



EUROPEAN FEDERATION OF THE TRADE IN DRIED FRUIT & EDIBLE NUTS • PROCESSED FRUIT & VEGETABLES • PROCESSED FISHERY PRODUCTS • SPICES • HONEY

FRUCOM Feedback on a Proposed Directive on substantiation and communication of explicit environmental claims (Green Claims Directive)

Overview

- FRUCOM welcomes the publication of the Proposal for a Directive on substantiation and communication of explicit environmental claims (Green Claims Directive), on 22 March 2023.
- FRUCOM supports the goals of the Directive, to ensure that environmental claims communicated to European consumers are substantiated and that the process for substantiating these claims is science based, that it eliminates or at least reduces greenwashing and misinformation, and that it ensures a level playing field within the EU and between EU and non-EU products.
- FRUCOM strongly encourages the European Commission to focus on, and support, the substantiation of existing voluntary private environmental labelling schemes. Many operators have made significant investments to achieve certification under these private environmental labelling schemes, which often have a wider geographic scope than just the EU. This is relevant as the EU is one of the most important destinations for environmentally certified goods produced in third countries.
- FRUCOM believes that the Green Claims Directive should encourage continuous improvement under existing private sustainability initiatives whilst also establishing a clear, harmonised, certain, and flexible framework for the minimum requirements for the substantiation of environmental claims.

FRUCOM represents European Union importers, and growers, processors, and traders, of edible nuts, dried and processed fruit and vegetables, and processed fish and seafood products.

Many of these products are either not produced in the EU or the EU production volume is not sufficient to meet the demand of its market; as such, there is a strong dependence on imports. Sourcing is global, from both developed and developing countries. Furthermore, the product categories represented by FRUCOM members make an important contribution towards diverse, nutritious, and affordable diets for EU consumers and represent a growing segment in terms of consumer demand and retail.

FRUCOM welcomes the opportunity to provide feedback on the Proposed Directive on substantiation and communication of explicit environmental claims (Green Claims Directive)

1. **Flexibility and rigour for existing environmental labelling schemes**

FRUCOM welcomes the proposed approach in the Green Claims Directive whereby existing environmental labelling schemes established by private operators can be approved by Member State under Articles 7 and 8.

Unfortunately, the procedure, rules, methodology, costs, and duration for this approval have not been clearly established in the current proposal, and it is understood that the Commission will issue secondary, implementing legislation in relation to the approval of such schemes by Member States.

FRUCOM is concerned that making Member States solely responsible for the approval process may place a large burden on some Member States and could also encourage forum shopping by private operators seeking easier approval of their environmental label.

Furthermore, as an association representing importers of products coming from many third countries, FRUCOM is especially anxious that the proposed future approval process does not become a non-tariff



barrier, does not distort the level playing field between labels (EU and non-EU), and is not so expensive, complex, time-consuming, and bureaucratic as to result in unfair discrimination between EU labels and non-EU labels.

Careful scrutiny by the Commission must be carried out to ensure that Member States, in enforcing the obligations on traders to substantiate Green Claims and certifying private environmental labelling schemes, do not adopt or interpret standards and methodologies in a manner that will favour products made in the respective Member State, to the detriment of other EU producers or non-EU products.

The Commission must make careful consideration of how it will treat non-EU private environmental labelling schemes which are used by non-EU producers and operators to communicate environmental claims to EU consumers.

There should be sufficient flexibility in how private environmental labelling schemes are certified so as to avoid unnecessarily precluding third country private environmental labels from being adopted in the EU and adapted to meet prevailing environmental needs in non-EU production areas.

FRUCOM welcomes that the Commission will publish and maintain a list of schemes that will continue to apply under the new Green Claims Directive. Information should also be included on the period or duration of application of the scheme, and where necessary, the goods covered under these schemes.

2. Ex-ante Verification of environmental claims and labelling schemes

The role of officially accredited verification bodies to approve the types of environmental claims that can be communicated to consumers is central to the regulation and governance of environmental claims under Green Claims Directive.

