

Green claims have been subject to an intensified scrutiny by regulators and subject to consumer claims globally. In this article, we explore the importance of aligning marketing and product claims. Statements made about products, made on product packaging, websites, or annual reports that have global reach, can lead to fines, consumer group actions and reputational damage, showing that businesses must rethink how they communicate their environmental impact. In order to avoid greenwashing risks, this article emphasises the importance of supply chain due diligence, evidence-based substantiation and legal compliance within individual countries when making sustainability claims.

Greenwashing Claims Are on the Rise

Regulatory investigations and litigation of green claims, such as claiming that products or services are “eco”, “natural”, “recyclable”, “carbon neutral” or “environmentally friendly” are on the rise in the UK, EU and US. The impact of greenwashing is sector-agnostic, although the oil and gas, textiles, aviation, food and beverage, personal care and cosmetics industries figure highly.

There is divergence in the regulators’ approach across jurisdictions, although breaches of these anti-greenwashing rules consistently result in substantial penalties in the form of fines, sometimes based on worldwide turnover of a company, reputational damage and potentially costly product recalls.

We have observed, as is reflected in the case studies we analyse below, that the green claims under scrutiny are claims made to consumers. However, consumer-facing businesses need to look at their supply chain and ensure that they have the right processes and contracts in place to check whether their suppliers are not misleading them. Green claims actions against a company can have an impact on its reputation, on its brand value, on its reporting and ultimately on its shareholder value.

There is no question that under consumers’ and regulators’ watchful eyes, it is harder to make green consumer claims. But these claims are popular with consumers and potentially provide a great opportunity to sell products and services. We believe that these claims can be made with the right due diligence processes and legal advice in place, which will allow the verification and justification of any green claim, as well as spot any potential non-compliance before it is too late.

UK Regulation on Green Claims

Green Claims in the UK are now regulated by the Digital Markets, Competition and Consumers Act 2024 (DMCCA), which came into force on 6 April 2025, and revoked the Consumer Protection from Unfair Trading Regulations 2008 (CPRs). DMCCA still prohibits all traders from engaging in unfair commercial practices, applying to claims made to consumers and to other business about any services or goods placed on the UK market. There are no financial or employee thresholds required to be met to be in scope of the DMCCA.

The UK regulators are the Competition and Markets Authority (CMA) and the Advertising Standards Authority (ASA), both of which have been active in investigating and fining companies for greenwashing.

The Green Claims Code

Given the rise in the use of environmental claims and the lack of specification as to what was meant by “unfair commercial practice”, the CMA published the Green Claims Code, which, although not law, guides businesses on what might be considered “unfair” and/or misleading.

Although less prescriptive than EU rules, the Green Claim Code is very similar in the principles it applies to misleading environmental and other claims. These principles are that a claim must:

- Be truthful and accurate
- Be clear and unambiguous
- Not omit or hide important relevant information
- Be fair and meaningful
- Consider the full life cycle of the product or service
- Be substantiated

CMA’s New Enforcement Powers

Consumer protection rights and the enforcement powers of the main consumer regulator, the CMA, have been increased. CMA has been granted wide-ranging powers to investigate suspected breaches of consumer law, including for misleading environmental claims and unilaterally impose significant fines without needing to go through courts as previously required under the CPRs.

For certain offences, the CMA can now impose fines up to £300,000 or 10% of the company global turnover (whichever is higher), which exposes business to a high risk when making environmental claims. It is worth noting that the CMA can only impose penalties for conduct taking place after the coming into force of the DMCCA on 6 April 2025.

The [Advertising Codes](#) – the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code) and the UK Code of Broadcast Advertising (BCAP Code) – have also been updated to reflect the coming into force of the DMCCA. The ASA has been very active in challenging potentially misleading green claims. It recently challenged a “[compostable capsules](#)” claim, for which it was decided that an average consumer’s expectation would be to be able to home compost these capsules, but instead they were only compostable in industrial facilities. Following this investigation the company had to remove the ad.

To help marketers with these claims, ASA published [guidance](#) in April 2025 for products that claim to be “biodegradable” and “compostable”. Marketers should ensure, among other recommendations, that claims about their products being biodegradable or compostable are genuine and ensure absolute environmental claims apply to the product’s full lifecycle.

