



MAC ADVICE

DG ENV's Public Consultation on a Potential Legislative Proposal on Substantiating Green Claims

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1. Background

On 27 August, the European Commission's Directorate-General for the Environment (DG ENV) launched a public consultation on a potential legislative proposal on substantiating green claims, which concludes on 3 December 2020¹.

Environmental claims are any explicit environmental information on products (including services) or companies, including labels, logos and text, in whichever form it is provided (e.g. website, brochure, on shelf, television, radio, etc.). Product and Organisation Environmental Footprint (PEF/OEF) are Life Cycle Assessment methods. Environmental performance is calculated taking into consideration the environmental impacts throughout the value chain, from the extraction/growing of resources to the end of life of the product or the product portfolio of an organisation, respectively.

Following an in-depth analysis of the most widely applied methodologies, the European Commission's Joint Research Centre developed PEF and OEF methods. The methods enable the possibility of comparing the environmental performance of products. This feature requires the development of rules specific to each product category, called Product Environmental Footprint

¹ Accessible on the European Commission's Better Regulation website: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12511-Environmental-claims-based-on-environmental-footprint-methods/public-consultation>



Category Rules (PEFCRs) and of sector-specific rules, called Organisation Environmental Footprint Sector Rules (OEFSRs), which were tested during an Environmental Footprint pilot phase.

Following the European Green Deal and the 2020 Circular Economy action plan, the overall aim of the initiative is to tackle the present difficulty for consumers, companies and other market actors to make sense of the many environmental labels and initiatives on the environmental performance of products and companies. There are more than 200 environmental labels active in the EU and more than 450 active worldwide. The initiative also aims to tackle greenwashing – companies giving a false impression of their environmental impact or benefits.

Besides encouraging members to submit individual contributions to the public consultation, the MAC agreed on some general considerations in relation to the questions raised.

2. General considerations

The communication of the environmental performance of products is a horizontal issue, not limited to fishery and aquaculture products, that requires a comprehensive approach by the European Commission. The consumers' demand for environmental information on products and services is increasing, so a harmonised regulatory framework is needed at the European level. Even though environmental information is usually the primary focus in product claims, the European Commission should also take into account socio-economic sustainability in the development of legislative initiatives on claims².

² As determined by Article 2 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, "the CFP shall ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies".

The MAC is concerned that the inherent complexity of the PEF method would make it difficult to understand and interpret, impacting its suitability as a tool for comparing and communicating environmental impacts on a product-by-product basis to consumers.

Regarding the tackling by market actors of the proliferation of methods and labels and sometimes unverified, unreliable and misleading claims, the MAC believes that any potential new legislation actions would require specific background information on the possible impacts. The MAC agrees that misleading claims to consumers should not be allowed, while also highlighting that there is already EU legislation on labelling and claims, which tackles these.

The MAC further believes that the European Commission should not introduce the mandatory use of an EU logo or label based on the PEF method. A legal obligation to communicate with consumers only via PEF methods should not be introduced either. It is important to allow different ways of evaluating claims, in order to avoid a monopolistic label environment due to a restrictive methodology. Market actors must be allowed to focus on issue-specific indicators and labels, according to their identified needs for information without imposing disproportionate requirements on their users to report and label on all environmental impacts not covered by the scheme. The introduction of a mandatory EU label might also pose implementation issues regarding imported products placed on the market.

As part of the corresponding Inception Impact Assessment, the European Commission should conduct an in-depth assessment of the costs and burdens associated with this initiative, especially for SMEs. Other possible options to substantiate green claims, beyond the PEF method, should seriously be assessed before a decision is made. Under the Inception Impact Assessment, the Commission should also assess whether greens claims require a life-cycle assessment to be substantiated in order to simplify and reduce administrative burdens. The Commission should particularly take into account that the introduction of high or complicated thresholds for

accessing existing “best-in-class” labels might translate in SMEs no longer being able to apply for and use these labels on their products.

The MAC generally agrees with the support measures for SMEs mentioned in the public consultation. The proliferation of PEF as a voluntary tool could be supported by maintaining the work done under the Environmental Footprint transition phase, which aims to monitor the implementation of completed PEF pilots, to support voluntary developments of PEF category rules for new product groups and to further develop and update the PEF methodology. Another important way to support the update of the PEF method would be through the provision of free and public access to the data, database, guidelines and calculation tools for companies choosing to use the PEF method. Such instruments could be offered via a dedicated Commission website and technical support available in the different EU languages, in order to ensure visibility and increase trust in these tools.

3. Recommendations

In summary, in the context of the public consultation on a potential legislative proposal on substantiating green claims, the MAC believes that the European Commission should:

- a) Take a comprehensive horizontal approach to the communication of the environmental performance of products that covers all sectors, while also taking into account the impact on the market of fishery and aquaculture products;
- b) Ensure that potential legislative action is undertaken through a clear and harmonised regulatory framework at the European level;
- c) Take into account socio-economic sustainability in the development of legislative initiatives connected to claims on products;
- d) Taking into account the inherent complexity of the PEF method, maintain communication to consumers via this method as voluntary;

- e) Ensure that information to consumers is understandable and that it reflects the complexity of the product and its production chain/process;
- f) Not introduce the mandatory use of an EU logo or label based on the PEF method;
- g) Conduct an in-depth assessment of the costs and burdens associated with this initiative, especially for SMEs, as part of the corresponding Inception Impact Assessment;
- h) Seriously assess other possible options, beyond the PEF method, to substantiate green claims, before reaching a decision;
- i) Assess whether green claims require a life-cycle assessment to be substantiated to simplify and reduce administrative burdens, as part of the Inception Impact Assessment. Best-in-class labels, including single-issue ones, should be recognised as a legitimate way to substantiate the claims to which they relate;
- j) Particularly take into account the difficulties for SMEs, if high or complicated thresholds for accessing existing “best-in-class labels” were to be introduced;
- k) In the development of further actions, ensure adequate support measures for SMEs.