2012, 70% of all *voluntarily* requested assessments concerning environmental claims received a suggestion for amendments, whereas 9 amendments were required for TV advertisements submitted for compulsory assessment. **In the United Kingdom, the broadcasting companies have a legal obligation to ensure that TV advertisements are compliant with the rules.** This means that in practice, intended TV advertisements are assessed by an organisation (Clearcast).

6.6 Surveillance activity

The study assessed whether the enforcement organisations undertake relevant surveillance activities on their own initiative, not based on complaints.

Enforcement is usually based on complaints. There is little systematic market surveillance by administrations. The reasons cited are: lack of funds, lack of high priority where administrations are more focused on safety issues or deceptive marketing based on pricing or fraud, rather than environmental marketing.

In several legislations governing the inspection activities of administrations, environmental claims are not explicitly set forth, as these are only part of general rules on misleading marketing (an issue mentioned in Poland). In such cases, officers will only focus on a surveillance of environmental claims if they have been trained and provided with good guidance.

Similarly, the SROs do not seem to conduct a strong surveillance activity, although they are naturally more 'present' in the advertising industry. In Germany, the VZB is an organisation of private enforcement with roots in consumer protection associations, mainly funded by the government. These associations conduct market surveys and publish their findings in magazines. This surveillance can result in action.

In some countries, the enforcement bodies do focus on general prevention through information, workshops and general surveys (e.g. the United Kingdom, United States and Norway).

6.7 Summary

The findings demonstrate **very diverse enforcement systems in the different countries examined. Even within countries, several enforcement systems can be in place** – each one with its own specifications - but all aiming to protect consumers from misleading environmental claims.

The interests of stakeholders, in particular the consumer, seem sufficiently protected in view of their access to remedial action, impartiality, a knowledgeable assessment and fast, low cost proceedings, although there are important differences between the systems examined.

Although **environmental claims are in general not considered of high priority in the field of consumer protection,** this attitude is changing. Information of **the**

outcome of official actions in hard figures is limited. Preventive action and 'soft' actions based on persuasion and mediation occur and it is also difficult to obtain a clear picture of the quantity and impact of such actions. Perhaps not coincidentally, the number of complaints in the United Kingdom has declined steadily since organisations such as the ASA (SRO) and DEFRA (public authority) undertook a more proactive approach to prevention.¹⁸⁹

The **strong characteristics of self-regulatory enforcement** are that it provides **effective remedies** in practice, that the **decisions are made by knowledgeable persons**, that it is **fast and cheap for consumers** acting as complainant, and that it can be **based on a flexible assessment of evolutions in the market**. The main **weakness** of self-regulatory enforcement is the **lack of hard sanctions** where these are ultimately necessary.

The **public enforcement** systems differ considerably between the countries. However, **weaknesses** been **cited are lack of specialised knowledge, expensive procedures, long duration of procedures, and lack of funds** in certain countries resulting in low priority accorded to the issue of environmental claims. These remarks should not be generalised however. A **strong** characteristic of public enforcement is the **possibility to apply hard sanctions** where necessary.

Although the availability of information on the outcomes of official actions in hard figures is limited, and the national systems are quite different from each other, the study revealed that the enforcement systems are generally considered adequate. The soft approach of infringements by the SRO, but also by administrative enforcement agents, seems effective and results in a satisfactory level of compliance. Where necessary, the strong hand of public enforcement results in further compliance. Where soft enforcement is ineffective in the first instance, the second stage of hard enforcement remains necessary.

The co-existence of public and self-regulatory enforcement is not perceived to be problematic in the countries examined. In many countries **some synergy** between the two systems exists. In Spain e.g. a joint effort of public and private enforcement authorities, as well as leading industry stakeholders, resulted in a specific Code of conduct on environmental claims and the creation of a joint Monitoring Committee. Regarding the application of enforcement procedures, it is good practice to enable a smooth 'switch' from the SRO approach to the public enforcement approach where this is necessary in cases of non-compliance. The German example is interesting since it enables the private enforcement organisation to make a settlement agreement with a penalty clause that applies in case of infringement and enables a quick sanctioning of non-compliance with the organisation's decision through a fast injunction procedure in court (which is possible within one day).

Despite the various institutional frameworks and traditions of these countries, both a public enforcement system and a SRO system may provide all the tools necessary for effective enforcement. It would be incorrect to conclude that only the soft approach of a SRO would be workable as a first stage. In Norway, the public enforcement system organised by the Consumer Ombudsman and the Market Council is predominant and it results in effective remediation, through a soft approach (in first instance), good knowledge, awareness of market issues and good preventive action through guidance and information for traders and consumers. This approach may account for a relatively low level of official cases decided by the Norwegian Consumer Ombudsman.

¹⁸⁹ The impact of the economic recession should be taken into consideration as well, because marketers tend to focus less on the marketing of environmental benefits of products.

An active approach of surveillance of the most important marketing tendencies, combined with good general guidance and multimedia presentations and workshops for businesses (particularly focusing on sensitive sectors or recurring problematic categories of claims) demonstrates **good practice** undertaken in the United Kingdom by the ASA and DEFRA. Probably not coincidentally, but this is difficult to prove, the number of complaints has declined considerably since 2008 when the ASA undertook this stronger approach¹⁹⁰. General prevention through different means is also an important strategy of the FTC in the United States.

