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General Secretariat

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**Brussels, 28 June 2023**

**WK 8499/2023 ADD 4**

**LIMITE**

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## **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	ST 7777/23
Subject:	Green Claims Directive: Follow-up of the WPE meeting on 1 June 2023 - Comments by a delegation

Following the call for comments (WK 7308/23), delegations will find attached the contribution received from the PT delegation.

## PORTUGAL

### Green Claims Directive – Portuguese Comments following the WPE of June 1

#### General comments

This proposal has the objective of making sure that un-substantiating and false claims about environmental benefits will not be possible.

The key objectives of the proposal on environmental claims as indicated in the document are:

- Increase the level of environmental protection and contribute to accelerating the green transition towards a circular, clean and climate neutral economy in the EU;
- Protect consumers and companies from greenwashing and enable consumers to contribute to accelerating the green transition by making informed purchasing decisions based on credible environmental claims and labels;
- Improve the legal certainty as regards environmental claims and the level playing fields on the internal market, boost the competitiveness of economic operators that make efforts to increase the environmental sustainability of their products and activities, and create cost saving opportunities for such operators that are trading across borders

The Directive defines in article 2:

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

***(2) ‘explicit environmental claim’ means an environmental claim that is in textual form or contained in an environmental label***

and therefore, it applies exclusively to claims made in a form of text or label. That means, if traders use images without any text and not linked to any label, those images can be wrongly used to give the impression of an environment concern with a product, service or trader. **We consider that the proposal should also envisage images of any kind that could transmit the idea of environmental concern.**

Another question that raises some concerns is the online trade platforms that are nowadays growing. These platforms can be based in any country, in or outside EU, which sell their products in the EU market. These situations of difficult control should be addressed in the proposal.

Besides that, we also consider very challenging to apply the compliance process, according to articles 14 and 15, to traders based outside EU, for example, in China.

#### Specific comments on articles

##### Articles 14 and 15

When reading articles 14 and 15 we cannot see how they are compatible with articles 10 and 11, as there is no clear indication on what will be the interactions between the competent authorities, the verifier and the entity that will provide the accreditation for the verifier under the Regulation (EC) No 765/2008.

The objective of the verification by a third independent party is to assure confidence and the correctness of any claim. Furthermore the verifier will have to do an accreditation process, so their competence will be assessed before it can do any verification.

Under normal roles for certification schemes, for any wrong claim that has been verified, the verifier has the power to remove the certification of the claim.

If the problem is the quality of the verification, then the accreditation body has the power to suspend or remove the accreditation of the verifier.

It is not clear what is supposed to be achieved with the regular checks of the competent authority (article 15).

**In conclusion, we consider that more clarification is necessary on what is supposed to be achieved with the regular checks (article 15) undertaken by competent authorities.**

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