Textile Industry's Statement on the Proposed Directive on Substantiating Green Claims

Amsterdam | 15th of July 2023

The Policy Hub – Circularity for Apparel and Footwear supports the efforts of the European Commission to set up the EU’s first detailed set of rules on how companies must substantiate reliable, comparable, and verifiable claims about the environmental impact, aspect and performance of products and services they offer across the EU. We support the ambition to make these types of claims reliable, comparable, and verifiable across the EU and put an end to greenwashing. This ambition shall not, however, lead to green hushing. Clear, actionable, and unambiguous rules should direct the textile sector to make science-based environmental claims.

We specifically welcome the following:

1. **The Intent to Harmonise Definitions and Requirements in Product Labelling**: We embrace the EU Commission’s ambition to create uniform definitions to prevent greenwashing, limit consumer deception, and allow for a level playing field for all. Simultaneously, we reckon the definitions are yet unclearly defined.

2. **Recognised Scientific Methods and Qualified Data Requirements**: We support the proposal’s focus on recognised scientific methods and qualified data requirements to support green claims.

3. **Acknowledging the Specificities of Different Product Groups**: We welcome that the proposal balances the objective to harmonise, and the challenge of ‘one size fits all’ methodology to assess products' environmental impacts across all product categories and areas.

However, we would like to address some critical concerns about the Substantiating Green Claims proposal, which could lead to legal uncertainty and risk market fragmentation. Hence, we call for the following:

1. **Need for a Common Method**: The comparability of environmental claims can be severely challenged as the Directive does not recognise a single methodology as a mandatory common method for voluntary claims.

2. **Simplify and Harmonise the Verification Process**: The proposed ex-ante verification infrastructure presents significant challenges for the textile sector.

3. **Call for an Equal Level-Playing Field**: Unclear expectations of Member States could potentially cause 1) market fragmentation, 2) unclear requirements when conducting a life-cycle analysis (LCA), and 3) different interpretations of the meaning of definitions. Hence, we suggest implementing guidelines at the EU level.

4. **Policy Coherence Between EU Legislation**: Policy coherence with other legislative proposals such as Empowering Consumers for the Green Transition, Ecodesign for Sustainable Product Regulation (ESPR) and the Textile Labelling Regulation is required.

5. **Support Circular Innovation (i.e., by verification of Content Claims and rPET Claims)**: Innovative solutions in the textile sector are slowed down by including content claims in the proposal, and by considering that polymer claims from recycled PET bottles could potentially mislead consumers.

6. **Extended Timeline for Implementation**: To enable a harmonised application across EU Member States, we recommend that the EU Commission offers support in implementing the Proposal and extends the designated timeframe for the implementation as well as the phase-out of existing labels on the market.

Those points risk hampering the uptake of innovative solutions which would reduce the environmental impact of products placed on the European market. Please find an additional explanation in the section below.

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1. **Need for a Common Method**

Together with the industry, the EU Commission has invested significantly in developing the EU Product Environmental Footprint (PEF) methods as a common way of measuring environmental performance. In the Circular Economy Action Plan from 2021 and the EU Commission recommendation in 2021, the EU Commission specified theSubstantiating Green Claims legislative proposal to require environmental claims to be substantiated using the PEF.

We support mandating one single method to evaluate the footprint of a product, following principles of an LCA where possible and supplementing with other methods where needed to ensure a complete and holistic view of impacts, to substantiate a voluntary impact or performance claim. A single method provides comparability for consumers and legal certainties for companies. We recognise the need to continuously improve a common method, particularly with the inclusion of microplastics. However, we are concerned that the lack of a single method may lead to conflicting methodologies and conflicting interpretations by Member States. This could lead to companies not labelling or communicating any sustainable characteristics, resulting in green hushing.