Closely linked to general prevention and guidance, **specific prevention can be achieved through copy advice systems**. Good working copy advice systems may account for a limited number of official complaints about certain environmental marketing techniques. Assessments should be done quickly and by knowledgeable people. A *limited* system of *compulsory* copy advice resulting in a pre-clearance of traders can be applied for certain categories of advertisements (as it exists in France – and de facto in the United Kingdom – for TV advertisements). However, it would not be sensible to create a general pre-clearance system based on a short assessment and with definitive safeguards for traders against the complaints of stakeholders. Such a system would not be feasible in practice and would harm the interests of the stakeholders.

Where information on the outcomes of official actions (expressed in numbers) is limited, all elements must be taken into consideration. As mentioned, the existence of good guidance is important. Furthermore, awareness of consumers about the rules of correct advertising, their understanding of environmental claims and awareness of their rights are important factors too. The level of consumer concern about the issue of environmental claims should also be taken into consideration. If consumers are not concerned about the issues, they will not file complaints even under the most ideal enforcement structure. Finally, the “complaint culture” of a population must be taken into consideration. Even if consumers are aware of the issue of environmental claims, and even if they care about it, this does not necessarily imply that consumers will submit official complaints.

In view of these different factors it is difficult to prove a causal link between the study’s findings regarding consumer awareness and their concern about environmental claims and the number of official cases that are handled by the enforcement organisations. E.g. the number of official complaints is relatively elevated in the Netherlands when compared to some other countries, taking into consideration the size of the population, although the study does not indicate a higher level of concern amongst Dutch consumers compared to other countries. However, the Netherlands has a strong tradition of self-regulation and the enforcement system is very accessible.

As it emerged that complaints arise particularly in **certain sectors** (especially **automobile and energy**), certain preventive efforts could be focused more on sensitive sectors and where necessary the sectorial organisations could be more involved. The study revealed the existence of limited sectorial guidance and sectorial enforcement is even more limited. Not coincidentally, the Spanish SRO is de facto focused on these two sectors. **Where sectorial guidance may be focused on language, terms, standards, tendencies and habits within the sector, and sector-specific checklists could be helpful, enforcement action could be**

¹⁹⁰ The impact of the economic recession should be considered as well, because marketers tend to focus less on marketing actions claiming an environmental benefit.

tailored more towards a sectorial approach. Whilst it may not be feasible to take a more pro-active surveillance approach in general, it could still be useful to stimulate a more pro-active approach within these sectors.

The Commission could encourage the development of more sector specific codes of conduct, including guidance and tailored enforcement, through the stimulation of sectorial assessment panels (and possibly specific panels within the existing organisations). This approach may include more tailored training of agents or the involvement of external experts where necessary. This approach may also facilitate specialised copy advice, as well as publication of important decisions within the targeted sector. It can furthermore be assumed that tailored Guidance documents containing the typical language of the sector or practical standards will be considered of greater relevance to the stakeholders involved than a general approach.

Whereas the existing enforcement systems in the different countries and their legal structures and traditions call for a cautious approach in making suggestions on enforcement, a stimulation of a stronger preventive approach through guidance and information and of a strong sectorial approach through more specific guidance and additional or more tailored enforcement options can be considered.

It should be noted that a stronger legislative approach, favoured by some stakeholders, would to an extent conflict with the current functioning of SROs, which shape the market in terms of guidance based on actual practice. Some stakeholders are in favour of this more flexible approach, which is perceived to be effective in practice. The relationship between enforcement through SRO's and public enforcement is often a first stage / second stage relationship. The synergy between both enforcement routes should be explored and developed.

7 Recommendations

Consumers play an important role in meeting the Europe 2020 objective of smart, inclusive and sustainable growth. However, in order to make this possible, a level playing field within a Single Market is necessary. **Consumers are currently faced with a plethora of product choices and environmental information**, which at times can be not only overwhelming, but also misleading. **Misleading and unsubstantiated environmental claims undermine consumers' ability to contribute to green growth through their purchasing choices.** Consumers therefore need tools to assist them in making smart, informed and sustainable purchasing and consumption decisions. **Well-designed consumer policies that ensure consumer safety, information, education, rights, means of redress and enforcement** can help consumers make informed choices and boost their trust.

The European Consumer Agenda was thus adopted in 2012 to identify the key measures needed to empower consumers and boost their trust. In particular, the Consumer Agenda highlights that effective tools are needed to protect consumers against misleading and unfounded environmental claims. For the market for 'green' or environmentally-friendly products and services to function properly, business needs to ensure that environmental claims are clear, accurate and reliable.

In this context, the following recommendations have been developed to help address the challenges related to providing environmental information to consumers, consumer understanding of such information, and the enforcement of environmental claims. The recommendations build upon the findings of the different tasks executed as part of the study, including recommendations of stakeholders and the MDEC. All of these recommendations are proposed with the overall aim of **empowering, assisting and encouraging consumers to be able to make sustainable purchasing choices.**

7.1 Updating the UCPD Guidance document

The findings of the study point to a situation where some environmental claims have a problem of compliance with one or more of the criteria developed on the basis of the UCPD and its 2009 Guidance document. Some could conceivably be considered objectively misleading (untruthful) and a high number could plausibly be subjectively misleading or inaccurate. Furthermore, the substantiation of claims has been identified as a common problem and requires further clarification in future actions. The UCPD aims, according to its preamble¹⁹¹, to increase legal certainty for consumers and business, which has been stressed by stakeholders in relation to the rules that should be applied when developing and communicating environmental claims.

