

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on substantiation and communication of explicit environmental claims and environmental labels (Green Claims Directive)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee

Having regard to the opinion of the Committee of the Regions¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Claiming to be “green” and sustainable has become a competitiveness factor, with green products registering greater growth than standard products. If goods and services offered and purchased on the internal market are not as environmentally friendly as presented, this would mislead the consumers, hamper the green transition and prevent the reduction of negative environmental impacts. The potential of green markets is not fully realised. Different requirements imposed by national legislation or private initiatives regulating environmental claims create a burden for companies in cross-border trade, as they need to comply with different requirements in each Member State. This affects their capacity to operate in and take advantage of the internal market. At the same time, market participants have difficulties with identifying reliable environmental claims and making optimal purchasing decisions on the internal market. With a proliferation of different labels and calculation methods on the market, it is difficult for consumers, businesses, investors and stakeholders to establish if claims are trustworthy.
- (2) If environmental claims are not reliable, comparable and verifiable, consumers and other market actors cannot fully leverage their purchasing decisions to reward better environmental performance. Similarly, the lack of reliable, comparable and verifiable information hinders incentives for optimising environmental performance, which would typically go hand in hand with efficiency gains and cost savings for companies along the supply chain as well. These consequences are exacerbated by the lack of a common reference across the internal market and the ensuing confusion.
- (3) For users of environmental information (consumers, businesses, investors, public administrations, NGOs) included in environmental claims, the lack of reliability, comparability and verifiability leads to an issue of trust in environmental information and confusion in interpreting heterogeneous, contradictory messages. This is detrimental to consumers and other market actors, as they may choose a product or a business transaction over other alternatives based on misleading information.

- (4) It is therefore necessary to harmonise further the regulation of environmental claims. Such harmonisation will strengthen the market for more sustainable products and traders by avoiding market fragmentation due to diverging national approaches. It will also set a benchmark that can drive the global transition to a just, climate-neutral, resource-efficient and circular economy².
- (5) Detailed Union rules on substantiation of explicit environmental claims **and environmental labels**, applicable to companies operating on the Union market in business to consumer communication, will contribute to the green transition towards a circular, climate-neutral and clean economy in the Union by enabling consumers to take informed purchasing decisions, and will help create a level-playing field for market operators making such **explicit environmental claims and displaying such environmental labels**.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM/2020/98 final

- (6) A regulatory framework for environmental claims is one of the actions proposed by the Commission to implement the European Green Deal³, which recognises that reliable, comparable and verifiable information plays an important part in enabling buyers to make more sustainable decisions and reduces the risk of ‘greenwashing’, and includes commitments to step up regulatory and non-regulatory efforts to tackle false environmental claims. Together with other applicable Union regulatory frameworks, including the [...] **Directive (EU) 2024/825 of The European Parliament and of The Council**⁴ amending Directive 2005/29/EC of the European Parliament and of the Council⁵ that this proposal aims at complementing, they establish a clear regime for environmental claims, including environmental labels.
- (7) This Directive is part of a set of interrelated initiatives to establish a strong and coherent product policy framework that will make environmentally sustainable products and business models the norm, and not the exception, and to transform consumption patterns so that no waste is produced in the first place. The Directive is complemented, amongst others, by interventions on the circular design of products, on fostering new business models and setting minimum requirements to prevent that environmentally harmful products are placed on the EU market through the proposal for an Eco-design for Sustainable Products Regulation⁶.

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Green Deal, COM/2019/640 final

⁴ **Proposal for a Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and through better information, COM(2022) 143 final (OJ L...)**

⁵ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive) (OJ L 149, 11.6.2005, p. 22).

⁶ Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC, COM(2022) 132 final

- (8) The specific needs of individual economic sectors should be recognised and this Directive should therefore apply to voluntary explicit environmental claims and environmental labelling schemes **and the corresponding environmental labels** that are not regulated by any other Union act as regards their substantiation or communication, or verification. This Directive should therefore not apply to explicit environmental claims, **environmental labels or environmental labelling schemes** for which the Union legislation lays down specific rules, including on methodological frameworks, assessment or accounting rules related to measuring and calculating environmental impacts, environmental aspects or environmental performance (**'environmental characteristics'**) of products or traders, or providing mandatory and non-mandatory information to consumers on the environmental performance of products and traders or sustainability information involving messages or representations that may be either mandatory or voluntary pursuant to the Union rules.

- (9) Within the context of the European Green Deal, the Farm to Fork Strategy and the Biodiversity Strategy, and in accordance with the target of achieving 25% of EU agricultural land under organic farming by 2030 and a significant increase in organic aquaculture and with the Action Plan on the Development of Organic Production (COM(2021) 141), organic farming and organic production need to be developed further. As regards Regulation (EU) 2018/848 of the European Parliament and of the Council⁷, this Directive should not apply to environmental claims on organically certified products substantiated on the basis of that Regulation, related, for instance, to the use of pesticides, fertilisers and anti-microbials or, for instance, to positive impacts of organic farming on biodiversity, soil or water⁸. It also has a positive impact on biodiversity, it creates jobs and attracts young farmers. Consumers recognise its value. In accordance with Regulation (EU) 2018/848, the terms “bio” and “eco” and their derivatives, whether alone or in combination, are only to be used in the Union for products, their ingredients or feed materials that fall under the scope of that Regulation where they have been produced in accordance with Regulation (EU) 2018/848. For instance, in order to call the cotton “eco”, it has to be certified as organic, as it falls within the scope of Regulation (EU) 2018/848. On the contrary, if the dishwasher detergent is called “eco”, this does not fall within the scope of Regulation (EU) 2018/848, and is instead regulated by the provisions of Directive 2005/29/EC.

⁷ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

⁸ https://agriculture.ec.europa.eu/system/files/2023-01/agri-market-brief-20-organic-farming-eu_en_1.pdf

- (10) In addition, this Directive shall not apply to sustainability information involving messages or representations that may be either mandatory or voluntary pursuant to the Union or national rules for financial services, such as rules relating to banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, investment firms, payment, portfolio management and investment advice, including the services listed in Annex I to Directive 2013/36⁹ of the European Parliament and of the Council, as well as settlement and clearing activities and advisory, intermediation and other auxiliary financial services, including standards or certification schemes relating to such financial services.
- (11) Furthermore, this Directive should not apply to environmental information reported by undertakings that apply European sustainability reporting standards on a mandatory or voluntary basis in accordance with Directive 2013/34/EU¹⁰ and sustainability information reported on a voluntary basis by undertakings defined in articles 3(1), 3(2) or 3(3) of this Directive where that information is reported in accordance with standards referred to in Articles 29b or 29c of Directive 2013/34/EU or in accordance with other international, European or national sustainability reporting standards or guidelines.
- (12) Offers to purchase goods or receive services conditional on the fulfilment of environmental criteria defined by the seller or service provider or offers where consumers receive more favourable contractual terms or prices upon the fulfilment of such criteria, for example the so-called green loans, green home insurance or financial service products with similar rewards for environmental actions or behaviour should not be subject to the rules of this Directive.

⁹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

¹⁰ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

(13) In case future Union legislation lays down rules on **explicit** environmental claims, environmental **labels or environmental [...] labelling schemes**, or on the assessment or communication of environmental **characteristics [...]** of certain products or traders in specific sectors, for example the announced “*Count Emissions EU*”, the forthcoming Commission proposal on a legislative framework for a Union sustainable food system, the Eco-design for Sustainable Products Regulation¹¹ or Regulation (EU) No 1007/2011 of the European Parliament and of the Council¹², those rules should be applied to the explicit environmental claims **and environmental labels [...]** in question instead of the rules set out in this Directive.

~~(13a)~~ [...]

(14) The [...] Directive on empowering consumers for the green transition which amends Directive 2005/29/EC, sets out a number of specific requirements on environmental claims and prohibits generic environmental claims which are not based on recognised excellent environmental performance relevant to the claim. Examples of such generic environmental claims are ‘eco-friendly’, [...], ‘green’, ‘nature’s friend’, ‘ecological’ and ‘environmentally correct’. This Directive should complement the requirements set out in that proposal by addressing specific aspects and requirements for explicit environmental claims, **which are environmental claims made in written form or orally, and environmental labelling schemes and the corresponding environmental labels** as regards their substantiation, communication and verification. The requirements set out in this Directive should apply to specific aspects of explicit environmental claims, **environmental labelling schemes and the corresponding environmental labels**, and will prevail over the requirements set out in Directive 2005/29/EC with regard to those aspects in case of conflict, pursuant to Article 3(4) of that Directive.

¹¹ COM(2022) 132 final

¹² Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council (OJ L 272, 18.10.2011, p. 1).

(15) In order to ensure that consumers are provided with reliable, comparable and verifiable information which enables them to make more environmentally sustainable decisions and to reduce the risk of ‘greenwashing’, it is necessary to establish requirements for substantiation of explicit environmental claims **and environmental labels**. [...] **Explicit environmental claims should be substantiated by the trader generating them. Typically, this will be the producer, as they determine the characteristics and presentation of the products in the context of commercial communications where the final recipient is a consumer or could be a consumer. Nevertheless, the trader generating the explicit environmental claim could also be a trader who makes an explicit environmental claim about a product they did not produce or who replicates an explicit environmental claim made in a business-to-business commercial practice in a transaction towards consumers. The requirement to substantiate does not address traders merely exactly replicating explicit environmental claims, such as sellers, [...] retailers or other distributors, as these traders usually do not influence either the characteristics or the packaging of the products they sell and usually do not create new explicit environmental claims. In addition to explicit environmental claims about products, traders can also generate explicit environmental claims about themselves or their activities. It is the trader generating the explicit environmental claim who should possess the relevant information for substantiation. However, in accordance with Directive 2005/29/EC, once the fact of misleading practices has been established by the courts or administrative authorities, corrective measures may also be required from the retailers selling the product in question. They also may be required to provide consumers with additional information at the point of sale. On the other hand, environmental labels should be substantiated by the environmental labelling scheme owner.**

(15a) **Business-to-business (B2B) commercial practices do not fall within the scope of this Directive, which therefore does not regulate the consequences of enforcement measures in the context of B2B contractual relationships between retailers and producers. These B2B relationships are partly regulated by Directive 2006/114/EC of the European Parliament and of the Council on misleading and comparative advertising. In addition, Member States may extend, under their national laws, the protection granted by the Unfair Commercial Practices Directive to B2B commercial practices. [...]**

(16) **The substantiation should be based on widely recognised scientific evidence, understood as that based on sound methodologies, approaches or studies, such as those that (i) have been developed in line with best practices in terms of transparency, stakeholder consultation, involvement of scientific community, industry and civil society; or (ii) have been independently peer reviewed by qualified experts in the field and published in internationally recognised scientific literature. In addition, such substantiation should take into account internationally recognised scientific approaches, such as relevant international standards, to identify and measure environmental characteristics [...] of products or traders, and it should result in reliable, transparent, comparable and verifiable information to the consumer. The assessment made to substantiate explicit environmental claims and environmental labels [...] should not omit any relevant environmental aspects or environmental impacts **and needs to consider the life-cycle of the product or of the overall activities of the trader, expressly justifying when it is not necessary to assess the whole life-cycle on the basis of the nature of the explicit environmental claim or environmental label**. The benefits claimed should not result in an unjustified transfer of negative impacts to other stages of the life cycle of a product or trader, or to the creation or increase of other negative environmental impacts.**

- (17) The assessment substantiating the explicit environmental claim **or environmental label** should make it possible to identify the environmental impacts and environmental aspects for the product or trader that jointly contribute significantly to the overall environmental performance of the product or trader (‘relevant environmental impacts’ and ‘relevant environmental aspects’). Indications for the relevance of the environmental impacts and environmental aspects can stem from assessments taking into account the life-cycle, including from the studies based on Environmental Footprint (EF) methods, provided that these are complete on the impacts relevant to the product category and do not omit any important environmental impacts. For example, in the Commission Recommendation on the use of Environmental Footprint methods¹³ the most relevant impact categories identified should together contribute to at least 80% of the single overall score. These indications for the relevance of the environmental impacts or environmental aspects can also result from the criteria set in various ecolabels type I, as for instance the EU Ecolabel, or in Union criteria for green public procurement, from requirements set by the Taxonomy Regulation¹⁴, from product specific rules adopted under the Regulation/.... of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products¹⁵ or from other relevant Union rules.
- (18) In line with Directive 2005/29/EC as amended by the proposal for a Directive on empowering consumers for the green transition, the trader should not present requirements imposed by law on products within a given product category as a distinctive feature of the trader’s offer or advertise benefits for consumers that are **irrelevant but could lead the consumer to believe that the benefits compared to other equivalent products are greater than they actually are, for example by promoting environmental characteristics that are common practice in the relevant product group or relevant sector** [...].

