

# **Green marketing – Guidance for undertakings from the Hungarian Competition Authority**

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## I. Introduction

Based on market research conducted in recent years, the environmentally friendly operation of manufacturers is an increasingly common expectation by consumers, while at the same time the proportion of customers who take the effect of their consumption on the environment into consideration is growing.<sup>1</sup> The Hungarian Competition Authority (GVH) has noticed on several markets that promoting products using claims that indicate the environmentally friendly and sustainable nature of products, services or the operation of undertakings is becoming a more and more prevalent practice.

**Greenwashing** means the marketing or PR strategy of an undertaking with the intention of giving the impression that the undertaking in question is environmentally friendly and responsible for environmental protection while in its actual operation no substantive steps can be identified to achieve these goals. If greenwashing appears in specific marketing communications of an undertaking, the expression refers to unsubstantiated environmental claims.

Claims and indications referring to the environmentally friendly nature of products and services are subject to extensive regulations both in Hungary and the European Union. Monitoring compliance with these legislations and regulations may fall within the competence of various authorities.

With this guidance, the GVH only aims to outline possible assessment criteria for the evaluation of misleading commercial practices under the UCPA<sup>2</sup> and comparative advertising under the Competition Act<sup>3</sup>.

### **Important!**

The information provided in this guidance shall not be considered as amounting to either legal advice in any particular case or the legal opinion of the GVH. Rather, it contains recommendations formulated at the date of its publication, in accordance with the provisions of the UCPA and the Competition Act.

This guidance aims to provide assistance in determining what criteria should be considered by undertakings when designing and publishing their commercial communications in order to avoid infringement. By publishing this guidance, the GVH aims to support fair market competition among undertakings as effectively as possible while also raising the awareness of consumers.

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<sup>1</sup> For the development of consumer attitudes towards the environment, see for example ‘Special Eurobarometer 501: Attitudes of European citizens towards the environment’ (European Commission, 2020) and ‘Who cares, who does? Consumer response to plastic waste’ (Kantar/GfK, 2019)

<sup>2</sup> Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices (hereinafter referred to as UCPA)

<sup>3</sup> Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (hereinafter referred to as Competition Act)

## II. Environmental claims

‘Environmental claims’ or ‘green claims’ often refer to practices that suggest or make the impression (as part of a commercial communication, marketing, or advertising material) that the product, service, activity or operation of the undertaking in question is beneficial or less harmful to the environment than the products, services, activities or operations of competitors.

Environmental claims can be divided into two large categories in terms of their **appearance**.

**Explicit** claims indicate the environmental protection efforts of undertakings by using specific wording or expressions (e.g. 100% recyclable, 100% carbon neutral) or by displaying a mark or label, which certifies their compliance with a specific set of criteria (e.g. FSC certification<sup>4</sup>).

Whereas, **implicit** claims are less specific: visual appearance (e.g. the green colour, flowers, forest, globe, mountains, animals) and sound effects (e.g. bird chirping, stream babbling) can give the overall impression to the consumer that the ingredients, packaging or use of a product or service or the activity of the undertaking is especially beneficial or at least not harmful to the environment.

Undertakings shall take the messages conveyed by certain claims into consideration as well as their overall effect: implicit claims may reinforce a marketing message but also divert it.

**Example:** An undertaking promotes certain products on its website by claiming that it took environmental protection criteria into account while manufacturing or packaging these products. However, it displays design elements referencing the environment (e.g. globe, green background) even in the case of products which are not involved in such efforts.

**Regarding their contents**, environmental claims may refer to the makeup of the product or its packaging (e.g. ‘plant-based’, ‘recycled’, ‘organic’), their manufacturing process (e.g. ‘environmentally conscious packaging’) or the environmental aspects of the activities or operation of the undertaking (e.g. ‘protect the environment by storing your invoices electronically’).

### **Important!**

The appearance and contents of environmental claims may vary greatly; therefore, the examples provided in this guidance should not be considered an exhaustive list of all environmental claims.

## III. General advice

If an undertaking intends to use green claims to promote its product, service or undertaking itself, the GVH recommends taking the following criteria into consideration.