Therefore, in the short term, it is recommended to **update the 2009 UCPD Guidance document to include more specific guidance** on the use of environmental claims on products or services, linked to the general principles of the Unfair Commercial Practices Directive. This revision of the UCPD Guidance document is already planned.

The **areas of attention/improvements** that could be updated **in the UCPD Guidance (or in more detailed EU guidelines as a second step)** are:

¹⁹¹ Recitals 5, 12 and 13

7.1.1 Setting out clear compliance criteria

Section 2.5 of the UCPD Guidance document related to 'misleading environmental claims' distinguishes between objective and subjective misleading and stipulates that green claims must be presented in a specific, accurate and unambiguous manner and that claims must be backed up by scientific evidence. Annex I of the UCPD prohibits certain practices that could be in particular relevant to the area of environmental claims such as unauthorised use of logos.

- **Clarification on the specific criteria that should be met** by environmental claims to comply with the UCPD is needed. The five criteria developed within this project could be a starting point. The UCPD and the 2009 Guidance document refer to these five criteria as a way to define Article 6 regarding misleading environmental claims. The five criteria are: **vagueness, objective misleading, subjective misleading, evidence and accuracy**. The clarification regarding these key criteria should aim to reduce the use of non-accurate and ambiguous language.
- Furthermore, clarification on the **definition of the 5 criteria** is required. Specific definitions of vagueness, objective misleading, subjective misleading, evidence and accuracy need to be developed and **complemented with concrete examples** to illustrate the scope of the definition. For example:
 - **usage of specific claims** such as **Degradable**¹⁹², **Recyclable**¹⁹³, **Reusable**¹⁹⁴, etc.;
 - **not overstating environmental benefits** of products/services, e.g. the presentation of actions and products at an experimental stage needs to be clearly presented as such and not exaggerated;
 - **avoid vague and general claims** unless with clear, prominent and readily understandable qualification;
 - a **direct link** should exist **between the environmental benefits of products and the claim**, e.g. companies should not claim environmental actions/benefits on a product when they only apply to management of the company unless this is duly clarified (in a prominent and understandable way) for the average consumer;
 - **visual or audio presentation of the claim must not mislead consumers** e.g. green images' such as those featuring leaves or trees should not be used unless there is a relevant connection to the claim;
 - etc.

¹⁹² For example, "degradable" can be defined as "any characteristic of a product or packaging that under certain conditions, decomposes to a certain degree and over a period of time. This argument should not be used in the case of goods, packaging or components which in the decomposition process release substances that are harmful to the environment." (Self-Regulation Code on Environmental Claims included in Commercial Communications (Código de autorregulación sobre argumentos ambientales en comunicaciones comerciales, 2009)

¹⁹³ For example, "recyclable" can be defined as "a characteristic of a product, packaging or component that allows avoiding disposal of waste through processes and programmes available to collect, process and reuse it as raw materials or products. When using a symbol to represent the condition of recyclable, this will be the Mobius Loop, with the form of three curved arrows forming a triangle (for graphic features of this symbol, see ISO 7000, symbol No 1135)." (Código de autorregulación sobre argumentos ambientales en comunicaciones comerciales, 2009)

¹⁹⁴ For example, "reusable" can be defined as "the characteristic of a product or packaging conceived and designed to accomplish in their life cycle, a certain number of trips, rotations or uses for the same purpose for which it was designed. Within it, 'refillable' is the characteristic of a product or packaging that allows refilling more than once with the same or similar product, keeping its original shape without additional requirements, except for specific requirements for washing or cleaning. No product or packaging must be described as reusable or refillable unless it can be reused or refilled to its original purpose. These claims should only be used in those cases where the necessary programs, services or products required for reuse or refilling, exist." (Código de autorregulación sobre argumentos ambientales en comunicaciones comerciales, 2009)

7.1.2 Clarifying the concept of substantiation/scientific evidence

A particular need to **clarify the concept of substantiation** or the provision of scientific evidence has been identified.

- Providing **specific examples of the different types of scientific evidence** that would be robust and acceptable;
- **Clarifying**
 - (1) the amount and type of **information required** to substantiate the claim **for consumers** including a clear statement of where this information should be made publicly available
 - (2) the type of scientific evidence that should be made available to **enforcement authorities** in case a claim is challenged and where it should be stored.

In addition, the UCPD Guidance could suggest that specific figures and percentages referring to the environmental performance of the product are easily available in the product's description or in the website. It is also suggested that the UCPD Guidance will request to make additional information such as life cycle assessments publicly available. Additional scientific information about product composition or production should be available to enforcement authorities.

- **Referring to the EU legislative requirements** related to **business commercial confidentiality**. For example, the Guidance document could mention the exceptions to disclose information under Article 4(2) of "Directive 2003/4/EC on public access to environmental information¹⁹⁵" which refers to the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest. Another example is data protection also referred to in Article 4(2) of Directive 2003/4/EC to justify refusal to disclose information due to the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public.
- **Elements** that would be **helpful for businesses** to gain further insights on how to most effectively **present and verify environmental claims** include for example:
 - A **list of reputable third party certification schemes** of environmental information e.g. EU Ecolabel, the Blue Angel, Nordic Swan, etc.;
 - **Methodologies used** to measure and calculate the environmental performance of products e.g. the EC's Product Environmental Footprint Methodology¹⁹⁶, ISO 14040-44¹⁹⁷, PAS 2050¹⁹⁸, WRI/WBCSD GHG protocol¹⁹⁹, Sustainability Consortium²⁰⁰, Ecological Footprint²⁰¹, etc.
 - Encouragement of the **use of peer review**, which is also mentioned in the Danish guidelines "*If a study was carried out by the manufacturer or the trader marketing the product, such study must be assessed by an independent body or it must be verified in an equally adequate manner that the study has been carried out correctly and that the assessment of the results is professionally sound.*"