¹³ Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations, OJ L 471, 30.12.2021, p. 1.

¹⁴ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

¹⁵ ...

(19) It would be misleading to consumers if an explicit environmental claim **or environmental label** pointed to the benefits in terms of environmental impacts or environmental aspects while omitting that the achievement of those benefits leads to negative trade-offs on other environmental impacts or environmental aspects. To this end the information used to substantiate explicit environmental claims **and environmental labels** should ensure that the interlinkages between the relevant environmental impacts and between environmental aspects and environmental impacts can be identified along with potential trade-offs. The assessment used to substantiate explicit environmental claims **or environmental labels** should identify if improvements on environmental impacts or environmental aspects lead to the kind of trade-offs that significantly worsen the performance as regards other environmental impacts or environmental aspects, for example if savings in water consumption lead to a notable increase in greenhouse gas emissions, or in the same environmental impact in another life-cycle stage of the product, for example CO₂ savings in the stage of manufacturing leading to a notable increase of CO₂ emissions in the use phase. For example, a claim on positive impacts from efficient use of resources in intensive agricultural practices may mislead consumers due to trade-offs linked to impacts on biodiversity, ecosystems or animal welfare. An **explicit** environmental claim **or environmental label** on textiles containing plastic polymer from recycled PET bottles may also mislead consumers as to the environmental benefit of that aspect if the use of this recycled polymer competes with the closed-loop recycling system for food contact materials which is considered more beneficial from the perspective of circularity.

(20) In order for the environmental claim to be considered robust, it should reflect as accurately as possible the environmental performance of the specific product or trader. The information used to substantiate explicit environmental claims therefore needs to include primary, company-specific data for relevant aspects contributing significantly to the environmental performance of the product or trader referred to in the claim. It is necessary to strike the right balance between ensuring relevant and robust information for substantiating environmental claims and the efforts needed to gather primary information. The requirement to use primary information should be considered in the light of the influence the trader [...] **generating** the claim has over the respective process and of the availability of primary information. If the process is not run by the trader [...] **generating** the claim and primary information is not available, accurate secondary information should be able to be used even for processes that contribute significantly to the environmental performance of the product or trader. This is especially relevant to not disadvantage SMEs and to keep the efforts needed to acquire primary data at a proportionate level. Moreover, the relevant environmental aspects are different for each type of environmental claim. For instance, for claims on recycled or bio-based content, the composition of the product should be covered by primary data. For claims on being environmentally less polluting in a certain life cycle stage, information on emissions and environmental impacts related to that life cycle stage should include primary data as well. Both primary data and secondary data, i.e. average data, should show a high level of quality and accuracy.

- (21) Climate-related claims have been shown to be particularly prone to being unclear and ambiguous and to mislead consumers. This relates notably to environmental claims that products or entities are “climate neutral”, “carbon neutral”, “100% CO2 compensated”, or will be “net-zero” by a given year, or similar. **For that reason, Directive 2005/29/EC, as amended by Directive (EU) 2024/825 of the European Parliament and of the Council prohibits in its Annex I, under all circumstances, claims, based on the offsetting of greenhouse gas emissions, that a product has a neutral, reduced or positive impact on the environment in terms of greenhouse gas emissions. Such claims are prohibited as they mislead consumers by making them believe that such claims relate to the product itself, or to the supply and production of that product, or as they give the false impression to consumers that the consumption of that product does not have an environmental impact. Climate-related claims, based on offsetting of greenhouse gas emissions, claiming that an organisation has a neutral, reduced or positive impact on the environment in terms of greenhouse gas emissions are allowed, provided that the requirements of this Directive are met.**

- (21a) **Climate-related claims** [...] are often based on **the** offsetting of greenhouse gas emissions through “carbon credits” generated outside the company’s value chain, for example from forestry or renewable energy projects. The methodologies underpinning [...] **carbon credits** vary widely and are not always transparent, accurate, or consistent. This leads to significant risks of overestimations and double counting of avoided or reduced emissions, due to a lack of additionality, permanence, ambitious and dynamic crediting baselines that depart from business as usual, and accurate accounting. These factors result in [...] **carbon credits** of low environmental integrity and credibility that mislead consumers when they are relied upon in explicit environmental claims. Offsetting can **prevent consumers from making more sustainable consumption choices and can** also deter traders from emissions reductions in their own operations and value chains. In order to adequately contribute to global climate change mitigation targets, traders should prioritise effective reductions of emissions across their own operations and value chains instead of relying on offsetting. **Traders should only make compensation claims based on carbon credits for any resulting residual emissions in their operations and value chain.** Any resulting residual emissions will vary by sector-specific pathway in line with the global climate targets [...]. **Alternatively,** traders can [...] advertise [...] **financial contributions in environmental initiatives that reduce or remove greenhouse gas emissions [...] outside their value chain, not used for offsetting purposes [...] and make a contribution claim.**
- (21b) [...] **Whenever climate-related claims are based on carbon credits [...],** it is deemed appropriate to address [...] climate-related claims, including claims on future environmental performance, based on [...] **such credits** in a transparent manner. Therefore, the substantiation of climate-related claims should consider any [...] **carbon credits, including claims in relation to financial contributions to carbon credit generating projects not used for offsetting purposes,** separately from the trader’s or the product’s greenhouse gas emissions. In addition, this information should also specify the share of total emissions **of the trader** that are addressed through [...] **credits**, whether these [...] **credits** relate to emission reductions or removals enhancement, and the methodology applied. The climate-related claims that include the use of [...] **credits** have to be substantiated by methodologies that ensure the integrity and correct accounting of these [...] **credits** and thus reflect coherently and transparently the resulting impact on the climate.

[...]

- (22) Traders are more and more interested in making environmental claims related to future environmental performance of a product or trader, including by joining initiatives that are promoting practices which could be conducive to a reduced environmental impact or to more circularity. These claims should be substantiated in line with the rules applicable to all explicit environmental claims **and environmental labels**.
- (23) The information used to substantiate explicit environmental claims **or environmental labels** should be science based, and any lack of consideration of certain environmental impacts or environmental aspects should be carefully considered.
- (24) **The Commission Recommendation (EU) 2021/2279 contains guidance on how to measure the life cycle environmental performance of specific products or organisations. The [...] Environmental Footprint methods can be used to [...]substantiate [...] explicit environmental claims or environmental labels on specific life-cycle environmental impacts that the methods cover, provided that these are complete on the impacts relevant to the product category and do not omit any important environmental impacts. The methods cover 16 environmental impacts, including climate change, and impacts related to water, air, soil, resources, land use and toxicity. **Proper application of these methods covers the requirements for substantiation, however, environmental claims based on these methods shall still be verified. Therefore, one way to promote greater harmonisation and comparability is to encourage the use of these methods where they are appropriate to the nature of the environmental claims.****

- (25) The fact that a significant environmental impact of a product is not covered by any of the 16 impact categories of the EF methods should not justify the lack of consideration of such impacts. An economic actor making an explicit environmental claim **or environmental label** on such product group should have an obligation of diligence to find evidence substantiating such **explicit** environmental claim **or environmental label**. For instance, an economic actor making an explicit environmental claim about a fishery product as defined in Article 5 of Regulation (EU) No 1379/2013 of the European Parliament and of the Council¹⁶ should have an obligation of diligence to find evidence substantiating the sustainability of the targeted fish stock. Stock assessments by the International Council for the Exploration of the Sea and similar stock assessment bodies can be used for that purpose.
- (26) Furthermore, there is not yet a reliable methodology for the assessment of life-cycle environmental impacts related to the release of microplastics. However, in case such release contributes to significant environmental impacts that are not subject to **an environmental** claim, the trader making the **environmental** claim on another aspect should not be allowed to ignore it, but should take into account available information and update the assessment once widely recognised scientific evidence becomes available.

¹⁶ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

(26a) [...] For certain types of explicit environmental claims verification by a third-party verifier or a full substantiation assessment is not deemed necessary in the light of the objectives of this Directive. Instead, a simplified procedure can be applied, wherein the trader demonstrates compliance with certain substantiation requirements via self-declaration in a Specific Technical Documentation. This simplified procedure should only be used in certain circumstances where the explicit environmental claim is of a less complex nature. This is in order to reduce the administrative burden for traders. Explicit environmental claims for which this simplified procedure should be used are: explicit environmental claims stating that an environmental characteristic of a product or a trader exceeds minimum requirements set out in other Union acts which are in line with methodological rules set therein; explicit environmental claims regarding environmental characteristics certified by an environmental label; and explicit environmental claims that are listed in the implementing acts that should be adopted by the Commission. These implementing acts shall include a list of explicit environmental claims. The explicit environmental claims that can be listed are claims that do not require a full life-cycle analysis for their substantiation, they are related to a single environmental characteristic and shall not lead to significant trade-offs between different environmental impact categories. The simplified procedure should not be applicable for comparative explicit environmental claims, explicit environmental claims related to climate or explicit environmental claims about future environmental performance as they represent explicit environmental claims of a more complex nature. Explicit environmental claims that could be part of the implementing acts are claims about reusability, recyclability, compostability, degradability, reduced energy consumption, reduced water consumption, reduced resource use, waste reduction, waste prevention or circular business models. The implementing acts should for every type of explicit environmental claim identify which substantiation requirements should be met to be able to use the simplified procedure. These substantiation requirements could be a reduced form of the substantiation assessment set out in Article 3 paragraph 1 but could include specific substantiation requirements related to the type of explicit environmental claim as well. When a trader applies the simplified procedure, he should complete the Specific Technical Documentation before the explicit environmental claim is made public and provide it with the claim. In this way, the documentation can be consulted by consumers and is easily accessible to competent authorities. In order to facilitate the simplified procedure for the trader

generating the explicit environmental claim and to ensure a maximum level of harmonisation in the Union, the Commission should draft the format and content of the Specific Technical Documentation in an implementing act. The Specific Technical Documentation will lay out what information the trader generating the explicit environmental claim should declare.

- (27) Consumers can also be misled by explicit environmental claims **or environmental labels** that state or imply that a product or trader has less or more environmental impacts or a better or worse environmental performance than other products or traders ('comparative explicit environmental claims **and comparative environmental labels**'). Without prejudice to the application, where appropriate, of Directive 2006/114/EC of the European Parliament and of the Council¹⁷, in order to allow the consumers access to reliable information, it is necessary to ensure that comparative **explicit** environmental claims **and comparative environmental labels** can be compared in an adequate manner. For instance, choosing indicators on the same environmental aspects but using a different formula for quantification of such indicators makes comparisons impossible, and therefore there is a risk of misleading consumers. In case two traders make an environmental claim on climate change, where one considered only direct environmental impacts, whilst the other considered both direct and indirect environmental impacts, these results are not comparable. Also, a decision to make the comparison only at certain stages of a products life cycle can lead to misleading claims, if not made transparent. A comparative **explicit** environmental claim **or comparative environmental label** needs to ensure that also for products with very different raw materials, uses and process chains, like bio-based plastics and fossil-based plastics, the most relevant stages of the life-cycle are taken into account for all products. For example, agriculture or forestry is relevant for bio-based plastics while raw oil extraction is relevant for fossil-based plastics and the question whether a relevant share of the product ends up in landfill is highly relevant to plastics that biodegrade well under landfill conditions but maybe less relevant for plastics that do not biodegrade under such conditions.

¹⁷ Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21).