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<sup>4</sup> Forest Stewardship Council

### **Use specific and unambiguous wording**

Too broadly defined green claims are hard or impossible to interpret by themselves or may have multiple meanings for consumers. In the case of ambiguous and comprehensive claims, it is often difficult to ascertain what the advertiser is attempting to communicate about the environmental benefits of its product or operations. Therefore, consumers may interpret the claim differently from the message the undertaking intended to convey.

The advertisement must therefore make it clear, to which aspects of the product, service, activity, or environmental responsibility programme of the undertaking the green claim refers. If the advertisement displays several products at the same time, it must specify whether the claim applies only to a specific product or to all products. Otherwise, consumers may erroneously interpret the claim as referring to the entire product or service portfolio of the undertaking.

When referencing the environmentally friendly operation of an undertaking in a promotion, the specific activities and the performed measures which have actual environmental benefits shall be pointed out. For instance, such benefits might arise due to manufacturing, shipping, raw material extraction or packaging processes used, the reduced consumption of water or energy or the reduced generation of carbon-dioxide or waste.

The list of the comprehensive and general claims include following adjectives, among others: ‘green’, ‘environmentally friendly’, ‘eco-friendly’ and ‘sustainable’.

**Example:** An advertisement makes the impression to the consumer that by purchasing the product, the consumer helps the planet; however, it is unclear from the advertisement what this positive impact actually means and whether all products of the undertaking or only the ones included in the advertisement achieve this environmental benefit.

**Example:** If an advertiser promotes a product with the claim ‘made of recycled material’ but this is only valid for the packaging, this communication may mislead the consumers.

### **Use clear and understandable language**

It is recommended to word the green claims arising in the commercial communications in a way that is easy for consumers to understand. The use of scientific terms or jargon may confuse the average consumer, resulting in them only being able to base their decision on their assumptions and opinions instead of clear information. Such communication practices may be considered misleading.

**Example:** If the communication states that the packaging of a product is ‘sustainable’ and ‘100% recyclable’ because it was manufactured using ‘Bag-in-Box’ technology, the actual environmental benefits of this technology should also be clarified.

**Example:** The meaning of the claim ‘renewable material’ may be more clear for consumers if the communication explains that renewable materials are able to be generated at the same rate as they are being used, as opposed to petroleum-based non-renewable materials.

**Example:** In the case of the claim ‘Made of renewable plastic (PLA), which is a much more sustainable solution compared to petroleum-based plastics’, the description does not make it clear for consumers what the acronym means and why the use of such a material is beneficial for the environment.

### **Claims should be true and specific, do not exaggerate**

Green claims must be true and specific. Whether the claims included in an advertisement are true or false is a matter of fact; therefore, what the advertiser intends to convey with the communication is not relevant when assessing what meaning consumers may assign to it.

**Example:** It can be considered misleading if an advertisement promises ‘up to 85%’ water savings when using the product; however, the savings are far lower than this value in reality.

A green claim promising environmental benefits must not be exaggerated either explicitly or implicitly. If the environmental benefit achieved or achievable is negligible, it is recommended to refrain from using communications during the promotion of the product or undertaking which present the environmental benefits as significant or outstanding.

**Example:** The claim ‘using 100% renewable energy’ may be misleading if the communication fails to specify that renewable energy was used only during a certain stage in the life cycle of the product.

On the other hand, the claim ‘100% renewable material (except fittings)’ specifies which components of the product were not made of renewable materials.

Furthermore, communications must not attempt to cover up negative effects on the environment or compromises by highlighting a specific characteristic of the product, thus modifying the meaning of the environmental benefit conveyed by the claim.

**Example:** It can be considered misleading if an undertaking advertises the cleaning agent it distributes as chlorine-free if the product happens to contain phenol, which is a similarly dangerous material due to its environmental impact. Therefore, Decision 2011/383/EU of the European Commission states that in order to be awarded the EU Ecolabel under Regulation (EC) No 66/2010, an item of all-purpose cleaner, window cleaner or sanitary cleaner shall comply with certain ecological criteria, such as not contain alkylphenol ethoxylates (APEOs) or their derivatives.

