

**The Swedish Implementation Council**

KN 2024:04

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**Contribution to Sweden's position in the ongoing EU negotiation – Directive on substantiation and communication of explicit environmental claims (Green Claims Directive), COM (2023) 166.**

The Swedish Implementation Council's contribution to the Swedish position is presented in full in section 8. The Council's proposals in summary are:

- The Swedish Implementation Council recommends that the Government work to ensure that the work on the Directive is paused. Other EU legal acts have entered into force, which largely fulfil the purpose of the proposal.

If the work on the proposal continues, the following should be negotiated:

- Continue to promote simplified verification procedures for certain claims, without the requirement for third-party verification
- Promote simple, clear and standardised criteria and tools for the verification process
- Promote a set maximum time for the verification process
- Promote sufficient transition periods
- Exemption from third-party verification for micro-enterprises is a stopgap
- Unclear relationships with other legal instruments need to be clarified, including with regard to the Consumer Empowerment Directive, the Unfair Commercial Practices Directive, rules on dangerous substances and new rules on carbon credits
- Reasonable sanctions in the implementation phase are important.

## 1. Task of The Swedish Implementation Council

The Swedish Implementation Council is tasked with assisting the Government in its efforts to strengthen the competitiveness of Swedish companies by avoiding implementation above the minimum level and counteracting unjustified regulatory burdens, as well as reducing administrative costs and other compliance costs in connection with the implementation of EU regulations in Swedish law. The Swedish Implementation Council's work must be based on a company perspective.

The Swedish Implementation Council is to submit documentation and recommendations to the Government, partly as a contribution to Swedish positions in negotiations and partly on how EU legal acts can be implemented in Swedish law in a way that is not more far-reaching from a business perspective than what the legal acts require.

## 2. Relevant proposal for an EU legal act

Proposal for a European Parliament and Council directive on substantiation and communication of explicit environmental claims<sup>1</sup>.

## 3. Objectives and objectives of the proposal

The Environmental Claims Directive aims to tackle 'greenwashing' and help consumers make more environmentally friendly decisions when buying goods or using a service. The Directive lays down minimum requirements for the verification, communication and verification of environmental claims. Reliable, comparable and verifiable environmental claims should help consumers make informed decisions.

The proposal focuses on environmental claims and eco-labels that companies use voluntarily when marketing themselves as green, for example, and that cover the environmental impact, environmental aspects or performance of the product or trader. The proposal also covers existing and future eco-labelling schemes, both public and private.

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<sup>1</sup> COM(2023) 166, (Green Claims Directive).

The aim is to protect consumers from misleading environmental claims while protecting serious traders by reducing the proliferation of eco-labels and ensuring a level playing field in the EU's internal market.

#### 4. Where in the process is the proposal?

The negotiations have reached the trilogue stage. It is uncertain at what pace the current Polish presidency will prioritise the matter. The European Parliament may wish to revise its position. There are signs that a majority in the new parliament does not want to see the directive implemented.

#### 5. Responsible ministry

Ministry of Climate and Enterprise.

#### 6. Problem description from a Swedish business perspective

The overall aim of the proposal, to increase harmonisation in the internal market, including around labelling systems and the methods that will form the basis for various labels and environmental communication, is positive.

#### **Burdensome and unclear requirements for mandatory third-party verifications**

The COM proposes a mandatory prior approval by an accredited body before an environmental claim can be used for commercial purposes. This will increase the administration and costs for companies to use environmental claims and labels in communication with consumers.

As the proposal is designed, the business community sees a significant risk in the fact that even simple environmental claims in companies' consumer contacts must be subject to third-party verification. This may include information provided in a customer service or chat about a product's environmental impact.

There is also a risk that companies refrain from communicating environmental claims (so-called "greenhushing"), which makes it difficult for consumers to make sustainable decisions. This can also be particularly troublesome for SMEs, whose opportunities to achieve competitiveness and

enter a market are often based on their ability to communicate their specific environmental performance and innovations.

In addition, unclear definitions in the Directive create ambiguity about the scope of the proposal. Depending on how the directive is implemented in different member states, there is a risk that both cost, interpretation of the rules and the time required for prior approval differ within the EU, to the detriment of Swedish consumers and companies.

The criteria for substantiating an environmental claim also leave a great deal of room for interpretation for the accredited bodies, more than is usual when the accredited bodies work on the basis of clearer criteria through standards. There is therefore a risk that the accredited bodies of different Member States will make different interpretations of the criteria for substantiating an environmental claim.

In the trilogue negotiations, it is negotiated, among other things, that certain types of environmental claims should be exempted from the requirement for prior approval or undergo a simplified procedure. Given that authorisations are valid for the whole of the EU, it is important that any such simplified procedures and/or exemptions from prior authorisation are also uniform across the EU.