- (28) When setting up the requirements for substantiation and communication of explicit environmental claims **and environmental labels**, including by delegated acts adopted by the Commission, the difficulties that traders may encounter in gathering information from actors throughout their value chain or on the product's overall life-cycle, especially for services or where there is insufficient scientific evidence, should be taken into account. This is important for example for services such as electronic communications services, for which it can be difficult to define the scope and system boundaries, e.g. where the life-cycle starts and where it finishes and even more where supply chains are complex and not stable, e.g. in cases where many equipment or components are manufactured by a multitude of enterprises outside the EU, and thus sustainability related information might not be easily accessible to EU traders concerned.
- (29) For some sectors or for certain products or traders, significant environmental impacts or environmental aspects could be suspected but there might not yet be a recognised scientific method to fully assess those environmental impacts and environmental aspects. For such cases and while efforts are made to develop methods and gather evidence to enable the assessment of the respective environmental impact or environmental aspect for those sectors, traders or products, traders should be able to promote their sustainability efforts through publication of company sustainability reporting, factual reporting on the company's performance metrics and work to reduce energy consumption, including on their websites. This flexibility would maintain and promote the incentives of those sectors or traders to continue their efforts to develop common environmental assessments pursuant to this Directive while providing for the necessary time to complete such work.

~~(30)~~—[...]

(31) In order to meet both the needs of traders regarding dynamic marketing strategies and the needs of consumers regarding more detailed, and more accurate, environmental information, the Commission may adopt delegated acts to supplement the provisions on substantiation of explicit environmental claims **and environmental labels** by further specifying the criteria for such substantiation with regard to certain claims (e.g. climate-related claims, including claims [...] **based on carbon credits**, “climate neutrality” or similar, recyclability and recycled content). The Commission should be empowered to further establish rules for measuring and calculating the environmental impacts, environmental aspects and environmental performance, by determining **the methods to substantiate certain [...] explicit environmental claims and environmental labels, such as the Environmental Footprint methods, with the aim of ensuring further harmonisation and comparability of environmental claims; by determining** which activities, processes, materials, emissions or use of a product or trader contribute significantly or cannot contribute to the relevant environmental impacts and environmental aspects; by determining for which environmental aspects and environmental impacts primary information should be used; and by determining the criteria to assess the accuracy of primary and secondary information. While in most cases the Commission would consider the need for adopting these rules only after having the results of the monitoring of the evolution of environmental claims on the Union market, for some types of claims it may be necessary for the Commission to adopt supplementary rules before the results of this monitoring are available. For example, in case of climate-related claims it may be necessary to adopt such supplementary acts in order to operationalise the provisions on substantiation of claims, **especially those based [...] on carbon credits.**

- (32) The Commission Recommendation (EU) 2021/2279 contains guidance on how to measure the life cycle environmental performance of specific products or organisations and how to develop Product Environmental Footprint Category Rules (PEFCRs) and Organisation Environmental Footprint Sectorial Rules (OEFSRs) that allow comparison of products to a benchmark. Such category rules for specific products or traders can be used to support the substantiation of claims in line with the requirements of this Directive. Therefore, the Commission should be empowered to adopt delegated acts to establish product group or sector specific rules where this may have added value. However, in case the Product Environmental Footprint method does not yet cover an impact category, which is relevant for a product group, the adoption of PEFCR may take place only once these new relevant environmental impact categories have been added. For example, as regards marine fisheries, the PEFCR should for example reflect the fisheries-specific environmental impact categories, in particular the sustainability of the targeted stock. Concerning space, the PEFCR should reflect defence and space-specific environmental impact categories, including the orbital space use. As regards food and agricultural products, biodiversity and nature protection, as well as farming practices, including positive externalities of extensive farming and animal welfare, should, for example, also be integrated before the adoption of PEFCR could be considered. As regards textiles, the PEFCR should for example reflect the microplastics release, before the adoption of PEFCR could be considered.
- (33) Since Directive 2005/29/EC already applies to misleading environmental claims, it enables the national courts and administrative authorities to stop and prohibit such claims. For example, in order to comply with Directive 2005/29/EC, environmental claims should relate only to aspects that are significant in terms of the product's or trader's environmental impact. Environmental claims should also be clear and unambiguous regarding which aspects of the product or trader they refer to and should not omit or hide important information about the environmental performance of the product or trader that consumers need in order to make informed choices. The wording, imagery and overall product presentation, including the layout, choice of colours, images, pictures, sounds, symbols or labels, included in the environmental claim should provide a truthful and accurate representation of the scale of the environmental benefit achieved, and should not overstate the environmental benefit achieved.

- (34) Where the explicit environmental claim **or environmental label** concerns a final product and relevant environmental impacts or environmental aspects of such product occur at the use phase and consumers can influence such environmental impacts or environmental aspects via appropriate behaviour, such as, for example, correct waste sorting or impacts of use patterns on product's longevity, the claim should also include information explaining to consumers how their behaviour can positively contribute to the protection of the environment.
- (35) **Environmental claims, in particular climate-related claims, increasingly relate to future performance in the form of a transition to carbon or climate neutrality, or a similar objective, by a certain date. Article 6(2) of Directive 2005/29/EC as amended by Directive [XX] prohibits such claims, following a case-by-case assessment, when they are not supported by clear, objective, publicly available and verifiable commitments and which include measurable and time-bound targets given by the trader and are not set out in a detailed and realistic implementation plan that shows how these commitments and targets will be achieved and allocates resources to this end. The implementation plan should include all the relevant elements necessary to fulfil the commitments, such as allocation of resources and technological developments, where appropriate and in accordance with Union law.** In order to facilitate consumers' choices of more sustainable products and to incentivise efforts of traders to lower their environmental impacts, when the claim communicated relates to future environmental performance, it should **in addition [...]** be based on improvements inside a trader's own operations and value chains, **so prioritising effective greenhouse gas emissions reductions** rather than relying on **the** offsetting of greenhouse gas emissions or other environmental impacts. **Article 6(2) of Directive 2005/29/EC also requires that such claims are verified by an independent third party expert, who should regularly monitor the progress of the trader with regard to the commitments and targets, including the milestones for achieving them. Traders should ensure that the regular findings of the third-party expert are available to consumers. In this regard, to complement Directive 2005/29/EC, as amended by Directive [XX], the verification of the explicit environmental claim or environmental label related to future environmental performance referred to in Article 10 of this Directive that is undertaken before such environmental claim is made public should be additional, and thus not equivalent, to the third party regular verification required in Article 6 (2) (d) of Directive 2005/29/EC.**

(36) [...] The [...] content of the communication of explicit environmental claims and environmental labels is not subject to verification. However, the communication of these claims and labels should comply with the communication requirements set out in this Directive. For instance, consumers should have easy access to the information substantiating the explicit environmental claim about the product or trader or the environmental label. [...] It is important to ensure that the communication is clear and sufficient, ensuring that it neither over-informs consumers in a way that could have a negative impact on their understanding nor places an undue burden on business. To this end, there are a number of minimum requirements with which all explicit environmental claims and environmental labels must comply, including specific conditions for some cases, such as climate or future performance-based claims. In addition, a distinction is made between the obligations of traders related to communication depending on whether the communication is about a [...] claim [...] or a label [...], as in the latter case the trader communicating the label is often different from the owner of the labelling scheme.

In order to facilitate the provision of information, the digital format has been favoured, so that traders should provide a web link or a data carrier, such as a QR code or equivalent, leading to a website where more detailed information on the basis of the explicit environmental claim or environmental label is available. However, in order to take into account the digital divide and not to exclude any type of consumer, it is also foreseen that the summary of the substantiation can be requested on paper when an explicit environmental claim is made at the trader premises. More technical and detailed information will only be provided by digital means on request.

There should be no multiplication of data carriers on products. To avoid this, where other Union legislation requires product information to be digitally available through a data carrier, the information required under this Directive should be accessible through the same data carrier. That data carrier should comply with the requirements laid down in this Directive or in other applicable Union legislation. In particular, where the product is covered by the [Sustainable Product Ecodesign] Regulation or other Union legislation requiring a digital product passport, that digital product passport should also be used to provide the relevant information under this Directive.

(37) — [...]

- (38) When the Commission adopts delegated acts to supplement the provisions on substantiation of explicit environmental claims **and environmental labels** it may be necessary to also supplement the provisions on communication of such **environmental** claims. For example, in case specific life-cycle-based rules on substantiation of explicit environmental claims for certain products group or sector are established, it may be necessary to add supplementary rules on presentation of environmental impacts assessed based on these rules by requiring that three main environmental impacts are presented next to the aggregated indicator of overall environmental performance. To this end the Commission should be empowered to adopt delegated acts to supplement the provisions on communication of explicit environmental claims **and environmental labels**.
- (39) Currently, more than 200 environmental labels are used on the Union market. They present important differences in how they operate as regards for example the transparency and comprehensiveness of the standards or methods used, the frequency of revisions, or the level of auditing or verification. These differences have an impact on how reliable the information communicated on the environmental labels is. While claims based on the EU Ecolabel or its national equivalents follow a solid scientific basis, have a transparent development of criteria, require testing and third-party verification and foresee regular monitoring, evidence suggests that many environmental labels currently on the EU market are misleading. In particular, many environmental labels lack sufficient verification procedures [...].
- (40) In cases where an environmental label involves a commercial communication to consumers that suggests or creates the impression that a product has a positive or no impact on the environment, or is less damaging to the environment than competing products without the label, that environmental label [...] **should be substantiated and communicated according to the requirements of this Directive. [...]. Considering that the criteria of the environmental label voice the message, in terms of environmental characteristics of the product or trader, that the environmental label conveys to consumers, these criteria should be trustworthy. Hence, the environmental labelling scheme owner should ensure that the criteria of the environmental labelling scheme to award the respective environmental label shall meet the substantiation requirements of this Directive.**

(41) The environmental labels often aim at providing consumers with an aggregated scoring presenting a cumulative environmental impact of products or traders to allow for direct comparisons between products or traders. Such aggregated scoring however presents risks of misleading consumers as the aggregated indicator may dilute negative environmental impacts of certain aspects of the product with more positive environmental impacts of other aspects of the product. In addition, when developed by different operators, such labels usually differ in terms of specific methodology underlying the aggregated score such as the environmental impacts considered or the weighting attributed to these environmental impacts. This may result in the same product receiving different score or rating depending on the **methodology underlying the environmental label** [...]. This concern arises in relation to **environmental labels used and explicit environmental claims made** [...] in the Union [...]. This is contributing to the fragmentation of the internal market, risks putting smaller companies at a disadvantage, and is likely to further mislead consumers and undermine their trust in environmental labels. In order to avoid this risk and ensure better harmonisation within the single market, the explicit environmental claims **and** [...] environmental labels, based on an aggregated score representing a cumulative environmental impact of products or traders should not be deemed to be sufficiently substantiated, unless those aggregated scores stem from Union rules, including the delegated acts that the Commission is empowered to adopt under this Directive, resulting in Union-wide harmonised schemes for all products or per specific product group based on a single methodology to ensure coherence and comparability. **If no such methodology or rules exist yet at Union level, explicit environmental claims [...] and environmental labels, based on an aggregated score could be based on an aggregation methodology stemming from national legislation.**

(42) In accordance with the [...] Directive on empowering consumers for the green transition, which amends Directive 2005/29/EC, displaying a sustainability label which is not based on a certification scheme or not established by public authorities constitutes an unfair commercial practice in all circumstances. [...] **Environmental labels must be distinguished from sustainability labels in the meaning of the [...] Directive on empowering consumers for the green transition which amends Directive 2005/29/EC. An environmental label is a sub-type of a sustainability label where the majority or all of the characteristics covered by the label are environmental characteristics. The environmental characteristics are the prevailing or the most significant characteristics to consider in the label. Environmental labels thus cover only or predominantly environmental characteristics [...], emphasizing the environmental character of the labels. Only where environmental characteristics are secondary to the label and not relevant to set apart and promote a product, the environmental label would be subject solely to the general provisions for sustainability labels. Moreover, in contrast to sustainability labels, environmental labels established by public authorities should also be based on a certification scheme.**

(43) In order to combat misleading [...] environmental labels and increase consumer trust in environmental labels, **all environmental labels, established by private operators as well as by public authorities, should be based on an environmental labelling scheme.** This Directive should establish governance criteria that all environmental labelling schemes are to comply with, complementing thus the requirements set in the said proposal amending Directive 2005/29/EC.

