

Substantiation & Communication of Explicit Environmental Claims (Green Claims Directive)

Input to European Commission proposal

July 2023

The [European Copper Institute](#) (ECI) welcomes the opportunity to comment upon the European Commission (EC) proposal for a Directive on Substantiation and Communication of Explicit Environmental Claims (Green Claims Directive).

ECI stands in favor of the ambition for environmentally superior, net zero products assessed through solid and harmonized, LCA-based methods. Nevertheless, the following recommendations aim at fostering the Directive's ambition, guaranteeing harmonization with existing (or upcoming) rules on similar aspects, and facilitating the use of environmental claims for products of all types of composition:

- 1. Green claims shall focus on products' most significant environmental impacts determined with the support of scientific evidence and LCA methods**
- 2. The rules for the efficient recognition of environmental labelling schemes shall be harmonized across all EU legislation**
- 3. Environmental claims for products that contain hazardous substances should not be prohibited a priori, but upon evidence that these substances cause adverse environmental or human health impacts during their production, processing, use**

The proliferation of misleading practices related to the environmental sustainability of products and labelling schemes requires immediate action. Via cost-efficient measures, we aspire to contribute to the creation of rules for proportionate, credible, and comparable environmental claims, and for the unleashing of the full potential of labelling schemes to this end.

Green claims shall focus on products' most significant environmental impacts determined with the support of scientific evidence and LCA methods

Explicit environmental claims ('green claims') help demonstrate products' environmental sustainability towards consumers and other end-users. For this reason, it is of utmost importance to make sure that these claims cover the most significant impacts from a lifecycle perspective, whilst contributing to the product's overall environmental performance, pursuant to Article 3 par. 1 points (c) and (d).

Nevertheless, clarity is needed as per the basis and the means with which traders are expected to confirm how significant the environmental impacts are. Scientific evidence is the only robust basis to support the identification of the most significant environmental impacts. As regards the means, the Directive should make explicit reference to all LCA-based methods being able and fit to quantify environmental impacts. This will avoid that the Product Environmental Footprint (PEF) methodology is the only acceptable tool, since some shortcomings were identified during the pilot phase of metal sheets, mostly related to the way knowledge gaps are handled, leading to inappropriate benchmarking. For this reason, the role of scientific LCA-based methods and labelling schemes that complement LCA methods in terms of substantiating green claims shall be clearly recognized. Existing legislation (e.g., the Construction Products Regulation recast proposal, for example, refers to the EN 15804 standard as the key sustainability standard of construction works that provides several options in LCA-based methodological choices for specific life cycle stages of the product. Notwithstanding, not every product has a PEFCR available, and developing one requires a significant efforts with the whole sector. That said, other methodologies that quantify the environmental impact of products from a life cycle perspective (and their scope is also aligned with existing methods, such as PEF), shall be accepted.

ECI asks the EC to introduce under Article 3 par. 1 point (b) a provision about LCA-based methods and labelling schemes as tools to quantify products' environmental impacts.

To this end, they shall also be able to assess environmental impacts' significance from a lifecycle perspective and the contribution to products' overall environmental performance, the pursue of which does not create any adverse impacts to other Union environmental and climate objectives, whilst taking due account of sectoral specificities.

The rules for the efficient recognition of environmental labelling schemes shall be harmonized across all EU legislation

Article 8 par. 5 stipulates that environmental labelling schemes established by private operators will be approved only if they provide added value in terms of their environmental ambition compared to existing Union, national or regional schemes. In addition to this, they shall comply with the requirements under Article 8 par. 2 in order to obtain the certificate of conformity drawn up in accordance with Article 10, thereby enjoying full applicability across the Union. The EC, according to Article 8 par. 8 will adopt implementing acts to provide detailed requirements and rules for the approval of labelling schemes.