### **Risk of double verification schemes for already eco-labelled products**

The proposed directive states that claims related to EU organic legislation are exempt from the requirement for additional verification. However, there is a risk that products that are certified against KRAV in Sweden, which go beyond the requirements of the EU's organic legislation, would still need to verify their environmental claims under the Directive on explicit environmental claims. The same applies to other environmental claims on organically certified products, e.g. related to climate, which are not directly covered by EU organic legislation.

A number of Swedish companies have invested a lot of time and money in their own brands with, for example, green logos in order to help consumers make more sustainable choices. If these trademarks or logos constitute environmental claims/labels within the meaning of the Directive, companies have to deal with duplicate verification processes, which entails increased administration and costs that can ultimately reduce demand for the

products.

### **Unclear relationship with other EU legal acts**

#### *Consumer power directive and unfair commercial practices directive*

There is a significant risk of overlapping requirements between the proposal for a directive on explicit environmental claims and the already adopted Empowering Consumers Directive<sup>2</sup>. In its consultation response, the Swedish Consumer Agency has stated that there are ambiguities about how the Directive on explicit environmental claims is to be applied in parallel with the Empowering Consumers Directive, and how it affects the application of Directive 2005/29/EC on unfair commercial practices. It is important, among other things, that the Empowering Consumers Directive (and later the Directive on explicit environmental claims) are transposed into Swedish legislation in a way that prevents an environmental claim from having to undergo double verification processes for the two different legislations. This should be taken into account in both the EU negotiations and in Swedish implementation.

The Swedish Trade Federation has made an analysis of where the ambiguities and overlap are most linked to the Consumer Power Directive and the proposal for a directive on explicit environmental claims. Here, it is above all the prior approval, concepts and definitions, and the division of responsibilities between different actors in the same value chain that become unclear and difficult to interpret for companies.

#### *Regulation establishing a Union framework for the certification of carbon removals<sup>3</sup>*

The proposal for explicit environmental claims is not aligned with the recently adopted EU regulation on a certification framework for carbon removals, which will promote trading in voluntary carbon credits. It is important that the Explicit Environmental Claims Directive does not complicate or restrict the use of carbon credits and that it clarifies how carbon credits can be used as part of an explicit environmental claim to

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<sup>2</sup> 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 commercial practices and through better information.

<sup>3</sup> Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 establishing a Union certification framework permanent carbon removals, carbon farming and carbon storage in products.

support the development of a functioning market for voluntary carbon credits.

### **Problematic sanction provisions**

The Swedish Implementation Council would like to draw attention to the far-reaching sanction provisions in Article 17 of the proposal. The sanctions are structured around fines, confiscation of income and exclusion from participation in public procurement. Similar sanctions are in place in the EU's new deforestation regulation. In a recently published report<sup>4</sup>, it is proposed that these provisions be implemented in Swedish law through criminal sanctions. A similar model for implementation with regard to environmental claims can have a strong negative impact on companies' willingness to communicate environmental claims. There is also a risk that companies will opt out of explicit environmental claims in favour of more sweeping claims or imprecise symbols.

### **Ban on new non-public labelling schemes risks hampering the green transition**

The restrictions on the development of new eco-labels established by private actors (Article 8 of the proposal) risked inhibiting innovation that contributes to the green transition.

The proposal could mean that the currently existing labels and certifications in practice will have a monopoly in their genre (e.g. sustainable forestry). This can lead to higher costs for companies as nothing holds back pricing, and to stagnant criteria development. Even in the category of sustainability labels, there is an advantage with various advanced labels, even the simpler and cheaper certifications can be a first step for a smaller company.

## **7. Implementation Council Analysis**

The proposal is not at an early stage of the decision-making process. The Swedish Implementation Council nevertheless considers it important to submit its contribution, given the uncertainty in the current negotiation situation and the major impact the proposal is expected to have on Swedish

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<sup>4</sup> SOU 2025:17, Adaptation of Swedish law to the EU Deforestation Regulation

companies' regulatory burden, administrative costs and other compliance costs.

Large parts of the Swedish business community see significant problems, mainly with a requirement for mandatory prior approval from a third party of environmental claims. There is a risk that the system will be sluggish, administratively cumbersome, expensive and lead to forum shopping between different Member States' verification schemes.

### **Industries and companies concerned**

The proposal affects all companies that want to communicate an environmental claim to consumers, i.e. a large number of Swedish companies, e.g. in trade, grocery trade, food producers, chemical products, textile industry, automotive industry, forestry, wood and furniture companies and the hospitality industry.

The proposal affects both companies that use labelling schemes such as the Nordic Swan Ecolabel and Good Environmental Choice and companies that have their own brands for their organic range (e.g. I Love Eco and Änglamark).