¹⁹⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:041:0026:0032:EN:PDF>

¹⁹⁶ http://ec.europa.eu/environment/eussd/smgp/product_footprint.htm

¹⁹⁷ International standard on the use of Life cycle assessment as basis for environmental declarations and carbon footprint of products

¹⁹⁸ PAS 2050 provides an internationally applicable method for quantifying product carbon footprints

¹⁹⁹ Provides requirements to quantify the GHG inventories of products and requirements for public reporting

²⁰⁰ <http://www.sustainabilityconsortium.org/>

²⁰¹ <http://www.footprintnetwork.org/en/index.php/GFN/>

Guidance on the level of scientific evidence could also be provided at a sector specific level.

7.1.3 List of the most used environmental claims and list of environmental claims that should not be used

The Guidance document should include **a list of the most used environmental claims** following on the 2009 Guidance document for the assessment of environmental claims, and clarify how these claims should be used or interpreted to be in line with the UCPD. The Guidance could also include **examples of claims that should not be used** because they are considered misleading at EU level. There are examples in national guidelines that could usefully be included in an EU guidance document. For example:

- **General claims such as 'green' or 'sustainable' and logos that only refer to the environmental performance or activities of the company** (and not necessarily linked to the specific product) cannot be used or placed on the product's packaging. The Guidance document should describe the conditions under which these general claims may be used such as when the logo includes a textual claim specifying that it does not refer to the product but to the company.
 - For example: The Spanish Guidelines recommend avoiding generic or non-specific claims about environmental benefits, such as 'environmentally harmful', 'green', 'ecologic', or 'sustainable'. Alternatively, the guidelines require the trader to justify them with the help of quotations, which should be clear, prominent, easy to understand and placed near to the claim in order to ensure that consumers can read them together.²⁰² (ref.: see Chapter 4 of this Study)
- **General claims such as "environmentally friendly", "environmentally friendly production"** are too vague, non-specific and should not be used unless they are qualified with specific information on the environmental benefit of the product or service referred to.
 - For example: The ICC Code recommends that claims such as 'environmentally friendly,' 'ecologically safe,' 'green,' 'sustainable,' 'carbon friendly' or any other claim implying that a product or an activity has no impact – or only a positive impact – on the environment, should not be used without qualification²⁰³ unless a very high standard of proof is available. It underlines that qualifications should be clear, prominent and readily understandable; the qualification should appear in close proximity to the claim being qualified, to ensure that they are read together. (ref.: see Chapter 4 of this Study)
 - For example: The US Federal Trade Commission (FTC) Guidelines (summary) state:
 - Marketers should not make broad, unqualified general environmental benefit claims like 'green' or 'eco-friendly.' Broad claims are difficult to substantiate, if not impossible.
 - Marketers should qualify general claims with specific environmental benefits. Qualifications for any claim should be clear, prominent, and specific.

²⁰² The Spanish guidelines do not provide further examples besides the above.

²⁰³ The ICC Code defines the term 'qualification' as an explanatory statement that accurately and truthfully describes the limits of the claim.

- When a marketer qualifies a general claim with a specific benefit, consumers understand the benefit to be significant. As a result, marketers shouldn't highlight small or unimportant benefits
- If a qualified general claim conveys that a product has an overall environmental benefit because of a specific attribute, marketers should analyse the trade-offs resulting from the attribute to prove the claim.
(ref.: see Chapter 4 of this Study)
- The understanding of claim '**recycle**' aiming to influence consumer behaviour should be clear and easy to distinguish from similar words such as 'recyclable' or 'recycled'.
 - For example: The Spanish Guidelines document defines the term recyclable as a characteristic of a product, packaging or component that allows avoiding disposal of waste through processes and programmes available to collect, process and reuse it as raw materials or products. However, it is not defined in relation to similar terms that could mislead the consumer. The French guidelines provide rules for the use of 'recyclable' stating that the concept of a 'percentage' (e.g. 100%) affixed to the notion of 'recyclable' must not be used; a product either is recyclable, or is not. The US FTC guidelines²⁰⁴ set recommendations on how to use the claim 'recycled content': "It is deceptive to represent, directly or by implication, that an item contains recycled content unless it is composed of materials that have been recovered or otherwise diverted from the waste stream, either during the manufacturing process (pre-consumer), or after consumer use (post-consumer). Recycled content claims may – but do not have to – distinguish between pre-consumer and post-consumer materials" (ref.: see Chapter 4 of this Study)
- **Vague claims** such as 'green energy' should only be used when qualified with specific information on the percentage of energy from renewable sources that are generated or distributed (and therefore that reach the consumer).
 - For example: For products produced with renewable energy the US FTC Guidelines consider that it would be deceptive to make an unqualified 'made with renewable energy' claim unless all, or virtually all, of the significant manufacturing processes involved in making the product or package are powered with renewable energy or non-renewable energy matched by renewable energy certificates. When this is not the case, marketers should clearly and prominently specify the percentage of renewable energy that powered the significant manufacturing processes involved in making the product or package. (ref.: see Chapter 4 of this Study).