(43a) In order to avoid further proliferation of environmental labels and to ensure more harmonisation in the internal market, it is necessary to limit the approval of new environmental labelling schemes to such that provide added value compared to existing Union, national or regional environmental labelling schemes. Added value shall be evaluated in terms of coverage of environmental characteristics of the environmental label, the product group(s) or sector(s) covered by the labelling scheme, the ability to support the green transition for SMEs or the geographical location of the environmental labelling scheme. To ensure legal certainty, existing environmental labelling schemes may continue to award environmental label in accordance with this Directive.

- (44) In order to avoid further proliferation of national or regional officially recognised EN ISO 14024 type I environmental labelling ('ecolabelling') schemes, and other environmental labelling schemes, and to ensure more harmonisation in the internal market, new national or regional environmental labelling schemes **shall only be allowed on the Union market, if they can prove added value as compared to the existing Union, national or regional schemes [...] and if they meet the requirements of this Directive. [...].**
- (45) In order not to create unnecessary barriers to international trade and to ensure equal treatment with the public schemes established in the Union, the public authorities outside of the Union setting up new labelling schemes should be allowed to request approval from the Commission for use of the label on the Union market. This approval should be conditional on the scheme's contribution to reaching the objectives of this Directive and provided that the schemes demonstrate added value **as compared to the existing Union, national or regional schemes** [...].
- (46) Environmental labelling schemes established by private operators, if too many and overlapping in terms of scope, may create confusion in consumers or undermine their trust in environmental labels. Therefore, Member States should only allow that new environmental labelling schemes are established by private operators provided that they offer significant added value as compared to the existing national or regional schemes [...], **and meet all the requirements of this Directive. [...].** Member States should set up a procedure for the approval of new environmental labelling schemes [...]. This should apply to schemes established in the Union and outside of the Union.
- (47) In order to provide legal certainty and facilitate enforcement of the provisions on new national and regional officially recognised environmental labelling schemes and new private labelling schemes, the Commission should publish a list of such schemes that may either continue to apply on the Union market or enter the Union market.

- (48) In order to ensure a harmonised approach by the Member States to the assessment and approval of environmental labelling schemes developed by private operators, and to establish an approval procedure by the Commission for proposed schemes established by public authorities [...], implementing powers should be conferred on the Commission to adopt common rules specifying detailed requirements for approval of such environmental labelling schemes, **in particular on how added value should be assessed**, the format and content of supporting documents and rules of procedure to approve such schemes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁸. **If the new environmental labelling scheme has received an approval and has been verified accordance to Article 10 resulting in a certificate of conformity, it can award environmental labels which are to be used on the Union market.**
- (49) It is essential that explicit environmental claims **and environmental labels** reflect correctly **the environmental characteristics** [...] covered by the claim **or label**, and consider the latest scientific evidence, **technical information or international standards**. Member States should therefore ensure that the trader **generating** [...] the **explicit environmental claim or the environmental labelling scheme owner awarding the environmental label** reviews and updates, **where necessary**, the substantiation [...] of the claim **or label** at least every 5 years to ensure compliance with the requirements of this Directive.

¹⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (50) To ensure that explicit environmental claims **and environmental labels** are reliable, it is necessary that Member States set up procedure for verifying that [...] explicit environmental claims [...], or [...] environmental labelling schemes **and the corresponding environmental labels**, comply with the requirements set out in this Directive. **Traders shall submit their explicit environmental claim for verification of the substantiation requirements, while environmental labelling scheme owners shall submit their environmental labelling scheme and the corresponding environmental label for verification of the substantiation requirements and the environmental labelling scheme requirements. Traders may use the labels awarded to them by verified and compliant labelling schemes, without having to go through the verification procedure under this Directive.**
- (51) In order to allow the competent authorities to control more efficiently the implementation of the provisions of this Directive and to prevent as much as possible unsubstantiated explicit environmental claims, [...] **and** environmental labels, from appearing on the market, verifiers complying with the harmonised requirements set up by the Directive should check that [...] explicit environmental claims **and environmental labelling schemes and the corresponding environmental labels** meet the requirements of this Directive. In order to avoid misleading consumers, the verification should in any case take place before the **explicit** environmental claims are made public or environmental labelling schemes **and the corresponding environmental labels are made available** [...]. The verifier can, if appropriate, indicate several ways of communicating the explicit environmental claim **or environmental label** that comply with the requirements of this Directive[...]. To facilitate the traders' **or environmental labelling scheme owners'** compliance with the rules on substantiation [...]of explicit environmental claims, [...]**and** environmental labels, the verification should take into account the nature and content of the claim or the environmental label, including whether they appear to be unfair in the light of Directive 2005/29/EC.

- (52) In order to provide traders with legal certainty across the internal market as regards compliance of the explicit environmental claims **or environmental labelling schemes and the corresponding environmental labels** with the requirements of this Directive, the certificate of conformity should be recognised by the competent authorities across the Union. [...]. The certificate of conformity should however not prejudge the assessment of the environmental claim by the public authorities or courts which enforce Directive 2005/29/EC.
- (53) In order to ensure uniform conditions for the provisions on verification of explicit environmental claims and environmental labelling schemes **and the corresponding environmental labels** and to facilitate the enforcement of the provisions on verification of this Directive, implementing powers should be conferred on the Commission to adopt a common form for certificates of conformity and the technical means for issuing such certificates. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁹.
- (53a) The verifier should be an independent third-party conformity assessment body and should be accredited in accordance with Regulation (EC) No 765/2008²⁰. Thus, the provisions of Regulation 765/2008, including of Chapter II, apply to the verifiers. Furthermore, the verifier should carry out its activities in an impartial and objective manner. The policies and procedures under which the verifier operates, and the administration of them, shall be non-discriminatory. The verifier should comply with EN ISO/IEC 17029 ‘Conformity assessment – General principles and requirements for validation and verification bodies’ [...].**

¹⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

²⁰ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

- (54) **Microenterprises**, small and medium-sized enterprises (SMEs) should be able to benefit from the opportunities provided by the market for more sustainable products but they could face proportionately higher costs and difficulties with some of the requirements on substantiation and verification of explicit environmental claims. The Member States **and the Commission** should provide adequate information and raise awareness of the ways to comply with the requirements of this Directive, ensure targeted and specialised training, and provide specific assistance and support, including financial, to SMEs, **in particular to microenterprises**, wishing to make explicit environmental claims on their products or as regards their activities. **Due to the important role of life cycle assessment in the assessment of the substantiation of explicit environmental claims, the Commission should provide for life cycle assessment calculation tools including relevant data inventories**. Member States **and the Commission** actions should be taken in respect of applicable State aid rules.
- (55) In order to ensure a level-playing field on the Union market, where **explicit environmental claims** **or environmental labels** about the **environmental characteristics** [...] of a product or a trader are based on reliable, comparable and verifiable information, it is necessary to establish common rules on enforcement and compliance.

- (56) In order to ensure that the objectives of this Directive are achieved and the requirements are enforced effectively, Member States should designate their own competent authorities responsible for the application and enforcement of this Directive. However, in view of the close complementarity of Articles 5 and 6 of this Directive with the provisions of Directive 2005/29/EC, Member States should also be allowed to designate for their enforcement the same competent authorities as those responsible for the enforcement of Directive 2005/29/EC. For the sake of consistency, when Member States make that choice, they should be able to rely on the means and powers of enforcement that they have established in accordance with Article 11 of Directive 2005/29/EC, in derogation from the rules on enforcement laid down in this Directive. **Member States may also designate the same competent authorities as those responsible for the enforcement of Directive 2005/29/EC, the application and enforcement of the provisions of this Directive. Nevertheless, for the enforcement of the other Articles than Articles 5 and 6 of this Directive, Member States may not derogate from the rules on enforcement laid down in this Directive.** In cases where there is more than one designated competent authority in their territory and to ensure effective exercise of the duties of the competent authorities, Member State should ensure a close cooperation between all designated competent authorities.
- (56a) **This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and present in the constitutional traditions of the Member States. Accordingly, this Directive should be interpreted and applied in accordance with those rights and principles. When exercising the powers foreseen in this Directive, the competent authorities should strike an appropriate balance between the interests protected by fundamental rights.**

- (57) Without prejudice to the powers already conferred by Regulation (EU) 2017/2394²¹ to consumer protection authorities, competent authorities should have a minimum set of investigation and enforcement powers in order to ensure compliance with this Directive **by traders, verifiers and environmental labelling scheme owners**, to cooperate with each other more quickly and more efficiently, and to deter market actors from infringing this Directive. Those powers should be sufficient to tackle the enforcement challenges of e-commerce and the digital environment effectively and to prevent non-compliant market actors from exploiting gaps in the enforcement system by relocating to Member States whose competent authorities may be less equipped to tackle unlawful practices.
- (58) Competent authorities should be able to use all facts and circumstances of the case as evidence for the purpose of their investigation.
- (59) In order to prevent the occurrence of misleading and unsubstantiated explicit environmental claims **and environmental labels** on the Union market, competent authorities should carry out regular checks of explicit environmental claims made, and the environmental labelling schemes applied, to verify that the requirements laid down in this Directive are fulfilled.
- (60) When competent authorities detect an infringement of requirements of this Directive they should carry out an evaluation and based on its results notify the trader **or the environmental labelling scheme owner** about the infringement detected and require that corrective actions are taken by the trader **or the environmental labelling scheme owner**. To minimise the misleading effect on consumers of the non-compliant explicit environmental claim or non-compliant environmental labelling scheme, the trader **or the environmental labelling scheme owner** should be required by the competent authorities to take an effective and rapid action to remediate that infringement. The corrective action required should be proportionate to the infringement detected and its expected harmful effects on the consumers.

²¹ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).

- (61) Where an infringement is not restricted to their national territory, and the explicit environmental claim has been advanced between traders, competent authorities should inform the other Member States of the results of evaluation they have carried out and of any action that they have required the trader responsible to take.
- (62) Competent authorities should also carry out checks of explicit environmental claims **and environmental labelling schemes and the corresponding environmental labels** on the Union market when in possession of and based on relevant information, including substantiated concerns submitted by third parties. Third parties submitting a concern should be able to demonstrate a sufficient interest or maintain the impairment of a right.
- (63) In order to ensure that traders **and environmental labelling scheme owners** are effectively dissuaded from non-compliance with the requirements of this Directive, Member States should lay down rules on penalties applicable to infringements of this Directive and ensure that those rules are implemented. The penalties provided for should be effective, proportionate and dissuasive. To facilitate a more consistent application of penalties, it is necessary to establish common non-exhaustive criteria for determining the types and levels of penalties to be imposed in case of infringements. That criteria should include, *inter alia*, the nature and gravity of the infringement as well as the economic benefits derived from the infringement [...].

- (64) When setting penalties and measures for infringements, the Member States should foresee that, based on the gravity of the infringement, the level of fines should effectively deprive the non-compliant trader **or environmental labelling scheme owner** from the economic benefit derived from using the misleading or unsubstantiated explicit environmental claim or non-compliant environmental labelling scheme, including in cases of repeated infringements. [...] The gravity of the infringement should be the leading criterion for the measures taken by the enforcement authorities. The maximum amount of fines should be dissuasive and set at least at the level of 4% of the trader's total annual turnover in the Member State or Member States concerned in case of widespread infringements with a Union dimension that are subject to coordinated investigation and enforcement measures in accordance with Regulation (EU) 2017/2394²².
- (65) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making²³. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (66) In order to assess the performance of the legislation against the objectives that it pursues, the Commission should carry out an evaluation of this Directive and present a report on the main findings to the European Parliament and the Council. In order to inform an evaluation of this Directive, Member States should regularly collect information on the application of this Directive and provide it to the Commission on an annual basis.

²² Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).

²³ OJ L 123, 12.5.2016, p. 1.