To give an indication of the large number of Swedish companies affected by the proposal, it can be mentioned that for three of the above-mentioned industries, in 2024 there were the following number of registered companies in Statistics Sweden's business database: Food industry (code 10), 4181 companies (of which 82.3% with 0–9 employees), Textile industry (code 13): 1873 companies (of which 96% with 0–9 employees) and Furniture industry (code 31): 2381 companies (of which 91% with 0–9 employees).

For those companies that already use existing labels that are of a high standard and have been preceded by a robust verification process, the impact will be less, although additional administrative burdens and costs will also be borne by them.

The companies affected vary greatly in size, ranging from large grocery players to micro-enterprises that conduct small-scale production or the tourism industry that wishes to communicate environmental claims. The proposal is expected to affect many micro and small enterprises that want to profile themselves with the help of their environmental performance.

## **Consequences for Swedish companies**

### *Increased administrative burdens*

The administrative consequences consist of applying for prior approval, producing various supporting documents and calculation methods to be able to prove one's environmental claims and/or eco-labels. In addition to this, there is the verification process itself if the trader himself is the one who needs to hire an accredited body. Applying for pre-approval can take time and delay companies' internal processes.

There is a risk that products that already have eco-labels will need to undergo an additional verification process. This means increased administration and more expensive products.

The proposal for a directive is also based on the fact that every explicit environmental claim must be subject to third-party verification. This means that the verification procedure may need to cover many different situations and types of statements or markings. This can make verification costly.

### *Increased costs for companies*

Costs of using environmental claims and labels in communication with consumers will increase. The costs are largely associated with the verification process. The Implementation Council notes that there is a lack of estimates of the overall cost consequences for companies. The proposal is not accompanied by its own impact assessment, which is a clear shortcoming.

Costs incurred are:

- Costs for using an approved label or for having one's environmental claim verified. The costs relate partly to the production of various documentation and calculations, and partly to the verification process itself.
- Costs for the production or modification of packaging and labelling of products and information material

The costs of the verification process are difficult to estimate because the verification scheme is not yet established and the requirements for complying with the Directive are imprecise. However, companies that want to make environmental claims must be prepared not only to pay for their



own verification, but also to pass on the costs of setting up the verification system and its management to the companies that want to undergo verification.

The costs of verification will also vary depending on how advanced the environmental claims are to be made. The Commission's cost estimate is between €500 and €8,000, or as much as €54,000 if the verification relates to the environmental footprint of an entire activity. However, the costs of the verifications are difficult to assess because the directive does not specify which methods should be used for verification.

The Swedish Implementation Council would also like to draw attention to the fact that every individual, voluntarily explicit environmental claim must be subject to verification according to the proposal. There can therefore be many different claims that a company wants to make that must undergo verification.

Cost increases may be particularly the case if products that are already eco-labelled must undergo additional verification procedures.

In addition, indirect costs may arise if the verification process takes so long that the product is no longer attractive or profitable to sell, such as seasonal products. Rejection of an application for verification also gives rise to costs.

#### *Other consequences – risk of sanctions despite third-party verification*

The proposal for a directive only regulates the explicit environmental claim. Even if a company has an environmental claim third-party verified, it may still be considered misleading according to the Consumer Taste Directive's implementation through the Marketing Act. Such double regulation can hit individual companies hard and give rise to uncertainty about the financial risks.

There are also concerns that the sanction systems may be abused by companies reporting competing companies' environmental claims to the supervisory authority in order to create their own competitive advantages.

#### *Overall impact in relation to the purpose of the proposal*

As can be seen from the initial problem description, there is a risk that companies refrain from communicating environmental claims, which makes

it difficult for consumers to make sustainable environmental choices- that general, vague environmental claims become more common, instead of specific, explicit environmental claims that must undergo a verification process- that the increased costs for companies can lead to higher prices for consumers, which in turn can lead to consumers choosing not to use products that are better for the environment, i.e. the demand for e.g. organic products can decrease.

*Impact on the competitiveness of Swedish industry in comparison with the rest of the EU*

Swedish companies often compete on their environmental performance. If it becomes more expensive to use environmental claims, there is a risk of competition for Swedish companies.

Furthermore, there is a risk that the proposed verification system will be designed differently ambitiously in different Member States. As the certificates of conformity are valid throughout the EU, such differences can lead to distortions of competition, both in terms of which environmental claims are accepted and the cost of proving environmental claims relative to other countries.

One industry whose competitiveness is greatly affected by the proposal is the Swedish food industry. This risks counteracting the Government's priorities under the food strategy.

## 8. The Swedish Implementation Council's contribution to Sweden's position in continued EU negotiations

### ➤ **The Swedish Implementation Council recommends that the Government work to ensure that the work on the Directive is paused.**

Since the proposal was presented, several other legal acts have entered into force that largely fulfil the purpose of the proposal, mainly the Empowering Consumers Directive and amendments to the Unfair Commercial Practices Directive that include substantiating environmental claims. The new EU regulation on packaging and packaging waste, PPWR<sup>5</sup> and the EU directive on corporate sustainability reporting, CSRD<sup>6</sup>, also contain requirements for documentation, etc., that partly fulfil the same purpose. The proposal is also not aligned with the EU regulation that has entered into force establishing a Union certification framework for carbon removals. The effect of these new regulations should be awaited and assessed before the need for the directives is again considered.