7.1.4 Sector specific guidance

Findings from the study indicate that **complaints** related to misleading environmental claims **particularly arise in the automobile and energy sectors**. Products such as appliances, cleaning products, cosmetics (including shampoos), building products, paper, textiles and services are less subject to complaints. The assessment however also points out that environmental claims for these product groups are not always fully compliant with the UCPD Guidance document. An extensive EU acquis already exists that aims to improve the environmental performance for a number of sectors

²⁰⁴ January 2012 revised guides for the use of environmental marketing claims by the US Federal Trade Commission

specifically highlighted in this report. In this context, additional **guidance/rules** could be **issued for priority sectors** based on monitoring of the effectiveness of the sector-specific rules already in place e.g. based on implementation and evaluation reports of the Energy Labelling Directive (Directive 2010/30/EU) and/or the preparation of its Delegated Regulations on specific product categories.²⁰⁵

Furthermore, sectorial guidance could focus on **language, specific terms, standards and production processes within the sector**, as well as sector-specific checklists.

In addition, for sectors where environmental labels are frequently used, guidance on the use of existing relevant labelling schemes that address the most important issues/environmental impacts for products could also be encouraged.

7.1.5 Clarification on how the provisions in EU legislation can be applied to environmental claims

The future UCPD Guidance document should further **clarify how provisions in EU legislation** already mentioned in the 2009 Guidance document and related to labelling or claims **can be applied in relation to UCPD**.

- For example: The conditions for the use of terms like 'organic' and acronyms 'eco' and 'bio' (which are protected terms for food-products as defined under Regulation 834/2007), for (ingredients of) non-food products. A different definition or the lack of definition for non-food products in EU legislation is considered confusing. The UCPD guidance document could also refer to ongoing EU/international (e.g. ISO, ISEAL) work that may provide clarity in the (near) future.

7.1.6 Guidance on collaboration of different actors

The UCPD Guidance document could include more concrete methods for the **different actors** concerned (e.g. industry trade associations, public authorities, consumer associations, etc.) to **work together** to reduce the number of misleading claims.

- For example, the UCPD Guidance document could refer to the establishment of a process to ensure ongoing update and improvement of the guidelines through Member State and stakeholder dialogue as well as inclusion of new scientific knowledge (i.e. research) in future updates. The market for green products is a dynamic one, driven by both supply and demand as well as legislation. This makes it all the more essential that **collaborative actions and processes** are established between the different actors.
- Furthermore, these actors can **raise awareness** of the existence of the UCPD and the related Guidance document to ensure that the guidelines are easy to use (accessible to marketers).

7.1.7 Specific recommendations for environmental labels / certification schemes

A particular need to **cover environmental labels or certification schemes** (other than the misleading aspects of their logos or the unauthorised use of logos):

- The **standards** set up in accordance with the **EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs**²⁰⁶ (EU agriculture certification guidelines) are a good starting point²⁰⁷. These standards

²⁰⁵ http://ec.europa.eu/energy/efficiency/labelling/labelling_en.htm

²⁰⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0005:0011:en:PDF>

²⁰⁷ Other international best practice guidelines and codes of conduct can be also relevant e.g. from ISEAL Alliance, the global membership association for sustainability standards:
-ISEAL Principles for Credible and Effective Sustainability Standards Systems
-ISEAL Code of Good Practice for Setting Social and Environmental Standards

include requirements regarding public participation, clarity, transparency for the development of criteria and standards as well as for scheme functioning, standards above baseline legislation, regular inspections with third party attestation and the use of logos.

In addition, **logos should be awarded on a product-by-product basis** and related to specific environmental product performance. In essence, the use of logos should not be allowed when they refer to sustainability awareness or behaviour of the company rather than the environmental performance of the product, unless this is explicitly clarified in the logo (or near to the logo).

- Furthermore, the development of criteria that enable consumers to easily differentiate logos linked to certification schemes from self-declaration logos is recommended.²⁰⁸

7.2 Strengthening the enforcement of environmental claims

Analysis of the **enforcement systems** for regulating environmental claims in place across the EU indicates that there are **significant variances across Member States. Even within a country**, several enforcement systems can be in place - each with their own specifications - but all aiming to protect consumers from misleading environmental claims.

Recommendations in this field should be realistic and cautious due to the fact that enforcement is organised within existing public and legal infrastructures, each with a different historical background and operating in a different culture, and with a diverse involvement of the stakeholders.

While systematic and coordinated EU level alignment between national level administrations and organisations is highly desirable to avoid contradictions and divergences between the Member States, progress can also be made in the shorter term, in particular by ensuring that some of the observed good practices that support effective enforcement are adopted by a larger number of administrations and organisations. The recommendations below on improved enforcement revolve around five main elements: surveillance, alignment and coordination among existing authorities, awareness, prevention and sanctioning.

7.2.1 Surveillance

In general, Member States could strive for **stronger pro-active surveillance by their administrative enforcement authorities**.

- This requires Member States to ensure that effective enforcement systems are in place, and that (taking into consideration their budgetary restraints and priorities) the enforcement authorities focus on problem areas, including specifically by raising awareness of good practice within existing enforcement organisations. **Some good practices identified** in the study in relation to pro-active surveillance are:
 - Organized **cooperation between public enforcement authority, SRO and business representatives** (e.g. in Spain);
 - **Market sweeps (organised surveillance actions) focused on specific problem areas** (Norway);

-ISEAL Code of Good Practice for Assuring Compliance with Social and Environmental Standards
 -ISEAL Code of Good Practice for Assessing the Impacts of Social and Environmental Standards
 -ISEAL Good Practice Guide v0.1 (DRAFT) 'Making Claims about Sustainability Standards Systems
 See www.iseal.org/claims

²⁰⁸ For the development of such criteria, the European and international guidelines/codes of conduct mentioned in the earlier footnote could be a relevant starting point.