This is a unique opportunity to harmonise and standardise the requirements for green claims by requiring a single method, such as the PEF. This includes the following benefits:

- **Increased transparency, understanding and comparability for consumers;**
- **Increased efficiency for enforcement by authorities;**
- **Increased incentives for the industry to efficiently communicate about environmental performance;**
- **Increased effectiveness of verification.**

2. **Simplify and Harmonise the Verification Process**

The proposed ex-ante verification infrastructure presents significant challenges for the textile sector, which include the following:

- **Verification of individual claims pressures companies with both an administrative and financial burden delaying product development processes and market introduction – whilst the verification of individual claims will primarily benefit the verification bodies. This may cause companies to communicate far less about the environmental impact of their products in the future;**
- **Concerns on the capacity of national competent authorities and verifiers to absorb the expected high-level numbers of requests;**
- **The proposal lacks clarity in defining this process at the Member State level, leading to the expectation that individual Member States will develop their own certification processes;**
- **It may hinder the industry to plan communication campaigns and promotional activities effectively.**

Considering these challenges, we propose the following:

- **Simplifying the verification process as a key component to secure a harmonized implementation;**
- **Instead of verifying individual claims, we suggest that the focus should be on verifying the data behind the recognised method and the methodology itself (ideally, one recognised method, as pointed out above). All claims following the pre-verified methodology are automatically compliant with the substantiation requirements;**
- **Next, we suggest including a time limitation to the process (i.e. allow Member States and verifiers a certain amount of time to provide the market with necessary information).**

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1 Commission Recommendation on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations, to be found: https://environment.ec.europa.eu/system/files/2021-12/Commis-sion%20Recommendation%20on%20the%20use%20of%20the%20Environmental%20Footprint%20methods_0.pdf

d. Finally, organisations following the ISEAL verification protocol should be recognized as 3rd party verifiers to avoid: 1) verification fatigue at the brand and retailer level; 2) additional red tape; and 3) an administrative burden.

3. Call for an Equal Level-Playing Field
Different interpretations and understandings of definitions and requirements among Member States could result in varying approaches throughout the EU market. This may lead to market fragmentation, where inconsistencies arise.

a. Diverging standards across the EU are at risk as Member States would have to lay down their own processes for the verification of explicit environmental claims. Moreover, economic operators could start selecting authorities of specific Member States to verify their environmental claims if these allow for a more straightforward verification process, which would, in turn, lead to the distortion of the level-playing field.

b. Clear Requirements for the Use of LCAs are missing, and consequently, there is no clarity for the industry, about when LCAs would be required to substantiate an environmental claim. The focus should be on verifying the underlying data behind a recognised method. We would point towards further clarification on this to obtain a solid, objective, validated and relevant LCA analysis of individual data points, which must be included in the method.

c. Unclear Definitions such as "robust, science-based and verifiable methods", "significant added value" in terms of environmental ambition, and "high-quality secondary data". Additionally, the proposed Directive provides vague definitions of claims, such as generic claim, sustainability claim, environmental claim, explicit environmental claim, future performance, and others. We would support the clarification of the definition of both primary and secondary data to allow for transparent data providence and verification process implementation.

As a result of the mentioned issues, there is a risk of "green hushing". This directly contradicts the primary objective of the Substantiating Green Claims (SGC) directive, which is to inform, guide, and empower consumers.

4. Policy Coherence Between EU Legislation
We urge the EU Commission, Members of the European Parliament, and the EU Council to ensure policy coherence (no conflict or duplication) between the Substantiating Green Claims requirements, national initiatives and other legislation addressing product-related information requirements, which mainly include four categories: (1) the Empowering Consumers Directive; (2) the Eco-design for Sustainable Products Regulation (ESPR), DPP, Packaging and Packaging Waste Regulation (PPWR); concerning potential performance classes and other information requirements such as recycled content. To exemplify, PPWR compromise amendments which include an article on claims about recycled content and the need to have these certified by an accredited verifier. It is important to understand what rules will be guiding this third-party verifier and how this coordinates with the green claims proposal; (3) Textile Labelling Regulation; and (4) the General Product Safety Regulation.