EU Rules on Green Claims

The EU also wants to drive change to green claims made by businesses about their products or services, with the aim of avoiding greenwashing. Although we understand that the Green Claims Directive could be withdrawn, the Empowering Consumers for the Green Transition Directive (Empowering Consumers Directive) will be implemented across EU member states from 27 September 2026 (with a transposition date set for 27 March 2026). In advance of that, individual member states are already very active in prosecuting and fining companies based on their existing national legislation.

Empowering Consumers Directive

The [Empowering Consumers Directive](#) amends EU [consumer protection legislation](#), creating new rules to avoid misleading practices and help consumers make informed choices. It is relevant for EU companies, and any company selling goods in the EU, and will be in full force in member states from 27 September 2026. Below, we pick up some of the highlights of this directive.

Ban on Product Carbon Neutrality Claims that Rely on Offsetting

From 2026, there will be an outright ban on making claims that products or services are “climate neutral” or “climate positive” if based on carbon offsetting. Companies can still make claims that their entire business is carbon neutral, but under very strict conditions.

Businesses will have to rely only on emission reductions, recyclability and the circular economy principle in their operations to enhance the carbon neutral claims credentials of their products.

Restriction on the Use of Generic Environmental Claims

Claims such as “eco”, “environmentally friendly” or “biodegradable” will be prohibited unless the company can prove the recognised excellent environmental performance relevant to the claim. Such recognised excellent environmental performance is specifically defined and limited to performance criteria elaborated at EU level, such as the EU Ecolabel or certain standards such as the EN ISO 14024 officially recognised in the member states.

Environmental Claims Over Part of a Product or Service

Environmental claims about the entire product or the trader’s entire business when it concerns only a certain aspect of the product, or a specific activity of the trader’s business will be prohibited. For example, if only the packaging is recyclable then this must be stated clearly in any advertising and packaging, and not appear to relate to the recyclability of the whole product.

Ban on Many Sustainability Labels

Sustainability labels will be banned unless they are based on certification schemes or established by public authorities in the EU. The Empowering Consumers Directive endeavours to harmonise the criteria that are used to set up certification schemes, so that the schemes are comparable.

Green Claims Directive

The Green Claims Directive proposal published on the 22 March 2023 is still going through the EU legislative process, and many believe that it will be withdrawn as part of the EU’s regulatory simplification process. However, it is still worth mentioning some of its main elements even if its future is uncertain.

This directive deals with specific aspects of explicit environmental claims rather than general environmental claims and focuses on ensuring that those environmental claims meet minimum standards of substantiation, communication and verification.

There are various positions on which traders would be in scope, with the commission proposal covering all traders in the EU and exemptions limited. Any environmental claims need to be explicit, independently verified and substantiated.

Traders

In order to be in scope of the Green Claim Directive, the entity:

- Will be considered as the trader, normally meaning the manufacturer that makes the claim about the product
- Must be based in the EU, or sell products into the EU

Explicit Environmental Claims

These claims are characterised by being voluntary commercial claims represented in any medium (text, pictorial or graphic), including on labels or brand names that imply that a product or a trader has a positive impact – or no impact at all – on the environment, or that it is less damaging than other products from different traders in the same market. An example of an explicit claim would be “packaging made of 30% recycled plastic”.

Substantiation of Carbon Claims and Carbon Credits

As stated above, companies cannot claim that a product is carbon neutral or carbon positive by the use of carbon credits. However, a company that is a trader can make carbon neutrality claims about its own business in certain circumstances.

The EU Parliament wants businesses to only use carbon credits when considering residual emissions, but the council has supported criteria on which to base carbon neutral claim, such as explaining whether the removal is of a temporary or permanent nature.

Independent Prior Verification and Substantiation of the Claim

One of the key and contentious elements of the Green Claims Directive proposal is the pre-verification of explicit environmental claims and environmental labelling schemes by an independent third-party before the environmental claim is made public or the environmental label is displayed.

The directive sets out a long list of criteria that businesses should consider in order to substantiate explicit environmental claims. Importantly, these criteria apply to the full life cycle of the product and rely heavily on recognised scientific evidence and state-of-the-art technology.