- **Governmental support** to consumer organisations that sweep the market and may start legal action (Germany).
- The enforcement authorities must ensure that their **inspectors/personnel 'in the field'** are **sufficiently aware of the issue** of environmental claims. The issue is usually not specified in legal texts but needs to be explained in guidance documents. In particular surveillance personnel that examine product labels may lack this awareness.
- Furthermore, sufficient **resources and training on technical aspects of control and verification must be provided**. Where access to resources or know-how is limited, Member States can encourage their enforcement bodies to **seek out cooperation with external partners** (including in the private sector) to ensure the availability of sufficient expertise.

7.2.2 Alignment and coordination among existing authorities

Alignment between existing authorities and bodies is crucial to **ensure consistency in enforcement policies and to improve these policies**. The required awareness raising and training could therefore initially be organised at least at the national level, within an advisory body on environmental claims.

- In order to support the national enforcers, the establishment of an **ad-hoc working group/expert group of national enforcers** could be highly beneficial. Such a group may **share best practices and national experiences**, and the members of the group could work together to **explore weaknesses in the area of awareness, available resources and knowledge**. Such a group may **provide training** and **suggest** targeted (and possibly coordinated) **surveillance** programs and activities, **propose** a **priority setting** focusing on problem sectors or problematic tendencies. A clearer view on the priorities may be helpful where resources are limited. Focused **exchange on verification methods and (scientific) evidence support**, which could come in the form of a manual, could also be developed for enforcement purposes. Where there are limited resources in the field of scientific knowledge and test equipment, the experience and **support of peers** may be helpful. Peer reviews of enforcement policies could be introduced in order to verify the effectiveness of enforcement.
 - An enforcement network such as the Consumer Protection Cooperation (CPC) network is important, in the field of consumer protection in general, for knowledge and information sharing, training, alerts and enforcement (e.g. coordination of sweeps). This network may serve as an example or may provide the organisational framework for a working group for environmental claims. Another similar network is IMPEL (European Network for the Implementation and Enforcement of Environmental Law), which is a network of environmental inspectors that engages in actions such as peer review to help improve inspection practices.

While an ad-hoc working group does not offer the benefits of permanent EU level bodies, it has the benefit of being significantly more flexible with respect to its organisation, mandate and funding, and therefore constitutes a viable short term recommendation for follow-up action by the European Commission and Member States to facilitate effective enforcement, even in the absence of formal institutional or legal reform.

7.2.3 Prevention

Prevention is a key element of enforcement.

- General prevention is provided through **pro-active guidance initiatives** that help business, such as sectorial guidelines or sectorial codes of conduct and more pro-active self-regulatory surveillance within sensitive business sectors. The national

enforcement authorities could be stimulated (through the channel mentioned above) to undertake such initiatives and dialogue. In Spain, the national Code of Conduct on environmental claims is the result of a co-regulation agreement between the Environment Ministry, the Spanish SRO Autocontrol and leading companies in the Energy and Automotive industries. This Code establishes a co-ordinated guidance document with important preventive function, but furthermore provides for the creation of a Monitoring Committee that meets periodically and that is formed by representatives of the concerned parties and chaired by the Ministry. This kind of **organised cooperation between the public and private enforcement bodies and stakeholders** may **result in better prevention and better enforcement**. Furthermore, good guidance for businesses was identified in the United Kingdom (the DEFRA Green Claims Guidance containing many visual examples²⁰⁹), the United States (the FTC uses an elaborated green guide made after extensive consultation of the stakeholders, as well as multimedia²¹⁰), France (the practical guide to environmental claims for traders and consumers prepared by the National Consumer Council²¹¹) the extensive guidance documents issued by the Consumer Ombudsman in Denmark²¹² and in Norway²¹³.

- A very concrete form of prevention could be provided "ad hoc" through effective **copy advice systems**, organised by public enforcement bodies or public or private agencies appointed for this task (in France, the legislator appointed the SRO for mandatory copy advice on television ads; in the United Kingdom the broadcasting companies who have a legal obligation to verify ads appointed the private organisation Clearcast for this task). The workgroup mentioned above could provide guidance to national enforcers and support them with **checklists** and other practical materials²¹⁴. UK DEFRA has already developed such a checklist (DEFRA Guidance document on green claims²¹⁵), which includes questions on the content, the accuracy and the substantiation of the environmental claims. Such questions could be used to help clarify the interpretation of the criteria for environmental claims in order to ensure a more harmonised implementation. **For certain sectors or practices** the enforcement organisations could reflect on **mandatory copy advice or pre-clearance** services, as is currently the case in a few countries in relation to television advertisements.

7.2.4 Awareness

In certain countries, Member States and enforcement bodies/organisations could work together to **improve the awareness and concerns of consumers in relation to environmental marketing**. The aforementioned workgroup may provide insight into useful methods to develop awareness, the best media that can be used in order to create awareness²¹⁶ and may provide information on legal solutions that can be of help. For example, in Luxembourg, if consumers contest the environmental claim of an energy provider, they can also terminate their contract without any financial

²⁰⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69301/pb13453-green-claims-guidance.pdf

²¹⁰ <http://business.ftc.gov/multimedia/videos/green-guides>

²¹¹ http://www.economie.gouv.fr/files/files/directions_services/dgccrf/documentation/publications/brochures/2012/Guide_allegat_environ_en_2012.pdf

²¹² <http://www.consumerombudsman.dk/Regulatory-framework/dcoguides/Environmental-and-ethical-marketing>

²¹³ <http://www.forbrukerombudet.no/id/11040523.0>

²¹⁴ At a later stage, an advisory body or expert group at European level may fulfil a more organized and formal role in the field of copy advice and business advice in relation to environmental claims, as is suggested further below.