- (67) Where based on the results of the monitoring and evaluation of this Directive the Commission finds it appropriate to propose a review of this Directive, the feasibility and appropriateness of further provisions on mandating the use of common method for substantiation of explicit environmental claims **or environmental labels**, the extension of prohibition of environmental claims for products containing hazardous substances except where their use is considered essential for the society, or further harmonisation as regards requirements on the substantiation of specific environmental claims on environmental **characteristics** [...] should also be considered.
- (68) The use of the most harmful substances should ultimately be phased-out in the Union to avoid and prevent significant harm to human health and the environment, in particular their use in consumer products. Regulation (EC) 1272/2008 of the European Parliament and of the Council²⁴ prohibits the labelling of mixtures and substances that contain hazardous chemicals as ‘non-toxic’, ‘non-harmful’, ‘non-polluting’, ‘ecological’ or any other statements indicating that the substance or mixture is not hazardous or statements that are inconsistent with the classification of that substance or mixture. Member States are required to ensure that such obligation is fulfilled. As committed in the Chemicals Strategy for Sustainability the Commission will define criteria for essential uses to guide its application across relevant Union legislation. .
- (69) Since the objectives of this Directive, namely to improve the functioning of the internal market for economic actors operating in the internal market and consumers relying on environmental claims **and environmental labels**, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

²⁴ 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, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

- (70) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents²⁵, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (71) The Annex to Regulation (EU) 1024/2012 of the European Parliament and of the Council²⁶ should be amended to include a reference to this Directive so as to facilitate the administrative cooperation between the competent authorities through the Internal Market Information System.
- (72) The Annex to Regulation (EU) 2017/2394 of the European Parliament and of the Council²⁷ should be amended to include a reference to this Directive so as to facilitate cross-border cooperation on enforcement of this Directive.
- (73) Annex I of Directive (EU) 2020/1828 of the European Parliament and of the Council²⁸ should be amended to include a reference to this Directive so as to ensure that the collective interests of consumers laid down in this Directive are protected.

HAVE ADOPTED THIS DIRECTIVE:

²⁵ OJ C 369, 17.12.2011, p. 14.

²⁶ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p. 1).

²⁷ OJ L 345, 27.12.2017, p. 1

²⁸ Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).

Article 1

Scope

1. This Directive applies to explicit environmental claims made **voluntarily** by traders about products or **about** traders, [...], **and to environmental labelling schemes that allow for the use of the corresponding environmental labels, in business-to-consumer commercial practices.**
2. This Directive does not apply [...] to explicit environmental claims, **environmental labels** or to **environmental labelling schemes** regulated by or substantiated by rules established in:
 - (a) Regulation (EC) No 66/2010 of the European Parliament and of the Council²⁹ [...];
 - (b) Regulation (EU) 2018/848 of the European Parliament and of the Council³⁰,
 - (c) Regulation (EU) 2017/1369 of the European Parliament and of the Council³¹;
 - (d) Directive 2009/125/EC of the European Parliament and of the Council³²,
 - (e) Regulation (EU) No 305/2011 of the European Parliament and of the Council³³
 - (f) Regulation (EC) No 765/2008 of the European Parliament and of the Council³⁴;

²⁹ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

³⁰ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

³¹ Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1).

³² Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast) (OJ L 285, 31.10.2009, p. 10).

³³ Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

³⁴ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the

- (g) Regulation (EC) No 1221/2009 of the European Parliament and of the Council³⁵;
- (h) Directive 1999/94/EC of the European Parliament and of the Council³⁶;
- (i) [...];
- (j) **Regulation (EU) 2023/1542 of the European Parliament and of the Council**³⁷
[...];
- (k) Directive 94/62/EC of the European Parliament and of the Council³⁸;
- (l) Regulation (EU) 2020/852 of the European Parliament and of the Council³⁹
- (m) [...];
- (n) Directive 2012/27/EU of the European Parliament and of the Council⁴⁰;
- (o) Directive 2013/34/EU of the European Parliament and of the Council⁴¹ and other Union, national or international rules, standards or guidelines for financial services, financial instruments, and financial products;

marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

³⁵ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

³⁶ Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars (OJ L 12, 18.1.2000, p. 16).

³⁷ **Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC**

³⁸ Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

³⁹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁴⁰ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

⁴¹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of

- (oa) **Council Directive 92/43/EEC**⁴²;
- (ob) **Regulation (EU) [No to be published] of the European Parliament and of the Council (Refuel EU Aviation)**⁴³.
- (oc) **Regulation (EC) 2020/740 of the European Parliament and of the Council**
- (p) other [...] Union **legislative acts** [...] setting out the conditions under which certain explicit environmental claims about certain products or traders may be or are to be made or Union rules laying down requirements on the assessment or communication of environmental impacts, environmental aspects or environmental performance of certain products or traders or conditions for environmental labelling schemes, **unless provided otherwise in those other Union legislative acts.**

~~3-~~ [...]

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (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 **made in written form or orally, including through audiovisual media** [...] **excluding** environmental labels;
- (3) ‘trader’ means trader as defined in Article 2, point (b), of Directive 2005/29/EC;
- (4) ‘product’ means product as defined in Article 2, point (c), of Directive 2005/29/EC;

the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

⁴² **Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora**

⁴³ **Regulation (EC) 2020/740 of the European Parliament and of the Council of 25 May 2020 on the labelling of tyres with respect to fuel efficiency and other parameters, amending Regulation (EU) 2017/1369 and repealing Regulation (EC) No 1222/2009**

- (5) ‘consumer’ means consumer as defined in Article 2, point (a), of Directive 2005/29/EC;
- (6) ‘business-to-consumer commercial practices’ means business-to-consumer commercial practices as defined in Article 2, point (d), of Directive 2005/29/EC;
- (6a) ‘trader generating an explicit environmental claim’ means a trader who introduces an explicit environmental claim that is used in a business-to-consumer commercial practice towards a consumer in the Union;**
- (7) ‘sustainability label’ means sustainability label as defined in Article 2, point (q), of Directive 2005/29/EC;
- (8) ‘environmental label’ means a sustainability label covering only or predominantly environmental **characteristics** [...] of a product, a process or a trader, [...];
- (8a) ‘environmental labelling scheme’ means a certification scheme that [...] certifies that a product, a process or a trader complies with [...] certain requirements and that allows for the use of a corresponding [...] environmental label;**
- (8b) ‘aggregated environmental label’ means an environmental label that displays a cumulative or aggregated environmental rating or score of two or more environmental impacts of a product or a trader;**
- (8c) ‘environmental labelling scheme owner’ means a natural or legal person, public authority, agency or other body [...] responsible for developing and maintaining a specific environmental labelling scheme;**
- (9) ‘product group’ means a set of products that serve similar purposes or are similar in terms of use or have similar functional properties;
- (10) ‘certification scheme’ means a certification scheme as defined in Article 2, point (r), of Directive 2005/29/EC;
- (11) ‘verification’ means the conformity assessment process carried out by a verifier to verify whether the substantiation [...] of the explicit environmental claims [...] **is** in compliance with the requirements set out in this Directive or whether environmental labelling schemes **and the corresponding environmental labels** comply with this Directive;

- (12) ‘value chain’ means all activities and processes that are part of the life cycle of a product or activity of a trader, including remanufacturing;
- (13) ‘life cycle’ means the consecutive and interlinked stages of a product’s life, consisting of raw material acquisition or generation from natural resources, pre-processing, manufacturing, storage, distribution, installation, use, maintenance, repair, upgrading, refurbishment as well as re-use, and end-of-life;
- (14) ‘primary information’ means information that is directly measured or collected by the trader from one or more facilities that are representative for the activities of the trader;
- (15) ‘secondary information’ means information that is based on other sources than primary information including literature studies, engineering studies and patents;
- (16) ‘public’ means one or more natural or legal persons and their associations, traders or groups;
- (17) ‘environmental performance’ means the performance of a certain product or product group or trader or sector related to the environmental aspects or environmental impacts of that product or product group or the activities of that trader or sector;
- (18) ‘environmental aspect’ means an element of a trader’s or sector’s activities or of products or product groups that interact or can interact with the environment;
- (19) ‘environmental impact’ means any change to the environment, whether positive or negative, that wholly or partially results from a trader’s or sector’s activities or from a product or product group during its life cycle;
- (19a) ‘distributor’ means any natural or legal person in the supply chain, other than the trader generating a claim for a respective product, who makes a product available on the market;**
- (19b) ‘making available on the market’ means making available on the market as defined under Article 3, point (1), of Regulation (EU) 2019/1020;**
- (19c) ‘environmental characteristic’ means an environmental aspect, environmental impact or environmental performance;**

(19d) ‘contribution claim’ means an explicit environmental claim based on carbon credits that are counted towards national climate targets of the country hosting the emissions reductions or removals underlying the credits;

(19e) ‘compensation claim’ means an explicit environmental claim based on carbon credits that are not counted towards national climate targets of the country hosting the emissions reductions or removals underlying the credit.

Article 3

*Substantiation of explicit environmental claims **and environmental labels***

1. Member States shall ensure that **the trader [...]** **generating an explicit environmental claim** carries out an assessment to substantiate **that** explicit environmental claim. This assessment shall:
 - (a) specify if the claim is related to the whole product, part of a product or certain aspects of a product, or to all activities of a trader or a certain part or aspect of these activities, as relevant to the claim;
 - (b) rely on widely recognised scientific evidence, use accurate information and take into account relevant **methods and** international standards **as defined in Article 2 paragraph 1 of Regulation (EU) No 1025/2012⁴⁴**;
 - (c) **demonstrate [...]** **that** environmental **characteristics [...]** that are subject to the claim are **relevant and significant in particular** from a life-cycle perspective [...];
 - (d) where a claim is made on environmental performance, take into account all environmental aspects or environmental impacts which are significant to assessing the environmental performance;

⁴⁴ **Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council**

- (e) demonstrate that the claim is not equivalent to requirements imposed by law on products within the product group, or traders within the sector;
- (f) [...] **demonstrate that the environmental characteristics that are subject to the claim are above [...] common practice for products in the relevant product group or traders in the relevant sector;**
- (g) identify whether improving environmental **characteristics** [...] subject to the claim, **does not** lead to significant harm **to any of the environmental objectives as set out in Article 17 of Regulation (EU) 2020/852⁴⁵** [...];
- (h) [...]
- (i) include primary information available to the trader for environmental **characteristics** [...], which are subject to the claim;
- (j) include relevant secondary information for environmental **characteristics** [...], which is representative of the specific value chain of the product or the trader on which a claim is made, in cases where no primary information is available.

1a. When an explicit environmental claim is based on carbon credits, the assessment shall, in addition to the requirements set out in paragraph 1 of this Article:

- (a) **report separately any greenhouse gas emissions reductions, including future performance regarding the emissions, from any voluntary use of carbon credits;**
- (b) **describe any carbon credits used, specify whether they relate to emission reduction or emission removals, whether they are permanent or temporary and whether they represent a contribution claim or a compensation claim, and declare under which scheme they were verified and certified and by which registry they were issued;**
- (c) **declare for compensation claims the share of residual emissions within the total greenhouse gas emissions of the trader, and demonstrate that only residual emissions are balanced out using carbon credits;**

⁴⁵ **Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13)**

(d) describe how the credits are accounted for correctly to reflect the claimed impact on climate;

The Commission shall adopt delegated acts in accordance with Article 18 to supplement this paragraph, laying down more detailed rules in line with Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards, to define the conditions for the substantiation of compensation claims based on carbon credits for residual emissions of a trader considering sectoral decarbonisation pathways.

The Commission shall adopt delegated acts in accordance with Article 18 to supplement this paragraph, laying down more detailed rules in line with the Regulation (EU) .../... of the European Parliament and of the Council of establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products (CRCF)⁴⁶ on what constitutes demonstrated quality and integrity carbon credits, recognising that different criteria can be defined for the different climate claims, that quality standards for carbon credits are verified by independent third party, and the requirements and project certification reports are to be publicly available. The carbon credits must ensure at a minimum regulatory and financial additionality, permanence, including provisions to address reversals in full, monitoring and accounting rules, avoidance of double counting and visibility of the emissions reduction or removals into the national greenhouse gas emissions inventories.

1aa. The environmental labelling scheme owner shall apply the requirements applicable to explicit environmental claims under paragraphs 1, 1a, 2, *mutatis mutandis*, when setting the criteria of the environmental labelling scheme to award the respective environmental label.