Case Studies – Country Spotlight

Green Claims in the US

Although sustainability reporting is not mandatory in the US, many companies still make green claims in their annual reports. For example, the US Securities and Exchange Commission (SEC) fined a manufacturer of single-use coffee systems US\$1.5 million for stating in its annual report (10-K) that the pods “can be effectively recycled”. In fact, the pods were not widely recyclable, and the company had not disclosed that one of the largest recycling companies in the US had indicated that they were not currently intending to accept the pods for recycling. The company was found guilty of making a misleading green claim in its annual report and misleading shareholders.

Civil claims in the way of class actions for misleading environmental claims are exponentially increasing in the US. For example, a company that sold a household cleaning product settled a class action recently where the plaintiffs argued that its claims that the cleaning product was “non-toxic” and “earth friendly” were misleading. Another class action was filed recently against a global drinks company for advertising their drinks as “all natural”, when they allegedly contain synthetic citric acid. There are many more alleged claims that we could mention, including alleged claims against tech giants, airlines and fast-moving consumer goods companies fighting off class actions for misleading claims on carbon neutrality. What is clear is that judges are allowing claims to go ahead by not allowing motions to dismiss, and therefore defendants should see these as serious and costly threats. Third-party verifiers and advisers can also become embroiled in their client’s litigation.

France

France takes misleading claims extremely seriously and sets out criminal sanctions, as well as hefty fines for individuals and companies that make such claims. For example, under the Consumer Code a company could be fined up to €3,75 million for online misleading claims, or 10% of the company’s annual turnover. Making false claims can also be punishable by up to five years’ imprisonment.

A non-EU online retailer has been fined €40 million by the French directorate general for competition, consumption and fraud prevention for carrying out deceptive consumer practices, including not being able to substantiate green claims that it made regarding the company on its website, e.g. that it would reduce its carbon emissions by 25%.



Italy

The Italian competition authority (AGCM) fined a non-EU marketplace €1 million for misleading claims on its website on the sustainability of their products.

The AGCM also reached an agreement with a food and beverage company to remove what it viewed as inaccurate “carbon neutral” claims from its packaging, product labels, website and promotional videos. The company was claiming that the production of mineral water caused zero greenhouse emissions.

In Italy, we are also seeing a rise in “social greenwashing” investigations. The AGCM regulator fined a major Italian luxury clothing brand €3.5 million in August of this year for making misleading social claims. The company’s Code of Ethics for Suppliers, Sustainability Report and Modern Slavery Statement made a number of ethical claims, but the AGCM found that they were outsourcing to subcontractors that were exploiting workers.

Spain

Earlier this year, we saw a business-to-business example of green claims litigation in Spain, involving two major energy companies for violations of the Spanish Unfair Competition Act. The claim was brought by a direct competitor against a company for making statements on its website and some of its advertising campaigns that were expressing their commitment to “sustainability” and “energy transition”. The claims made included, “The fight against climate change is in our DNA,” and “Commitment to Net Zero Emissions in 2050”.

The Spanish Court dismissed the claim as it did not equate sustainability with zero environmental impact and did not believe that consumers were misled about the statements that were made. Under the current Spanish legal framework, the threshold for greenwashing liability remains high, as it is still based on anticompetitive practices and the courts require concrete misrepresentation or clear omissions of material information. The claimant must collect robust evidence that the message caused or was likely to cause competitive harm.

As Spain has still to implement the Green Transition Directive into Spanish law, it could not yet be used to bring this claim. We believe that when this directive is implemented, we may have a different outcome for similar cases in the future; for example, if third-party verification had been required of the sustainability claims that were made, there would have been a risk that they could have not been verified.

Conclusion

Green Claims rules are impacting how companies market themselves and their products globally. Genuinely green products are seen as having a competitive advantage when dealing with a climate crisis and transitioning to net zero.

However, the risk of making a misleading green claim should not be seen as only resulting in a one-off fine. Given the current environmental, social and governance (ESG) legislative web, a misleading green claim could cascade into a number of operational and commercial areas of a business. For example, it could result in cap-ex losses due to assets being stranded, or changes to established supply chains, losing a preferred supplier, increased costs due to location of where materials are sourced from, product recalls or loss of brand reputation and shareholder value.

We have found that with the right due diligence processes in place, green claims can be made about a business and products. However, when making green claims on adverts, websites or even in annual reports, it is essential to understand legal regional differences across a company’s key markets.

We are currently helping our clients on green claims, ESG reporting and packaging regulation and would be delighted to also support you.

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