



22 January 2024

Joint statement in reference to “the ban of green claims for products containing hazardous substances” in the Green Claims Substantiation Directive (GCD).

Environmental claims play a crucial role in driving positive change, and we support the European Commission’s approach to tackle greenwashing and introduce a robust substantiation framework for environmental claims.

Our Associations fully support the principle that consumers should not be misled by false or unsubstantiated environmental claims and share the EU’s objective to establish a clear, robust and credible framework to enable consumers to make an informed choice. However, we remain highly concerned about the proposed prohibition of any environmental claims for products containing certain hazardous substances.

We believe the provision, as it currently stands under compromise **amendment 60** (Article 5 paragraph 4a), **will run contrary to the objective of the Directive** to enable consumers to make sustainable purchase decisions and ensure proper substantiation of claims.

For several products, including all cosmetics, detergents, products containing natural raw materials, and consumer products such as Electrical and Electronic Equipment (EEE) the reference to “products containing” would encompass both substances and impurities which would have intrinsic hazardous properties. This would imply that there would be a ban of making any environmental claim(s), even if such trace amounts of unavoidable and unintentional impurities and contaminants are present in these products. In practice, this would mean that most products, if not all, would no longer be allowed to use environmental claims.

We would like to remind authorities that, even if a substance would be hazardous, it could still be properly risk managed, controlled, and further used in consumer products without provoking adverse effects on human health or the environment. Consequently, this should not preclude the use of environmentally friendly claims, provided they are properly justified and compliant with the GCD.

Some substances may be classified as hazardous but are in effect key enablers of sustainability improvements. Examples:

- Most of the Natural Complex Substances (NCS) extracted from plants or plant parts contain substances that have intrinsic hazardous properties. These substances naturally present in (edible) plants, are widely present in food (confirming their acceptability for food consumption). For instance, p-cymene is a constituent of many essential oils (thyme oil, lavender oil, lemon oil, etc.) which would be in the scope of restriction due to its (coming) classification. These (natural) ingredients are widely used in various consumer products, as cosmetics, and cleaning and maintenance products. By essence, these constituents are not replaceable in these NCS. This would result in environmental claims ban on consumer products containing these hazardous ingredients. The rationale for these bans would be highly questionable given the objectives pursued by the GCD (i.e. requiring companies to substantiate voluntary green claims they make, taking a life-cycle perspective). This would also highly question the consistency of the approach in light of the objectives of the EU circular and bio-economy, addressing circularity aspects of bio-based products and the sustainable use of renewable natural resources.
- Subtilisin, a type of protease, for instance, is the first detergent enzyme widely used in the EU since the 1960s. Proteases degrade protein stains in cloths e.g. blood, food and grass stains. Because of this activity, proteases can also affect aquatic organisms because animals in water/sea are made of proteins - just like human skin. Thereby protease is self-classified as toxic to aquatic environment under the CLP Regulation. However, there is no risk for the environment because protease, just like any other enzymes is biodegradable.
- Electrical and Electronic Equipment (EEE) can benefit both the consumer and the environment through improved energy efficiency, product longevity, or smart and effective application. LED luminaires with presence detectors and brightness sensors with daylight control can actively contribute to significantly reducing energy consumption. A ban on hazardous substances would affect the entire EEE industry, as almost all of such modern devices contain at least one or more substances such as lead, copper, and silver, which are primarily found within electronic components or traces of SVHC in recycled plastic components. A ban on communicating environmental claims stemming from the mere presence of such hazardous substances would *de facto* translate into an overall ineligibility of the entire EEE industry to share any other environmental aspects of such products towards consumers e.g., products with better energy efficiency. With regards to complex consumer products, environmental product properties are constituted of intricate and inevitable trade-offs between several different characteristics e.g. presence of hazardous substances versus energy efficiency and climate change. Therefore, such a ban could hinder innovation and potentially prevent consumers from choosing more sustainable alternatives.
- Some products may contain unavoidable residual chemicals such as “Nonylphenol, ethoxylated” used in recycled wool, which is exempted from REACH restriction as per Annex XVII. Based on the interpretation of compromise amendment 60, products containing “Nonylphenol, ethoxylated” cannot communicate any environmental claims.