2. Where it is demonstrated that significant environmental impacts that are not subject to the claim exist but there is no widely recognised scientific evidence to perform the assessment referred to in point (c) of paragraph 1, the trader making the claim on another **environmental characteristic** [...] shall take account of available information and, if necessary, update the assessment in accordance with paragraph 1 once widely recognised scientific evidence is available.
- ~~3.~~ [...]
4. **In order to foster greater harmonisation and ensure a level playing field, the Commission shall adopt delegated acts in accordance with Article 18 to supplement this Article, incorporating the EU Environmental Footprint methods. Their use shall be presumed to meet the requirements for substantiation established in paragraph 1, when the method is suitable for the explicit environmental claim or the environmental label. Where the Commission identifies the need to promote other benchmarking methods in order to foster greater harmonisation and ensure a level playing field or when the regular monitoring of the evolution of explicit environmental claims or environmental labels referred to in Article 20 reveals differences in the application of the requirements laid down in paragraph 1, **1a and 1aa** for [...] certain explicit environmental claims or environmental labels and such differences create obstacles for the functioning of the internal market, or where the Commission identifies that the absence of requirements for [...] certain explicit environmental claims or environmental labels leads to widespread misleading of consumers, the Commission [...] is empowered to adopt delegated acts in accordance with Article 18 to supplement the requirements for substantiation of explicit environmental claims laid down in paragraph **1, 1a, 1aa** by:**
 - (a) determining the rules for assessing the environmental **characteristics** [...], including by determining **methods for substantiating explicit environmental claims, and** the activities, processes, materials, emissions or **the** use of a product, which contribute significantly or cannot contribute to the relevant environmental **characteristics** [...];
 - (b) determining for which environmental aspects or environmental impacts primary information shall be provided and determining criteria based on which the accuracy of the primary information and secondary information can be assessed; or

- (c) establishing specific life-cycle-based rules on substantiation of explicit environmental claims for certain product groups and sectors.

[...]

5. When specifying further the requirements for substantiation of explicit environmental claims **or environmental labels** in accordance with previous paragraph, the Commission shall take into account scientific or other available technical information, including relevant international standards, and where relevant consider the following:
 - (a) the specificities of the sectors and products that require a specific methodological approach;
 - (b) the potential contribution of specific product groups or sectors to achieving Union climate and environmental objectives;
 - (c) any relevant information derived from Union legislation;
 - (d) ease of access to information and data for the assessment and use of this information and data by small and medium-sized enterprises ('SMEs').
6. **Explicit environmental claims on the cumulative environmental impacts of a product or trader by a single environmental score based on an aggregated indicator of environmental impacts can be made only on the basis of rules to calculate such aggregated indicator that are established in [...] Union law. [...] Aggregated environmental labels may only be awarded [...] when the aggregation methodology underlying the rating or score [...] is established under Union law. In the case such aggregation methodology does not yet exist at the Union level, an aggregation methodology established in national legislation can be used either to make such an explicit environmental claim based on an aggregated indicator or score of environmental impacts [...] or as the basis for an aggregated environmental label, provided those explicit environmental claims and environmental labels comply with the requirements of this Directive.**

Article 3a

[...] *Simplified procedure for the substantiation of explicit environmental claims*

[...]

- 1. In derogation from Articles 3 and 10, when a trader generates an explicit environmental claim stating that an environmental characteristic of a product or a trader exceeds minimum requirements set out in another Union act, and if the claim is based on the substantiation methodology as required in that Union act, the trader shall demonstrate compliance with the substantiation requirements of that other Union act via the Specific Technical Documentation pursuant to paragraph 4.**
- 2. In derogation from Articles 3 and 10, when a trader that has been awarded an environmental label generates an explicit environmental claim regarding environmental characteristics certified by that label, the trader shall demonstrate that the explicit environmental claim corresponds to the criteria certified by the environmental label via the Specific Technical Documentation pursuant paragraph 4.**
- 3. In derogation from Articles 3 and 10, a trader generating an explicit environmental claim that falls within the scope of claims defined by an implementing act adopted pursuant to the second subparagraph shall comply with the substantiation requirements laid down in the implementing acts adopted pursuant to the third subparagraph and to demonstrate compliance via the Specific Technical Documentation pursuant to paragraph 4. This derogation shall not apply to comparative explicit environmental claims, explicit environmental claims related to climate or explicit environmental claims about future environmental performance.**

The Commission shall adopt implementing acts defining the types of explicit environmental claims that given their nature typically do not require a complete assessment pursuant to Article 3 and a verification pursuant to Article 10 to achieve the objectives of this Directive and where such claims fulfil all of the following criteria:

- 1. No full life-cycle analysis are deemed necessary to substantiate the claim;**
- 2. The claim is related to a single environmental characteristic;**

3. The claim does not concern an environmental characteristic that leads to significant trade-offs between different environmental impact categories.

The Commission shall adopt implementing acts laying down the required substantiation assessment that should be complied with by the trader generating the explicit environmental claim when applying the derogation referred to in the first subparagraph for claims defined in the implementing acts adopted pursuant to the second subparagraph. Such substantiation requirements shall be less burdensome for the trader than those under Article 3.

[...]

4. When a trader generates an explicit environmental claim pursuant to paragraphs 1, 2, or 3, [...] this trader shall demonstrate compliance of the explicit environmental claim with the requirements referred to therein [...] by means of a Specific Technical Documentation. The Specific Technical Documentation shall be completed and made publicly available to consumers by the trader, free of charge, before the explicit environmental claim is made public or communicated to consumers.

In order to ensure a uniform application across the Union, the Commission shall adopt an implementing act to specify further the format and content of the respective Special Technical Documentation. [...].

5. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 19(2).

[...]

Article 4

*Substantiation of comparative explicit environmental claims **and comparative environmental labels***

1. The substantiation of explicit environmental claims **and environmental labels** that state or imply that a product or trader has less environmental impacts or a better environmental performance than other products or traders [...] shall, in addition to the requirements set out in Article 3, comply with the following requirements:

(a-1) the product or trader subject to the comparative explicit environmental claim or comparative environmental label belongs to the same product group or sector as the product or trader against which the comparison is made. Comparative explicit environmental claims or comparative environmental labels must relate to products that serve a similar purpose or are similar in terms of use or have similar functional properties as the products against which the comparison is made.

- (a) the information [...] data [...] used for assessing the environmental **characteristics** [...] of the products or traders against which the comparison is made, are equivalent **and generated or sourced in an equivalent manner** to the information, [...] data [...] used for assessing the environmental **characteristics** [...] of the product or trader which is subject to the claim. **The method used for assessing the environmental characteristics shall be the same;**
- (b) [...]
- (c) the coverage of the stages along the value chain is equivalent for the products and traders compared and ensures that the most significant stages are taken into account for all products and traders **compared;**
- (d) the coverage of environmental **characteristics** [...] is equivalent for the products and traders compared and ensures that the most significant environmental **characteristics** [...] are taken into account for all products and traders **compared;**
- (e) assumptions used for the comparison are set in an equivalent manner for the products and traders compared.

3. [...]

~~Article 4a~~

[...]

Article 5

[...] *Communication of explicit environmental claims **and environmental labels***

1. Member States shall ensure that [...] traders [...] **are** required to communicate to **consumers** any explicit environmental claim **or environmental label in a clear and comprehensible manner and** in accordance with the requirements set out in this Article **and, where applicable, in Article [...] 6.**
2. Explicit environmental claims **and environmental labels** [...] **shall** only cover environmental **characteristics** [...] **as significant for the product or trader concerned in accordance with Article 3 paragraph (1) point (c) or (d)** and [...] substantiated in accordance with the requirements laid down in Articles 3, and 4 [...].
3. Where the explicit environmental claim **or environmental label** is related to a final product, and the use phase is among the most relevant life-cycle stages of that product, the **explicit environmental claim or the environmental label** shall **also** include information on how the consumer should use the product in order to achieve the expected environmental performance of that product. [...].
4. [...]
- 5.4. [...]
6. [...]

6a. [...]

For explicit environmental claims related to carbon credits, traders shall in the brief specification referred to in paragraph 6d explain whether the explicit environmental claim concerns carbon reductions and/or carbon removals, as well as whether it concerns a contribution or a compensation claim. If an environmental label is based on the use of carbon credits, it shall provide this information in the summary of the assessment referred to paragraph 6f.

~~56~~6b. [...] **Where the explicit environmental claim or environmental label is related to future environmental performance of a product or trader, the trader shall in the summary of the substantiation assessment referred to in Article 6d or the summary of the substantiation assessment referred to in Article 6f include the details of the implementation plan pursuant to paragraph 2, point (d) of Article 6 of Directive 2005/29 EC.**

~~a)~~[...]

~~b)~~[...]

~~e)~~[...]

6c. **When communicating an explicit environmental claim based on an aggregated indicator or score of environmental impacts or when displaying an aggregated environmental label, this aggregated indicator or score shall be communicated in a transparent and comprehensible way to consumers. Information about the ranges and available classes or levels and the relevant class or level shall be provided with the explicit environmental claim or aggregated environmental label.**

6d. **The communication of explicit environmental claims [...] shall comply with the following requirements:**

a) **A brief specification of the explicit environmental claim shall be provided to consumers in clear and prominent terms [...] with the claim, in a physical form or in a digital format [...] via a data carrier or link;**

b) A summary of the substantiation assessment carried out in accordance with Article 3 or, if applicable, Article 3a, shall be provided free of charge together with the claim in a digital format via a data carrier or link or when the explicit environmental claim is made in the trader premises, at the request of consumers, in a paper format. This summary shall be presented in a clear and easy to understand manner to consumers, in a language determined by the Member State in which the claim is made; it shall indicate the environmental characteristics [...] covered by the claim; and it shall include the certificate of conformity referred to in Article 10 regarding the substantiation of the claim and the contact information of the verifier that drew up the certificate of conformity or, if applicable, the Specific Technical Documentation referred to in Article 3a.

6e. [...] When traders display an environmental label, [...] the following [...] information shall be provided in a digital format via a data carrier or link together with the environmental label:

a) [...]

b) the certificate of conformity of the environmental labelling scheme and the corresponding environmental label, and where applicable the document of approval of the environmental labelling scheme, the contact details of the environmental labelling scheme owner and the third party as defined in Article 2(r) of Directive 2005/29/EC, and the applicable terms of reference.

c) [...]

6f. Environmental labelling scheme owners shall provide a summary of the substantiation assessment of the environmental label carried out in accordance with Article 3 on their website. This summary shall be presented in a clear and easy to understand manner to consumers. It shall indicate the environmental characteristics covered by the label. It shall include the certificate of conformity of the environmental labelling scheme and the corresponding label referred to in Article 10 and the contact information of the verifier that drew up the certificate of conformity.

7. **Additional information related to the substantiation and to the compliance with the obligations of the trader or the environmental labelling scheme owner shall be provided in a digital format at the request of consumers, public authorities or other parties having a legitimate interest in protecting consumers' interests as provided for in EU law. This information shall include, at least, the following:**
- i. **the relevant Union or the relevant international standards, where appropriate;**
 - ii. **the underlying studies or calculations used to assess, measure and monitor the environmental characteristics [...] covered by the explicit environmental claim or environmental label, without omitting the results of such studies or calculations and, explanations of their scope, assumptions and limitations, unless the information is a trade secret in line with Article 2 paragraph 1 of Directive (EU) 2016/943⁴⁷.**
8. **For products covered by Regulation .../... [the Ecodesign for Sustainable Products Regulation] or other Union legislation requiring a digital product passport, the information set out in Article 5 [...] shall be included in that product passport. [...] In any case, the data carrier or link shall be clearly visible next to the claim. Furthermore, the data carriers and links between physical product and digital representation shall be made using harmonised standards on the Digital Product Passport, the reference numbers of which have been published in the Official Journal of the European Union.**
- ~~7.9.~~ [...]
10. Where the substantiation of certain environmental characteristics [...] is subject to the rules established in delegated acts referred to in Article 3, paragraph 4(a) and paragraph 4(c), the Commission may adopt delegated acts in accordance with Article 18 to supplement the requirements for communication of explicit environmental claims or environmental labels set out in this Article [...] by further specifying [...] the information that can be or shall be communicated regarding such environmental characteristics [...], so as to make sure that the consumers are not misled.

⁴⁷ **Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (Text with EEA relevance)**

Article 5a

[...]

Article 5b

[...]

Article 6

*Communication of comparative **explicit** environmental claims and comparative environmental labels*

[...] Member States shall ensure that a trader is required to communicate a comparative **explicit environmental claim or comparative environmental label** in accordance with the requirements set out in Article 5.