5. Support Circular Innovation (i.e., by verification of Content Claims and rPET claims)
We are concerned about the hindrance of circular, early stage, innovation due to the EU Commission’s Proposal to include content claims and consider polymer claims from recycled PET bottles.

The so-called "content claims" comprise another type of claim which do not in itself indicate an absolute or percentage improvement of the environmental footprint but merely inform about the fibre content of the product. Such content claims must be treated differently and require a different type of substantiation than recognised scientific third-party verification, as
these claims should follow the existing and recognised verification through the standards and systems in which the said content is purchased and traded. Hence, we suggest placing an emphasis on the verification of processes rather than the individual claim itself. When it comes to certification, standards’ requirements may not be updated, consequently hindering product innovation.

One example of how the proposal might hinder innovation relates to the connection between the requirement of substantiating content claims and the Fiber Labelling Regulation (TLR). Today, new innovative fibres are often classified as already known generic fibre names, despite the innovative fibre having different properties. This gives rise to a few obstacles:

- **The innovative material may be a substitution for another material than the one it is classified as in the TLR.** I.e., if a new innovative fibre is labelled “viscose”, but in reality, is marketed towards brands as a substitution for cotton due to the feel of the fibre, it cannot be highlighted in the care label as a cotton alternative.

- **This also means that the innovative material has no chance of being highlighted in the care label as an innovative fibre.** When brands invest in using innovative fibres in a specific product, brands would also like to communicate about this on the product, typically as a content claim on the product.

If such content claims must be third-party verified, it adds another costly element on top of the extra price of the innovative fibre itself. This will mean that the incentive for brands to invest in and make use of new innovative fibres will be diminished, ultimately reducing the appetite for investments into new innovations and technologies to handle the textile waste created and collected in the future.

Another example of how the proposal can be a challenge for new innovation is the consideration of claims containing polymers from recycled PET bottles to be potentially misleading consumers³. We recognise that closed-loop recycling might be better from a circularity perspective in the short term. However, considering long-term implications, diversification of material sourcing is essential to overcome the innovation gap for decoupling material consumption and growth in the textile sector. Innovations are already starting to offer opportunities which show potential to overcome the closed/open loop dilemma. Hence, we suggest the following to be considered in reviewing the Directive:

- **Consideration of a nuanced approach to the discussion as rPET is the best scalable solution to virgin polyester today.** The plastic bottles which form the raw material (e.g., rPET) should be certified with the Global Recycling Standard (GRS), which will define the material as a waste stream, for a brand to move towards circular solutions.

- **Potential deceleration of future innovation in the recycling technologies as these begin to break the materials down to such a level that they can serve as building blocks for any new purpose, no matter the feedstock it was derived from.** This means that plastic bottles can become textiles, but textiles can also become plastic bottles⁴.

### 6. Extended Timeline for Implementation

In order to facilitate a consistent implementation across EU Member States, we recommend extending the implementation period of the Substantiating Green Claims Directive. The transition period is set at six months, which is too short for businesses, labels and certification schemes to adequately adjust as well as to phase out existing physical product labels. By allowing for a more extended transition period, we can significantly reduce the administrative burden associated with the proposal and promote greater coherence in the EU market.

Next to the extension of the timeline for the implementation of the Directive, we suggest that the EU Commission prepares a guidance document to assist with this process. This guidance should be made available at least one year prior to the application of the Directive. Both the

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extended timeline and guidance are vital for the textile sector to effectively communicate about the environmental impact of their products.

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ABOUT THE POLICY HUB – CIRCULARITY FOR APPAREL & FOOTWEAR
The Policy Hub unites the apparel and footwear industry to speak in one voice and propose policies that accelerate circular practices. Launched in 2019, the Policy Hub has five partner organisations: Sustainable Apparel Coalition (SAC), Global Fashion Agenda (GFA), Federation of the European Sporting Goods Industry (FESI), and Textiles Exchange. These organisations represent more than 700 apparel & footwear stakeholders, including brands, retailers, manufacturers, and NGOs.