First, such recognition processes of labelling and certification schemes are foreseen under multiple EU regulations, such as the Batteries Regulation, the Conflict Minerals Regulation, the Corporate Sustainability Due Diligence Directive (CS3D), and the Critical Raw Materials Regulation. Although different in scope, the procedure to achieve recognition of schemes and multi-stakeholder initiatives

shall be efficient and harmonized. For example, over 25% of global copper production is assured by the Copper Mark. This assurance framework should not have to undergo through repetitive recognition processes, but rather do it once and then focus only on addressing the legislation-specific requirements to secure conformity. Otherwise, labelling and certification schemes will have to go through duplicative or extremely onerous and costly processes to make sure they are listed in the respective public registers that the EC will set up, leading to unnecessary procedural delays. To this end, and to strengthen legal harmonization, it is important to keep in mind that the CS3D proposal (and as it currently stands) foresees the development of a '*guidance for assessing the fitness of industry schemes and multi-stakeholder initiatives*'. This guidance should cover the recognition process in the context of all legislation that acknowledges the role of multi-stakeholder initiatives in assuring operations or products.

Second, the verification of each environmental label shall not take too long. While we welcome Article 10 par. 4 that foresees verification before an environmental label is displayed by a trader, it is necessary to provide a time limit. Without this, there is a high risk that verification of labels provided by labelling schemes will be stuck due to national procedures' inefficiencies or lack of capacity and resources.

ECI asks the EC to explicitly refer to harmonized rules percolating the recognition of environmental labelling schemes under Article 8 par. 8. This pertains to the avoidance of duplicative processes, and the creation of a single guidance clarifying the core steps a labelling scheme should undergo regardless of the legislation under which it is stipulated. This will make processes more efficient, without any prejudice to the individual conditions schemes will have to meet depending on the scope of each legislation.

ECI asks the EC to foresee the timely verification of environmental labels and, in cases of non-compliance, provide sufficient time to the scheme owner to bring the label in full conformity with the requirements of this Directive. More specifically, we recommend the following amendments to the proposal:

- Article 10 par. 4: '*The verification shall be undertaken **within a reasonable timeframe** by a verifier [...]*'.
- Article 10 par. 6: '*Upon completion of the verification, the verifier shall draw up, where appropriate, **and no later than XX days after the verification process begins**, a certificate of conformity [...] with the requirements set out in this Directive, **or explain the reasons for not granting the certificate, where relevant. The owner of the claim or label shall have XX days to take corrective action***'.

Environmental claims for products that contain hazardous substances should not be prohibited a priori, but upon evidence that these substances cause adverse environmental or human health impacts during their production, processing, use

Article 21 defines some additional aspects to be considered when the Directive will be evaluated in a few years' time. (e.g., 'prohibition of environmental claims for products containing hazardous substances' under par. 3b). However, for metals, some hazardous endpoints are assessed differently for different forms under the Regulation (EC) No 1272/2008 (CLP Regulation). Environmental toxicity may, for example, be present for the powder form of metals but not for the massive form – as reflected in the Guidance to the CLP Regulation (Annex IV, section IV.5.5). That said, once in use in products, metals do not a priori lead to harmful effects. In addition, recycling streams and naturally occurring raw materials inevitably contain varying amounts of hazardous substances, which, in conjunction with the miniaturization trend, also explains the presence in products of a variety of substances, including hazardous ones. The copper industry though is able to treat recycling streams efficiently, safely and responsibly – even those containing residues of hazardous substances. More specifically, during copper production and recycling, these substances are extracted and separated to the highest extent using best available technology. This ensures that pure copper and by-products can be recycled and recovered from complex metal scrap streams. Therefore, any future considerations around the prohibition of environmental claims for products that contain hazardous substances need to be made upon assessment that those substances do not cause harmful exposure to human health or the environment.

ECI asks the EC to ensure that substances needed for the strategic autonomy and sustainable innovations are not regulated according to their inherent toxicity but according to the risk and control over exposure. Therefore, it should be both the identity and the form of a substance used in products that matters for environmental claims. This would allow continued use of sustainable materials and take full consideration of their strategic value.

To conclude, ECI wishes to constructively contribute to allowing all LCA-based methods to assess the environmental sustainability of products, and leverage the role of environmental labelling schemes in the broader context of the imperative for assuring sites and products in a robust, transparent, and credible manner. We remain at the Commission's disposal for any additional information about our members' practical experience with LCA methods to measure their materials' and products' environmental sustainability, and in using environmental labelling schemes to support them in achieving full transparency over the impacts of their operations and their output on the environment.

About the European Copper Institute

The European Copper Institute (ECI) is the leading advocate for the copper industry in Europe and the European arm of the International Copper Association (ICA). Our members mine, smelt, refine and recycle copper for use across the economy, in the electricity system, buildings, transport and industry.

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