Together with the information on the products or the traders which are compared, the following information shall **in addition be included [...]** **in the summary of the substantiation assessment of explicit environmental claims referred to in Article 5 paragraph 6d or the summary of the substantiation assessment of environmental labels referred to in Article 5 paragraph 5d [...]**:

- (1) The information and data used for assessing the environmental **characteristics** [...] of the products or traders subject to comparison, including how they have been generated or sourced.
- (2) The methodology used for assessing and comparing the products or traders, including a reasoned justification of their comparability.
- (3) The baseline year for the comparison.

Article 7

[...]

Article 8

*Requirements for **environmental labels and environmental labelling schemes***

~~1.~~ [...]

~~1a.~~ [...]

1a. **Environmental labelling scheme owners shall submit their environmental labelling scheme and the corresponding environmental label for verification according to Article 10. Traders, that have been awarded an environmental label for their products or organisation by a compliant environmental labelling scheme, may display [...] that environmental label, without having to go through the verification procedure referred to in [...] Article 10.**

2. **An environmental label shall be based on an environmental labelling scheme.** [...] An environmental labelling scheme shall comply with the following requirements:

- (a) information about the ownership and the decision-making bodies of the environmental labelling scheme is transparent, accessible free of charge, easy to understand and sufficiently detailed;
- (b) information about the objectives of the environmental labelling scheme and the requirements and procedures to monitor compliance of the environmental labelling scheme are transparent, accessible free of charge, easy to understand and sufficiently detailed;
- (c) the conditions for joining the environmental labelling schemes are proportionate to the size and turnover of the companies in order not to exclude small and medium enterprises;

- (d) the requirements for the environmental labelling scheme have been developed by **the environmental labelling scheme owner in consultation with relevant experts and stakeholders** that can ensure their scientific robustness [...] and [...] their relevance from a societal perspective;
- (e) the environmental labelling scheme has a complaint and dispute resolution mechanism in place;
- (f) [...].

3. From [OP: Please insert the date = *the date of [...] application of this Directive*] [...] new national or regional environmental labelling schemes [...] established by public authorities of the Member States, **shall be subject to approval by the Commission prior to entering the Union market with the aim of ensuring that these environmental labelling schemes [...] provide added value as defined in the implementing acts specified in paragraph 8 of this Article, as compared to the existing Union, national or regional environmental labelling schemes, and meet the requirements of this Directive.** [...] National or regional environmental labelling schemes established prior to that date may continue to award the environmental labels on the Union market, provided they meet the requirements of this Directive.

[...]

4. From [OP: Please insert the date = *the date of [...] application of this Directive*] any new environmental labelling schemes established by public authorities in third countries awarding environmental labels to be used on the Union market, shall be subject to approval by the Commission prior to entering the Union market with the aim of ensuring that these **environmental labelling schemes [...] provide added value as defined in the implementing acts specified in paragraph 8 of this Article [...]**, as compared to the existing Union, national or regional **environmental labelling schemes [...]**, and meet the requirements of this Directive. Environmental labelling schemes established by public authorities in third countries prior to that date may continue to award the environmental labels which are to be used on the Union market, provided they meet the requirements of this Directive.

5. Member States shall ensure that environmental labelling schemes established by private operators after [OP: Please insert the date = *the date of [...] application of this Directive*] are only approved if those **environmental labelling** schemes provide added value **as defined in the implementing acts specified in paragraph 8 of this Article [...]**, as compared to the existing Union, national or regional **environmental labelling** schemes [...], and meet the requirements of this Directive.

This procedure for approval of new environmental labelling schemes shall apply to schemes established by private operators in the Union and in third countries.

Member States shall notify the Commission when new private schemes are approved.

Environmental labelling schemes established by private operators in the Union and in third countries prior to the date of application may continue to award the environmental labels which are to be used on the Union market, provided they meet the requirements of this Directive.

6. In order to receive the approvals referred to in paragraphs 3, 4 and 5, the **owners** [...] of new environmental labelling schemes shall provide supporting documents setting out the following:
- (a) the rationale underlying the development of the scheme
 - (b) the proposed scope of the scheme,
 - (c) the evidence the scheme will provide added value as set out in paragraphs **3, 4, 5 and 8** [...];
 - (d) a proposal for draft criteria and the methodology used to develop and award the environmental label and the expected impacts on the market;
 - (e) a detailed description of the ownership and the decision-making bodies of the environmental labelling scheme.

The documents referred to in the first subparagraph shall be submitted to the Commission in case of schemes referred to in paragraphs **3 and 4** or to the Member States' authorities in case of schemes referred to in paragraph 5, [...].

6a. The national or regional EN ISO 14024 type I ecolabels officially recognised in the Member States are exempted from verification in accordance with Article 10 provided they are in line with the requirements of this Directive. Member States shall set up procedures for official recognition of such schemes. Member States shall notify to the Commission such officially recognised EN ISO 14024 type I ecolabels and underlying environmental labelling schemes that can benefit from this exemption.

7. The Commission shall publish and keep-up-to date a list of officially recognised **national or regional EN ISO 14024 type I ecolabels notified to the Commission by the Member States pursuant to paragraph 1, and other** environmental labels that are allowed to be used on the Union market [...] **from** [OP: Please insert the date = *the date of transposition of this Directive*] pursuant to paragraphs 3, 4 and 5.

8. In order to ensure a uniform application across the Union, the Commission shall **by ... [18 months after the date of entry into force of this Directive]** adopt implementing acts to:

(a) provide detailed requirements for approval of environmental labelling schemes pursuant to the criteria referred to in paragraphs 3, 4 and 5; **especially on how added value should be evaluated. The assessment of added value shall take into account the following criteria:**

1. **The environmental ambition of the environmental labelling scheme;**
2. **The coverage of environmental characteristics [...] of the environmental label [...];**
3. **The product group(s) or sector(s) covered by the labelling scheme;**
4. **The ability to support the green transition for SMEs; or**
5. **The geographical location of the environmental labelling scheme.**

(b) specify further the format and content of supporting documents referred to in paragraph 6;

(c) provide detailed rules on the procedure for the approval referred to in paragraphs **3, 4 and 5.**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19 **paragraph 2.**

Article 9

*Review of the substantiation of explicit environmental claims **and environmental labels***

Member States shall ensure that the information used for substantiation of explicit environmental claims is reviewed and updated by **the trader [...]** **generating the explicit environmental claim** when there are circumstances that may affect the accuracy of a claim, and no later than 5 years from the date when the [...] **certificate of conformity** referred to in Article 10(6) is issued [...], **or where applicable, the date when the Specific Technical Documentation referred to in Article 3a is completed.** In the review, the trader shall revise the used underlying information to ensure that the requirements of Articles 3 and 4, **and where applicable Article 3a,** are fully complied with.

The information used for substantiation of explicit environmental labels shall be reviewed and updated by the environmental labelling scheme owners when there are circumstances that may affect the accuracy of an environmental label, and no later than 5 years from the date when the certificate of conformity referred to in Article 10(6) is issued. In the review, the environmental labelling scheme owner shall revise the used underlying information to ensure that the requirements of Articles 3 and 4 are fully complied with.

The updated **substantiation of the explicit environmental claim or the environmental label** shall be subject to verification in accordance with Article 10. **If an explicit environmental claim falls under the scope of Article 3a, the trader generating the claim shall update the Specific Technical Documentation with the updated substantiation.**

Article 10

*Verification [...] of the substantiation [...] of **explicit** environmental claims, **environmental labels** and environmental labelling schemes*

1. Member States shall set up procedures for [...] explicit environmental claims against the requirements set out in Articles 3 **and 4** [...].
2. Member States shall set up procedures for verifying the compliance of environmental labelling schemes **and the corresponding environmental label** with the requirements set out in Articles **3, 4 and 8.**

3. [...]
4. The verification [...] shall be undertaken by a verifier fulfilling the requirements set out in Article 11, in accordance with the procedures referred to in paragraphs 1 and 2, before the **explicit** environmental claim is made public or the environmental labelling scheme **and the corresponding environmental label are** [...] **made available by the environmental labelling scheme owner.**
5. For the purposes of the verification the verifier shall take into account the nature and content of the explicit environmental claim or the environmental labelling scheme **and the corresponding environmental label.**
6. Upon completion of the verification **and where compliance of an explicit environmental claim or an environmental labelling scheme and the corresponding environmental label with the requirements of this Directive has been demonstrated**, the verifier shall draw up [...] a certificate of conformity certifying that the explicit environmental claim or the environmental labelling scheme **and the corresponding environmental label** complies with the requirements set out in this Directive. **Without prejudice to article 9, the certificate of conformity shall be valid for a maximum period of 5 years [...].**
7. The certificate of conformity shall be recognised by the competent authorities responsible for the application and enforcement of this Directive. Member States shall notify the list of certificates of conformity via the Internal Market Information System established by Regulation (EU) No 1024/2012.
8. The certificate of conformity shall not prejudice the assessment of the environmental claim by national authorities or courts in accordance with Directive 2005/29/EC.
9. **By ... [12 months from the date of entry into force of this Directive]**, the Commission shall adopt implementing acts to set out details regarding the form of the certificate of conformity referred to in paragraph [...] 6, [...] the technical means **and the procedure** for issuing such certificate of conformity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19 **paragraph 2.**

Article 11

Verifier

1. The verifier shall be a [...] conformity assessment body accredited in accordance with Regulation (EC) No 765/2008⁴⁸ **for verification and certification activities. The verifier shall operate within the scope of its accreditation.**
- 1a. The verifier should comply with EN ISO/IEC 17029 ‘Conformity assessment – General principles and requirements for validation and verification bodies’.**
2. The accreditation shall, in particular, include the evaluation of compliance with the requirements in paragraph 3.
3. The verifier shall comply with the following requirements:
 - (a) the verifier shall be **a third-party body** independent of the product bearing, or the trader associated to, the environmental claim, **or the environmental labelling scheme owner associated to the environmental label;**
 - (b) the verifier, its top-level management and the personnel responsible for carrying out the verification tasks shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to the verification activities **for which they are accredited;**
 - (c) the verifier and its personnel **shall operate in a non-discriminatory manner and** shall carry out the verification activities with the highest degree of professional integrity and the requisite technical competence and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their verification activities. **The impartiality of the verifiers, their top-level management and of the personnel responsible for carrying out the verification tasks shall be guaranteed. [...].**

⁴⁸ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

- (d) the verifier shall have the expertise, equipment and infrastructure required to perform the verification activities in relation to which it has been accredited;
- (e) the verifier shall have **adequate resources, the technical capabilities and a sufficient number of suitably qualified and experienced personnel with sufficient experience with working with environmental assessment methods, such as life-cycle assessment**, responsible for carrying out the verification tasks;
- (f) the personnel of a verifier shall observe professional secrecy with regard to all information obtained in carrying out the verification tasks;
- (g) where a verifier subcontracts specific tasks connected with verification or has recourse to a subsidiary, it shall take full responsibility for the tasks performed by subcontractors or subsidiaries and shall assess and monitor the qualifications of the subcontractor or the subsidiary and the work carried out by them. **Only the tasks that fall in the scope of accreditation of the verifier may be performed by subcontractors or subsidiaries. Verifiers shall ensure that the activities of their subcontractors or subsidiaries do not affect the confidentiality, objectivity or impartiality of their verification activities.**
- (h) **The verifier shall be required to demonstrate a continuing professional development in the fields of its scope of accreditation and to maintain such development for assessment by the national accreditation body.**

Article 12

Micro, small and medium sized enterprises

The Commission shall take appropriate measures including at least making available digital tools, such as for life cycle assessment calculation including relevant data inventories, adopting guidelines, and taking awareness-raising measures for facilitating the application of this Directive by small and medium sized enterprises, in particular microenterprises. The Commission shall consult Member States and SMEs representative organisations in the drafting of the guidelines and other measures.

Member States shall take appropriate measures to help [...] small and medium sized enterprises, **in particular microenterprises**, apply the requirements set out in this Directive. Those measures shall at least include guidelines or similar mechanisms to raise awareness of ways to comply with the requirements on explicit environmental claims **and the use of environmental labels**. **Member States shall consult organisations that represent SMEs on the kind of measures SMEs consider useful.**

In addition, without prejudice to applicable state aid rules, such measures **taken by the Commission or the Member States**, may include:

- (a) financial support;
- (b) access to finance;
- (c) specialised management and staff training;
- (d) organisational and technical assistance.