Article 10 details how the substantiation and communication of environmental claims and labels will have to be third party verified and certified to comply with the requirements of the Directive before the claim is used in a commercial communication. An officially accredited body (the ‘verifier’) will carry out this ex-ante verification of claims submitted by the company wishing to use it. Once the ‘verifier’ has carried out the verification of the submitted claim, it will decide to issue (or not) a certificate of conformity. This certificate will be recognised across the EU, shared between Member States via the Internal Market Information System, and will allow companies to use the claim in a commercial communication to consumers across the internal market.

FRUCOM calls on the Commission to make sure that the right support and operational framework for verification bodies to carry out this important function is in place and that the process for verification and issuance of certificates of conformity where needed, is not unduly lengthy, costly, or convoluted. Additionally, FRUCOM strongly encourages the Commission to maintain a publicly accessible database of such bodies, and of the environmental claims that have been certified and received a certificate of conformity.

3. Certainty and flexibility for methodology for environmental labels and claims

FRUCOM welcomes the fact that the Green Claims Directive does not include a single methodology for the substantiation of environmental claims, but rather, establishes a framework for the recognition of environmental claims.

The obligation for traders to substantiate explicit environmental claims under Article 3, should be clear, certain, and comprehensive, such that where traders have invested the time and resources to meet these obligations, then they should be confident of the period for which such a claim is considered substantiated and also the scope of application of such a claim (i.e. if one operator in a group of companies substantiates

a claim, is that taken as substantiated for all the other operators in the group making that same claim). FRUCOM welcomes the fact that microenterprises are exempt from the scope of the Directive.

Finally, the Commission reserves the right under Article 3 (4) to establish sector or product specific rules, which would be life-cycle assessment based. The process for establishing such rules should again be cognisant of the need to maintain a level playing field and avoid non-tariff barriers for imported goods or products which would be covered in future sector or product specific category rules.

4. **Green Claims framework should include EU support for SMEs and innovation**

The EU food and drink industry employs 4.6 million people, generates a turnover of €1.1 trillion and €230 billion in value added.¹ According to the European Commission itself, the food and drink industry is the EU's biggest manufacturing sector in terms of jobs and value added.² Sustainability plays a big role in food innovation. It is therefore imperative that the establishment of a legislative framework on Green Claims does not stifle the innovation and transformation that the food sector needs to contribute towards sustainable solutions for people and planet.

FRUCOM therefore calls on the Commission to focus on the support that can be provided for operators to adapt and implement future rules and obligations on Green Claims, with a particular focus on the needs of SMEs. The implementation and enforcement of the Green Claims Directive should be proportionate with the capabilities of SMEs versus larger multinationals. SMEs will not have the same resources to meet a one-size-fits-all verification process.

The Commission has demonstrated a strong commitment to innovation and continuous improvement in the tools that it provides for trade and customs; SMEs, Member States, and the public alike would all benefit from the same approach in relation to support for environmental obligations.

A starting point could be the provision of support in the form of guidance and other materials (tutorials, webinars). More important, however, is the development of integrated online systems that support operators and Member State authorities to ensure that there is one harmonised single market environment for green goods in the EU. The Commission should therefore develop digital portals and platforms similar to those used by DG TRADE (Access to Markets) or DG TAXUD (Single Window Environment for Customs), in the domain of environment / sustainability rules and obligations that will apply to businesses.

FRUCOM avails itself of this opportunity to thank the Commission for its consideration of the arguments made in this paper and assure the Commission of our availability and interest in supporting the Commission to address environmental claims where dried fruit and nuts, and processed fruit, vegetables and fisheries products are concerned.

¹ Source: FoodDrinkEurope's latest Data & Trends 2022 report <https://www.fooddrinkeurope.eu/resource/data-trends-of-the-european-food-and-drink-industry-2022/>

² https://webcache.googleusercontent.com/search?q=cache:oGhD7E-2asMJ:https://single-market-economy.ec.europa.eu/sectors/food-and-drink-industry_en&cd=11&hl=en&ct=clnk&gl=be