²¹⁵ www.gov.uk/government/uploads/system/uploads/attachment_data/file/69301/pb13453-green-claims-guidance.pdf

²¹⁶ The USA's regulator and enforcer, the FTC, provides good examples of media used to create consumer awareness. (<http://business.ftc.gov/multimedia/videos/green-guides>).

penalties. When consumers can make use of such strong remedies, their awareness may be increased and this may impact on enforcement circuits that are based on complaints rather than pro-active national surveillance. **Awareness is a prerequisite for enforcement actions based on complaints** (see also sub 7.3 hereafter).

Furthermore, the availability of centralised or locally well-known and accessible organisms that inform consumers who intend to file complaints, and that help them to find the appropriate mechanism to do so, is considered good practice (e.g. well established in the Netherlands).

7.2.5 Sanctions

At the **sanctioning level**, national enforcement authorities could work more to **exchange information on the effectiveness of their sanctioning strategies**, including:

- **Mandatory pre-clearance** as a sanction for certain offenders, for a certain period of time;
- The drafting of **protocols** with the **advertising and media sectors** in order to **act as a filter** and to ban greenwashing; in addition the compliance with such protocols can be **linked to the permitted use of a label** 'We endorse ethical advertising' or similar;
- Better **integration of public enforcement mechanisms and self-regulatory mechanisms** (e.g. administrations or the judicial circuit may be convinced to accept infringement assessments of self-regulatory organisations and to provide a fast legal action based upon such assessment. As a general guideline, the courts may adopt a 'limited review' policy where decisions have been made by SROs, i.e. that they would respect the decision unless they believe that substantial principles were not respected by the SRO);
- The application of **settlement documents with offenders**, including cease and desist commitments and **penalty clauses to prevent repetition**²¹⁷;
- Clear **financial sanctions** for hard-line offenders, in line with the level of fines normally applied in the country for serious offences against loyal marketing and advertising regulations;
- **Naming and shaming** of companies involved in greenwashing;
- Strong **remedies that may be applied by consumers**, such as the right to terminate their contracts in case of incorrect environmental claims.

Understanding of the effectiveness of enforcement strategies is currently hampered by a **lack of structural data** at the EU level on their results. Such **exchanges of information** could therefore be organised at the EU level through the aforementioned ad hoc group, and are a key enabler to supporting evidence based policy making. Efforts are already underway at the EU level to gather further information on how Member States' authorities interpret and enforce (if at all) the UPCD in this area.

7.2.6 Establishment of an advisory body

The provision of a specific mandate to an **advisory body or expert group at EU level** could be established, that would **monitor and advise on environmental claims**. In the short to mid-term, rather than the creation of a dedicated authority to monitor and advise on green claims, this role could be mandated to an existing EU body or agency e.g. through the European Advertising Standards Alliance. This service could be available for all product and service sectors as well as for multiple types of communication channels i.e. not restricted to just TV commercials but also print ads,

²¹⁷ E.g. applied in Germany

labels, etc. It could be composed of trained and qualified professionals with the capacity to **provide the guidance required to businesses seeking advice on their environmental advertisements or claims**. In particular, such an advisory body or expert group could:

- **Inform and 'test'** (i.e. copy advice or pre-clearance) environmental claims prior to their use in regard to the **legislative requirements**, as well as advise on the **design** of environmental claims.
- **Provide** detailed and timely **answers** to questions on the UCPD guidelines and environmental claims in general.
- Provide a **database of decisions** that may help professionals in finding precedents.
- Establish and maintain a **website** providing information, best practice examples, guidelines, information on false and misleading claims, further information, and frequently asked questions (e.g. DEFRA website). Potential synergies with DG Environment's EU Ecolabel (and also Product Environment Footprint) websites could be explored.
- Ensure **links to self-regulating organisations as well as to the umbrella organisation** (the European Advertising Standards Alliance (EASA)) **and national regulating bodies** throughout the Member States.
- **Act as a platform** for self-regulatory bodies and provide information and advice on enforcement issues.
- **Develop regular communication** with Member States and stakeholders to exchange views, discuss progress and enhance communication.

Several actions that are mentioned above are already implemented in practice at a more general level (e.g. for general advertising compliance checks), and could be focused more specifically on environmental claims.

Such a body or expert group could have a broader role especially in relation to guidance, advice, knowledge sharing and sharing of best practice and in due course it could replace the enforcement work group that is suggested above. The advisory body/expert group could be organised as a forum for dialogue and priority setting, and may involve official national enforcement authorities²¹⁸, representatives of the advertising or media sectors (or existing associations such as European Advertising Standards Alliance (EASA) and/or the European Association of Communications Agencies (EACA)²¹⁹, the self-regulatory organisations²²⁰, representatives of chambers of commerce and of business sectors (e.g. automobile and energy), European consumer / environmental associations and academic specialists in consumer law. The designation of the body that would be responsible for such a role is however challenging due to the cross-cutting nature of environmental claims, therefore it would be important to ensure that all relevant agencies and experts are involved.