Article 13

Designation of competent authorities and coordination mechanism

1. Member States shall designate one or more competent authorities as responsible for the application and enforcement of this Directive.
2. **In the case that Member States designate the national authorities or courts responsible for the enforcement of Directive 2005/29/EC for the purpose of the enforcement of Articles 5 and 6, [...] those [...] Member States may derogate from Articles 14 to 17 of this Directive and apply the enforcement rules adopted in accordance with Articles 11 to 13 of Directive 2005/29/EC.**
3. Where there is more than one competent authority in their territory, Member States shall ensure that the respective duties of those authorities are clearly defined and that appropriate communication and coordination mechanisms are established.

4. Member States shall notify the Commission and other Member States without delay of the identity of the competent authorities in their Member State and the areas of competence of those authorities.

Article 14

Powers of the competent authorities

1. Member States shall confer on their competent authorities the powers of inspection and enforcement necessary to ensure compliance with this Directive.
2. The powers conferred on competent authorities under paragraph 1 shall include at least the following:
 - (a) the power of access to any relevant documents, data or information related to an infringement of this Directive, in any form or format and irrespective of their storage medium, or the place where they are stored, and the power to take or obtain copies thereof;
 - (b) the power to require any natural or legal person to provide any relevant information, data or documents, in any form or format and irrespective of their storage medium or the place where they are stored, for the purposes of establishing whether an infringement of this Directive has occurred or is occurring and the details of such infringement;
 - (c) the power to start investigations or proceedings on their own initiative to bring about the cessation or prohibition of infringements of this Directive;
 - (d) the power to require traders to adopt adequate and effective remedies and take appropriate action to bring an infringement of this Directive to an end;
 - (e) the power to adopt, where appropriate, injunctive relief with regard to infringements of this Directive;
 - (f) the power to impose penalties for infringements of this Directive in accordance with Article 17.

3. Competent authorities may use any information, document, finding, statement or intelligence as evidence for the purpose of their investigations **under this Directive**, irrespective of the format in which or medium on which they are stored.

Article 15

*Compliance monitoring **and** corrective measures*

1. Competent authorities of the Member States designated in accordance with Article 13 shall undertake regular checks of the explicit environmental claims made and the environmental labelling schemes applied, on the Union market. The reports [...] **consolidating** the results of those checks shall be made available to the public online.
2. Where the competent authorities of a Member State detect an infringement of an obligation set out in this Directive, they shall carry out an evaluation covering all relevant requirements laid down in this Directive.
3. Where, further to the evaluation referred to in the first [...] paragraph, the competent authorities find that the substantiation [...] of the explicit environmental claim [...] does not comply with the requirements laid down in this Directive, they shall notify the trader [...] **generating** the claim about the non-compliance and require that trader to take all appropriate corrective action **without delay** [...] to bring the explicit environmental claim [...] into compliance with this Directive or to cease the use of and references to the non-compliant explicit environmental claim. **Where the competent authorities find that a trader does not comply with the communication requirements laid down in this Directive, they shall notify this trader about the non-compliance and require that trader to take all appropriate corrective action without delay to bring the the communication of the explicit environmental claim into compliance with this Directive.** Such actions shall be as effective and rapid as possible, while complying with the principle of proportionality and the right to be heard. **When the trader generating the claim fails to take corrective action or where the non-compliance persists, competent authorities may require the distributor of the product which they made available on the market to take corrective measures.**

3a. Where, further to the evaluation referred to in the first paragraph, the competent authorities find that an environmental labelling scheme and the corresponding environmental label do not comply with the requirements laid down in this Directive, they shall notify the environmental labelling scheme owner about the non-compliance and require that labelling scheme owner to take all appropriate corrective action without delay to bring the environmental labelling scheme and the corresponding environmental label into compliance with this Directive or to cease to allow for the use of and references to the non-compliant environmental label. Such action shall be as effective and rapid as possible, while complying with the principle of proportionality and the right to be heard. Where the competent authorities find that a trader displaying an environmental label does not comply with the communication requirements laid down in this Directive, they shall notify this trader about the non-compliance and require that trader to take all appropriate corrective action without delay to bring the the communication of the environmental label into compliance with this Directive. When the environmental labelling scheme owner or the trader displaying a environmental label fails to take corrective action or where the non-compliance persists, competent authorities may require the distributor of the product which they made available on the market to take corrective measures.

Article 16

Complaint-handling and access to justice

1. Natural or legal persons or organisations regarded under Union or national law as having a [...] **sufficient interest, or when they maintain the impairment of a right, where administrative procedural law of a Member State requires this as a precondition,** shall be entitled to submit substantiated complaints to competent authorities when they deem, on the basis of objective circumstances, that a trader is failing to comply with the provisions of this Directive.
2. For the purposes of the first subparagraph, non-governmental entities or organisations promoting human health, environmental or consumer protection and meeting any requirements under national law shall be deemed to have sufficient interest.

3. Competent authorities shall assess the substantiated complaint referred to in paragraph 1 and, where necessary, take the necessary steps, including inspections and hearings of the person or organisation, with a view to verify those complaints. If confirmed, the competent authorities shall take the necessary actions in accordance with Article 15.
4. Competent authorities shall, as soon as possible and in any case in accordance with the relevant provisions of national law, inform the person or organisation referred to in paragraph 1 that submitted the complaint of its decision to accede to or refuse the request for action put forward in the complaint and shall provide the reasons for it.
5. Member States shall ensure that a person or organisation referred to in paragraph 1 submitting a substantiated complaint shall have access to a court or other independent and impartial public body competent to review the procedural and substantive legality of the decisions, acts or failure to act of the competent authority under this Directive, without prejudice to any provisions of national law which require that administrative review procedures be exhausted prior to recourse to judicial proceedings. Those judicial review procedures shall be fair, equitable, timely and free of charge or not prohibitively expensive, and shall provide adequate and effective remedies, including injunctive relief where necessary.
6. Member States shall ensure that practical information is made available to the public on access to the administrative and judicial review procedures referred to in this Article.

Article 17

Penalties

1. Without prejudice to the obligations of Member States under Directive 2008/99/EC⁴⁹, Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

⁴⁹ Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

2. When determining the type and level of penalties to be imposed in case of infringements, the competent authorities of the Member States shall give due regard to the following, **non-exhaustive criteria, where applicable:**
- (a) the nature, gravity, extent and duration of the infringement;
 - (b) the intentional or negligent character of the infringement and any action taken by the trader, **the environmental labelling scheme owner or the verifier** to mitigate or remedy the damage suffered by consumers, [...];
 - (c) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;
 - (d) the economic benefits derived from the infringement by those responsible, **insofar as it can be determined;**
 - (e) any previous infringements by the natural or legal person held responsible;
 - (f) any other aggravating or mitigating factor applicable to the circumstances of the case;
 - (g) penalties imposed on the trader, **the environmental labelling scheme owner, or the verifier** for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by Regulation (EU) 2017/2394, [...];
3. Member States shall provide that penalties and measures for infringements of this Directive shall include [...] fines which effectively deprive those responsible of the economic benefits derived from their infringements, and increasing the level of such fines for repeated infringements. **Member States shall ensure that when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394⁵⁰, the maximum amount of such fines being at least at 4 % of the trader's, environmental labelling scheme owners's or verifier's annual turnover in the Member State or Member States concerned.**

⁵⁰ OJ L 345, 27.12.2017, p. 1.

~~(b)~~ [...];

~~(e)~~ [...].

Article 18

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts as referred to in Article 3(4) and Article 5(8) shall be conferred on the Commission for a period of five years from [*OP please insert the date = the date of transposition of this Directive*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 3(4) and Article 5(8) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. A delegated act adopted pursuant to Article 3(4) and Article 5(8) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

Article 19

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

Article 20

Monitoring

1. Member States shall regularly monitor the application of this Directive based on:
 - (a) an overview of the types of explicit environmental claims and of environmental labelling schemes which have been subject to substantiated complaints in accordance with Article 16;
 - (b) an overview of **the types of** explicit environmental claims and of environmental labelling schemes with regard to which competent authorities have required the trader **or the environmental labelling scheme owner** to take corrective action, in accordance with Article 15, or have imposed penalties in accordance with Article 17.

2. The information referred to in paragraph 1 shall specify the explicit environmental claim or environmental labelling scheme, the nature of the [...] infringement, the nature and duration of the corrective action and, if applicable, the penalty imposed.
3. Member States shall provide the information referred to in paragraph 1 to the Commission on a **biennial** [...] basis.
4. Based on the information collected pursuant to paragraph 3 and the information made available by the Member States pursuant to Article 15(1), and, if necessary, additional consultations with competent authorities, the European Environmental Agency shall publish, every two years, a report containing an assessment of the evolution of explicit environmental claims and environmental labelling schemes in each Member State and for the Union as a whole. The report shall enable a differentiation according to the size of the trader making the claim and according to the quality of the substantiation.

Article 21

Evaluation and review

1. By [*OP please insert the date = 5 years after the date of transposition of this Directive*], the Commission shall carry out an evaluation of this Directive in light of the objectives that it pursues and present a report on the main findings to the European Parliament and the Council.
2. The report referred to in paragraph 1 shall assess whether this Directive has achieved its objective, in particular with regard to:
 - (a) ensuring that explicit environmental claims **and environmental labels** made about the environmental performance of a product or trader are based on reliable, comparable and verifiable information;
 - (aa) ensuring the implementation and effectiveness of the simplified procedure set out in Article 3a;**
 - (b) ensuring that environment labelling schemes are based on certification schemes and meet the relevant requirements set out in Article 8;

- (c) ensuring that new private environmental labelling schemes concerning products or traders already covered by existing schemes are approved by the Member States only if they provide added value as compared to the existing **environmental labelling** schemes;
 - (d) setting out the rules for communicating explicit environmental claims **and environmental labels** on the Union market, and avoiding duplication of costs when communicating such claims **or labels**;
 - (e) strengthening the functioning of the internal market.
3. Where the Commission finds it appropriate, the report referred to in paragraph 1 shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Directive, including considering further provisions on:
- (a) unlocking opportunities for the circular, bio and green economy by assessing the appropriateness and feasibility of mandating the use of common, and where relevant life-cycle based, methods for substantiation of **explicit** environmental claims **or environmental labels**;
 - (b) facilitating transition towards toxic free environment by considering introducing a prohibition of **explicit** environmental claims **or environmental labels** for products containing hazardous substances **containing substances covered by the following classification criteria set by Annex I of Regulation 1272/2008 on classification, labelling and packaging of substances and mixtures**, except where their use is considered essential for the society in line with the criteria to be developed by the Commission;
 - (c) further harmonisation as regards requirements on the substantiation of **certain types of explicit** [...] environmental claims **or environmental labels** on environmental aspects or impacts such as durability, reusability, reparability, recyclability, recycled content, use of natural content, including fibers, environmental performance or sustainability, bio-based elements, biodegradability, biodiversity, **including the use of biodiversity credits**, waste prevention and reduction.

Article 22

Amendment to Regulation (EU) 1024/2012

In the Annex to Regulation (EU) 1024/2012, the following point is added:

‘X. [OP: Please insert the next consecutive number] Directive (EU) ... of the European Parliament and of the Council of ... on substantiation and communication of explicit environmental claims (OJ L ..., date, page: Articles 13(3) and 15)’.

Article 23

Amendments to Regulation (EU) 2017/2394

In the Annex to Regulation (EU) 2017/2394, the following point is added:

‘X. [OP: Please insert the next consecutive number] Directive (EU) ... of the European Parliament and of the Council of ... on substantiation and communication of explicit environmental claims ([OJ L ..., date, page](#)).’

Article 24

Amendment to Directive (EU) 2020/1828

In Annex I to Directive (EU) 2020/1828, the following point is added:

‘(X) [OP: Please insert the next consecutive number] Directive (EU) ... of the European Parliament and of the Council of ... on substantiation and communication of explicit environmental claims ([OJ L ..., date, page](#)).’

Article 25

Transposition

1. Member States shall adopt and publish by [OP please insert the date = [...] *24 months after the date of entry into force of this Directive*] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately communicate the text of those measures to the Commission.

They shall apply those measures from [OP please insert the date = [...] *30 months after the date of entry into force of this Directive*].

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication.

Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 26

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 27

Addresses

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President