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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	7777/23
Subject:	Green Claims Directive: WPE on 2 July 2024 – follow-up: comments by a delegation

Following the call for comments outlined in WK 9534/24, delegations will find attached additional comments from the LU delegation followed by a courtesy translation.

Commentaires écrits du Luxembourg

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Projet de directive sur les allégations vertes (Green Claims Directive) – Phase trilogue

Définition et champ d'application :

Considérant 15 :

Le Luxembourg souligne l'importance de l'explication détaillée du « *trader generating an explicit environmental claim* » au considérant 15 pour l'interprétation du champ d'application, et est donc en faveur de garder l'Orientation générale du Conseil (OGC) à cet égard.

Article 2 § 1 (8) :

Le Luxembourg s'oppose à l'ajout de « *one or more* » dans la définition de « *environmental label* » puisque cette formulation élargirait le champ d'application au-delà du champ avisé par la Directive (« *only or predominantly environmental characteristics* »). L'ajout d'une telle formulation pourrait potentiellement inclure un plus grand nombre de labels environnementaux, dont même ceux qui ne se concentrent que sur un seul aspect environnemental. Cela pourrait rendre la réglementation plus complexe ou mener à des interprétations variées et donc plus difficile à appliquer de manière uniforme. Le Luxembourg souhaite donc garder l'Orientation générale du Conseil pour ce qui concerne la définition des labels environnementaux.

Allégations liées au climat

Le Luxembourg exprime son soutien à l'Orientation générale du Conseil et se félicite que le Conseil ait trouvé un équilibre adéquat entre les exigences demandées aux entités souhaitant faire des revendications relatives au climat d'un côté, et les restrictions et conditions y associées de l'autre.

Système d'étiquetage environnementaux

La proposition du Parlement européen (PE) à l'article 7(1a) peut être soutenue par le Luxembourg. Afin d'aligner ce paragraphe au texte, et à l'article 10 (2) de l'OGC, on devrait l'insérer à l'article 8.

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

Procédure simplifiée

En ce qui concerne la procédure simplifiée, et afin d'assurer un meilleur encadrement, le Luxembourg exprime sa préférence pour l'OGC. En effet, la proposition du Parlement européen n'est pas suffisamment claire quant au fonctionnement et au champ d'application de la procédure simplifiée.

En outre, il est essentiel que la procédure simplifiée couvre au moins tous les cas prévus dans l'OGC, et qu'elle apporte une véritable valeur ajoutée pour les commerçants, plutôt que de se restreindre à une simple formalité. Pour certaines allégations moins complexes et présentant un faible risque d'écoblanchiment, une auto déclaration semble plus appropriée qu'une vérification par un tiers. Cela permettrait de protéger les consommateurs tout en réduisant la charge pesant sur les entreprises.

Concernant l'ajout du paragraphe 3 (b) à l'article 10 par le Parlement Européen, le Luxembourg peut faire preuve de flexibilité.

Vérification de la justification des allégations environnementales explicites, des labels environnementaux et des systèmes d'étiquetage environnementaux

Considérant 32 :

Le Luxembourg peut faire preuve de souplesse vis-à-vis de la proposition du PE, notamment pour ce qui est de la proposition que la Commission évalue et mette régulièrement à jour les méthodes PEF en reflétant les progrès scientifiques afin de développer davantage la méthode actuelle.

Article 10 (4a) :

La condition proposée par le PE de vérifier les allégations environnementales explicites et les systèmes d'étiquetage environnemental endéans d'un délai de 30 jours n'est pas réaliste. En outre, une extension uniquement dans des cas dûment justifiés est disproportionnée. Par conséquent, le Luxembourg s'oppose à cette proposition du PE.

Article 10 (7) :

Le Luxembourg peut soutenir l'ajout des précisions suivantes. Cette disposition aidera à identifier plus facilement les allégations et les systèmes d'étiquetage déjà vérifiés et certifiés par les autorités compétentes de contrôle, et réduira en conséquence le fardeau administratif pour les entreprises.