7.3 Consumer education and awareness campaigns

Findings of this study also revealed the importance of educating consumers not only on the impact of their purchasing behaviour on the environment but also to equip them with the knowledge necessary to enable consumers to **'detect' and correctly interpret environmental claims**, in order to make more sustainable choices. In this context, **education and information campaigns for consumers** can be developed to:

²¹⁸ These could be represented by certain delegates of the enforcement work group mentioned above.

²¹⁹ The European Association of Communications Agencies (EACA) is a Brussels-based organisation which represents full-service advertising and media agencies and agency associations across Europe. See <http://www.eaca.eu/>. It is one of the key industry members in EASA.

²²⁰ If this is deemed necessary since these are already represented by EASA and EACA.

- Create **communication campaigns** aimed at educating consumers on the **importance of environmentally friendly goods**, which could increase their interest and consequently their willingness to look for information, their capacity to interpret it, etc. According to the results of the consumer survey of this study, some consumers rate the importance of claims differently according to the product. They may not attach much value to a particular environmental benefit for a specific product, where in reality the environmental impact is high. This could explain the fact that consumers do not systematically check claims or do not understand them (only making this effort when they recognise a personal interest)
- **Educate consumers from a young age** about the impact of their purchasing behaviour on the environment, via interactive national online platforms for distributing consumer education materials on sustainable consumption amongst teachers and students. At the EU level, the Consumer Classroom²²¹ can be further developed (e.g. by adding a sub-section on environmental claims in the sustainable consumption section).
- **Develop interactive tools** such as mobile applications to enable consumers to detect and correctly interpret environmental claims, e.g. allowing smartphones to scan barcodes of products to access additional environmental information and Quick Response (QR) codes, allowing them to make sustainable choices. Such tools could be launched through business initiatives for their products and services as well as through the EC at the EU level.
- **Educate consumers about their rights** to correct information **and the resources** available to them via **awareness-raising campaigns** at the national and European level, in close cooperation with all stakeholders, including businesses, consumer associations and national authorities. In other words, consumers should not be discouraged from flagging up misleading claims and instead should be provided with the resources and information needed to effectively voice their concerns and to see appropriate action being taken.
- Provide up-to-date information to consumers via a **website** developed as part of the advisory body (see recommendation 7.2.6), that would include information on **types of claims, the meaning behind symbols/logos**, and detecting misleading claims, as well as the opportunity to report their experiences and complaints to the advisory body.

In addition to the necessity of consumer education, the need to educate business, especially SMEs is also essential. Industry associations at the EU and the national level could play an important role in the education process of (small) businesses.

7.4 Legal initiative(s)

Besides the aspects covered by specific EU legislation, the Unfair Commercial Practices Directive (UCPD) is the main body of horizontal legislation used to assess environmental claims as well as establishing whether a claim is misleading either in its content or in the way it is presented to consumers. While the preamble of the UCPD states that one of the aims of the Directive is to ensure harmonisation and legal certainty, the **lack of more detailed legal provisions** on the use of environmental claims on products or services is perceived by some officials and stakeholders as **preventing** their successful **implementation** and their prioritisation for enforcement on the one hand and a **harmonised interpretation** of the criteria on the other. Absence of such harmonised interpretation leads to problems for ensuring

²²¹ The Consumer Classroom is an EU funded portal site for teachers across the EU to equip them with resources for teaching consumer education.

enforcement. In this regard, the request by stakeholders for legal certainty can only be achieved within a proper legal framework with **specific legal rules** that could be **complemented with interpretation guidelines**.

This could be in the form of a **new 'specific' legislation, a revision of the UCPD or co-regulation**²²² to regulate the:

- requirements of environmental information on packaging or advertising as specified under 7.1.1, 7.1.2 and 7.1.3;
- use of environmental labels as specified under 7.1.7;
- establishment of a public advisory body as specified under 7.2.6; and
- design of an environmental symbol as clarified below.

Any possible legal initiatives should take into account the outcomes of the European Commission's initiative "Building the Single Market for Green Products" and its 3 year Environmental Footprint Pilot Phase launched in 2013²²³. Further examination will be needed as a follow-up to this Pilot Phase.

Furthermore, in addition to equipping consumers with the knowledge necessary (e.g. through education and awareness campaigns) to make informed and sustainable consumption decisions, it is essential to ensure that consumers can effectively interpret environmental information. In order to address this challenge, efforts could be made to **design some symbols that could give consumers all the necessary environmental information** e.g. similar to the EU Energy label, which uses a colour-coded and letter rating scheme. This should be symbols trusted by consumers and backed by a robust certification scheme.

²²² Co-regulation refers to the mechanism whereby a Community legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognised in the field (such as economic operators, the social partners, non-governmental organisations, or associations). This mechanism may be used on the basis of criteria defined in the legislative act so as to enable the legislation to be adapted to the problems and sectors concerned, to reduce the legislative burden by concentrating on essential aspects and to draw on the experience of the parties concerned.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2003:321:0001:0005:EN:PDF>

²²³ COM (2013) 196. See <http://ec.europa.eu/environment/eussd/smgp/index.htm>

8 Appendices

- Appendix 1: Selection of products and markets and stakeholder consultation
- Appendix 2: Inventory/presence green claims
- Appendix 3: Consumer understanding
- Appendix 4: Guidelines
- Appendix 5: Assessment against UCPD and voluntary food label guidelines
- Appendix 6: Enforcement

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