The GCD will be a key component of the European Union's comprehensive legislative structure, aimed at promoting consistency and reliability in environmental claims for both consumers and businesses.

- Existing legislation like CLP, REACH and RoHS already governs the safety and environmental impact of hazardous substances in products. REACH has established a process to ensure that the use of substances is safe according to the use-case, which should include without limitations the possibility for green product claims, in particular as the environmental benefits claimed often have a disconnect to a specific substance with a relevant hazard classification. The European Commission has stated (e.g., in the IMCO&ENVI meeting on November 6, 2023) that these frameworks are suited to handle these matters. The GCD aims to set clear regulations for justifying environmental claims and recognizing potential trade-offs.
- References to aligning with EU Ecolabel criteria need clarification. The EU Ecolabel signifies top-performing products in environmental terms and is not meant to set the standard for all products. It considers hazardous substances on a case-by-case basis, with certain flexibilities. The GCD amendment would impose even stricter controls than the EU Ecolabel, which aims to identify best-in-class products, not to establish a baseline for all.

The proposed thresholds in the GCD raise concerns, for instance, innovations like concentrated home care products or dry shampoos, which reduce water use and CO₂ emissions while offering sustainable packaging, could be adversely affected. These products have a higher concentration of chemical ingredients and would be more likely to pass the threshold for a ban despite their environmental benefits. Implementing such a system could contradict the objectives of the Green Deal by preventing genuinely sustainable products from making environmental claims.

Recommendation: Given the wide-ranging impacts across many sectors (automotive, EEE, cosmetics, detergents, textiles, furniture, etc.) that would be prevented from making any environmental claims, irrespective of the actual environmental performance of their products, **we are calling for compromise amendment 60 to be rejected and provisions banning green claims for products containing hazardous substances to be removed.**

Our industries' associations remain fully supportive of a timely adoption of an ambitious and implementable green claims directive that enables consumers to help drive the Green Transition.

Annex I – Compromise Amendment 60

4a. Explicit environmental claims shall be prohibited for products containing substances or preparations/mixtures meeting the criteria for classification as toxic, hazardous to the environment, carcinogenic, mutagenic or toxic for reproduction (CMR), causing endocrine disruption to human health or the environment, persistent, bioaccumulative and toxic (PBT), very persistent, very bioaccumulative (vPvB), persistent, mobile and toxic (PMT), or very persistent, very mobile (vPvM) properties in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, nor to goods containing substances referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, except when ~~their use is considered essential for society~~ their use is essential for the safety of the product and there are no viable alternatives for their use. The Commission is empowered to adopt delegated acts in accordance with Article 18 to specify applicable thresholds for specific product groups and the interpretation of the derogation from the prohibition established in sub-paragraph 1.

List of signatories:

A.I.S.E. - International Association for Soaps, Detergents and Maintenance Products: <https://www.aise.eu/>

AIM – European Brands Association: <https://www.aim.be/>

APPLiA: <https://www.applia-europe.eu/>

AMFEP – Association of Manufacturers and Formulators of Enzyme Products: <https://amfep.org/>

CosmeticsEurope: <https://cosmeticseurope.eu/>

EDANA: <https://www.edana.org/>

EPTA – European Power Tool Association: <http://epta.eu/>

FESI – Federation of the European Sporting goods Industry: <https://fesi-sport.org/>

IFRA – International Fragrance Association: <https://ifrafragrance.org/>

LightingEurope: <https://www.lightingeurope.org/>

NATRUE aisbl, the International Natural and Organic Cosmetics Association: <http://www.natrue.org/>

TIE – Toy Industries of Europe: <https://www.toyindustries.eu/>

WFA - World Federation of Advertisers: <https://wfanet.org/>