Once a certificate of conformity is delivered and notified, the labelling scheme or the environmental claim can be used within the Union, insofar as that the scheme or the claim is communicated in a language that can be understood by consumers in the Member States where the product or service is marketed. The certificates of conformity shall be made publicly available in a searchable database clearly identifying the trader, the type of claim, the assessment method and the sector.

Article 11 (3a) :

En outre, l'amendement du PE à continuation faciliterait la mise en place du système d'accréditation des vérificateurs ; le Luxembourg est donc en faveur de cette proposition.

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

COURTESY TRANSLATION

Definition and scope:

Recital 15:

Luxembourg underlines the importance of the detailed explanation of the “trader generating an explicit environmental claim” in recital 15 for the interpretation of the scope, and is therefore in favour of keeping the General Orientation of the Council (GOC) in this respect.

Article 2 § 1 (8):

Luxembourg opposes the addition of "one or more" in the definition of "environmental label" since this formulation would broaden the scope beyond the scope advised by the Directive ("*only or predominantly environmental characteristics*"). The addition of such a formulation could potentially include a greater number of environmental labels, including those that only focus on one environmental aspect. This could make the regulation more complex or lead to different interpretations, and thusly more difficult to apply uniformly. Luxembourg therefore wishes to keep the General Orientation of the Council as regards the definition of environmental labels.

Climate-related claims

Luxembourg expresses its support for the Council's General Approach and welcomes the fact that the Council has found an adequate balance between the requirements requested of entities wishing to make climate-related claims on the one hand, and the associated restrictions and conditions on the other.

It is important, however, to ensure that carbon credits used for claims are created by high-quality certification schemes. However, regarding emissions offsetting, a restriction to the use of credits generated mainly by certification schemes recognised by European framework legislation, in particular the Carbon Removal Certification Framework, seems too restrictive. Similarly, limiting offsetting claims to residual emissions only is too restrictive, and the OGC finds an adequate alternative in requiring professionals to have started and follow a regime leading to net-zero and to implement a decarbonisation strategy.

Environmental labelling scheme

The proposal of the European Parliament (EP) in Article 7(1a) can be supported by Luxembourg. In order to align this paragraph with the text, and with Article 10(2) of the GCO, it should be inserted in Article 8.

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

Simplified procedure

As regards the simplified procedure, and in order to ensure better supervision, Luxembourg expresses its preference for the OGC. Indeed, the proposal of the European Parliament is not sufficiently clear as to the functioning and scope of the simplified procedure.

Furthermore, it is essential that the simplified procedure covers at least all the cases provided for in the OGC, and that it brings real added value for traders, rather than being limited to a mere formality. For certain less complex claims with a low risk of greenwashing, a self-declaration seems more appropriate than a third-party verification. This would protect consumers while reducing the burden on businesses.

Regarding the addition of paragraph 3 (b) to Article 10 by the European Parliament, Luxembourg can show flexibility.

Verification of the substantiation of explicit environmental claims, environmental labels and environmental labelling schemes

Recital 32:

Luxembourg can be flexible with regard to the EP proposal, in particular with regard to the proposal that the Commission regularly evaluates and updates the PEF methods reflecting scientific progress in order to further develop the current method.

Article 10 (4a):

The condition proposed by the EP to verify explicit environmental claims and environmental labelling schemes within 30 days is not realistic. Furthermore, an extension only in duly justified cases is disproportionate. Luxembourg therefore opposes this EP proposal.

Article 10 (7):

Luxembourg can support and is flexible for the addition of the following clarifications. This provision will help to more easily identify claims and labelling systems already verified and certified by the competent control authorities, and will consequently reduce the administrative burden for businesses.

Once a certificate of conformity is delivered and notified, the labelling scheme or the environmental claim can be used within the Union, insofar as that the scheme or the claim is communicated in a language that can be understood by consumers in the Member States where the product or service is marketed. The certificates of conformity shall be made publicly available in a searchable database clearly identifying the trader, the type of claim, the assessment method and the sector.

Article 11 (3a):

Furthermore, the EP amendment to continue would facilitate the establishment of the system of accreditation of verifiers; Luxembourg is therefore in favour of this proposal.

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