If the proposal continues to be negotiated, The Swedish Implementation Council assesses that the following approaches are important to represent from the Swedish side:

### ➤ **Continue to promote simplified verification procedures for certain claims, without the requirement for third-party verification**

Both the European Parliament and the Council of Ministers propose a simplified verification system without the requirement for third-party verification for certain environmental claims. The Swedish Implementation Council fully supports these ambitions. Exceptions may cover at least the four categories of claims identified by the Council of Ministers in its general

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<sup>5</sup> Regulation (EU) 2025/40 of the European Parliament and of the Council of 19 December 2024 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904 and repealing Directive 94/62/EC

<sup>6</sup> Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU as regards corporate sustainability reporting

approach<sup>7</sup>. However, it is important that the exemptions from third-party verification are uniform across the EU so that there is a level playing field within the Union.

Exemptions as set out above should allow labels and claims already covered by certification under existing eco-label schemes that comply with EU standards (e.g. EN ISO 14024) and schemes regulated by EU legislation, such as the EU Ecolabel and claims verified under the EU Regulation 2018/848 on organic production to continue to be used without additional third-party verification requirements.

➤ **Promote simple and clear standardised criteria and tools for the verification process**

If a system of prior authorisation is deemed necessary, clearer criteria should be set out for how companies comply with the requirements of the Directive. For example, a standardised and common assessment form/process for the verification and approval of prior authorisations, applicable in all Member States, would make it easier for businesses and make the process more predictable.

A standardised cost model would also be of value to companies to increase transparency and create better financial predictability, e.g. regarding fees for seeking approval.

A harmonised verification system should be in place before the entry into force of the Directive and be based on well-established standards, for example ISO 14024 Type 1 for eco-labelling, and LCA methodologies based on applicable ISO standards.

The Commission developing thorough guidance concerning the verification process, before that part of the directive enters into force, would also be of great help to businesses. The Swedish Implementation Council fully supports the Council of Ministers' ambition that more support measures (including guides, guidelines and digital tools) are needed to help SMEs, including micro-enterprises, throughout the authorisation process.

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<sup>7</sup> See [Council general approach](#), proposal for a new Article 3a. The exemptions are broadly described as follows: 1. Claims that exceed minimum requirements under EU legislation, according to the methodology of that legislation, 2. Claims that have been certified by an eco-label, 3. Claims linked to measures supporting agricultural practices for climate and environmental benefits, according to Member States' CAP strategic plans, 4. Claims that are excluded by the Commission in implementing acts.

➤ **Promote a set maximum time for the verification process**

The Swedish Implementation Council agrees with the European Parliament's proposal that the verification of explicit environmental claims and eco-labelling schemes should be completed within 30 days.

➤ **Work for sufficient transition periods, etc.**

The Swedish Implementation Council believes that the Government should work for sufficiently long transition periods. Industry organisations consulted by the Council estimate that 48 months are needed, regardless of the size of the company. In addition, it should be made clear that products already placed on the market before the entry into force of the directive should be allowed to be sold.

➤ **Exemption from third-party verification for micro-enterprises is a stopgap**

If the rules are too complicated to comply with for micro-enterprises, it is better to review the effectiveness of the rules than to provide for exemptions for different types of enterprises. And even individual smaller companies can have a large market share. Instead, The Swedish Implementation Council recommends that simplified verification procedures be developed as above, where the requirements for third-party verification are limited.

➤ **Unclear relationship with other legal acts needs to be clarified**

It needs to be clarified how the Directive is to be applied in parallel with the Empowering Consumers Directive and Directive 2005/29/EC on unfair commercial practices.

It also needs to be clarified that products containing hazardous (chemical) substances may be subject to environmental claims provided that existing legislation in the area is complied with (CLP Regulation, REACH, RoHS).

It also needs to be clarified that carbon credits from agriculture and forestry can be credited for explicit environmental claims both within and outside these sectors.

➤ **Proportionate sanctions and reasonable implementation of these articles are called for in the implementation phase**

The Swedish Implementation Council would like to draw attention to the importance of the Directive's sanction rules being formulated proportionately and subsequently implemented in Swedish legislation in a manner that is reasonable for companies, which does not discourage the use of explicit environmental claims. Implementation must also take into account the implementation of the Consumer Power Directive.

The contact person in this case is Committee Secretary Karin Broms ([karin.broms@regeringskansliet.se](mailto:karin.broms@regeringskansliet.se))

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