Take care not to highlight a compliance effort or specific green characteristics in a communication as unique features of a product or service if such compliance or features are already guaranteed to consumers by law.

**Example:** An undertaking is promoting a biodegradable product; however, the commitments made in order to comply with the underlying standard are identical to the legal obligations which the undertaking must comply with in order to operate in the relevant market.

**Example:** Under Directive (EU) 2019/904 of the European Parliament and of the Council, from 2025, beverage bottles which are manufactured from polyethylene terephthalate as the major component ('PET bottles') must contain at least 25 % recycled plastic, calculated as an average for all PET bottles distributed on the market on the territory of the Member State in question. Following the effectiveness of this provision, any commercial communications referred that the PET bottles of an undertaking contain 25% recycled material do not represent an added value and may even be considered misleading.

### **Ensure that the claim is correct and verifiable**

Green claims must be properly supported by evidence such as research, studies, test results and other certified and reliable data. In each case, seek to ensure that the undertaking all evidence necessary for supporting the green claims by presenting facts that confirm the environmental benefits promised by the commercial communications. Such evidence needs to be available before publishing these communications; obtaining proof for substantiating green claims afterwards is not an appropriate procedure.

When promoting the activities or sustainability programme of your undertaking, it is advisable to primarily rely on already achieved results and environmental benefits instead of future targets and commitments. If an undertaking decides to publish such targets and commitments, it is recommended to create a reasonable and feasible plan with clear target values and deadlines in cooperation with all stakeholders, ensuring that independent third parties are able to monitor the fulfilment of your commitments.

Make sure that your claim is up-to-date with special regard to the regulatory environment, the current sustainability practices, the latest scientific results, and the technologies used in various stages of the product life cycle. If using green claims, you should monitor your own manufacturing processes and any changes in the supply chain to ensure that your communications are not referring to outdated results.

**Example:** The claim 'all active ingredients are plant-based, making it biodegradable' may become outdated and thus false if you have recently changed the ingredients of the product in a way that affects its biodegradability.

**Example:** An undertaking promotes the green characteristics of a product or service as a unique feature; however, the competent legislative body has made these characteristics obligatory since the communication was first published.

**Example:** An undertaking is using a title won at a competition (e.g. 'Sustainable enterprise'); however, over the course of its marketing campaign, its efforts towards environmental protection become less significant compared to the period reviewed as part of the competition.

## IV. Typical green claims

Undertakings must keep in mind that green claims may take the form of text as well as visual symbols.

With respect to the green claims listed below, the GVH recommends that the following aspects are taken into account in connection with their interpretation, and their verifiability.

### A) Claims related to the makeup of a product

#### **1. Recyclable**

In the case of claims pertaining to the recyclability of a product, it is recommended to also inform consumers of the recycling process used and the available recycling options. If the material of a product is technically able to be recycled but its recycling is actually not carried out due to the lack or distance of recycling facilities or the absence of recycling arrangements, the claims referring to the recyclability of the product may be considered misleading.

If the product is only recycled if disposed of at a special location, the consumers are required to be informed of this fact as well. Therefore, it is not recommended for undertakings to make claims about the recyclability of a product in cases where the product is technically recyclable but there are no recycling facilities available to consumers near the point of sale.

#### **2. Recycled**

Consumers interpret the word ‘recycled’ as meaning that the product was made of another product or products which have previously completed their own life cycle. If a new product is manufactured using scraps resulting from the manufacturing process of another product, this does not constitute recycling. Therefore, it is recommended to describe a product (or a part thereof) as recycled only if the product would have ended up as waste if not for the recycling process.

If an undertaking refers to the recycled nature of a product, it is important to let consumers know whether the packaging, certain parts, the whole product or both the product and the packaging were manufactured using recycled materials. In addition, the proportion in which the product or the packaging contains recycled material is also advised to indicate in the communication.

**Example:** It may be misleading to claim that the box of a soft drink is 100% recyclable if this is not true for the cap or the label.



The so-called Möbius strip is a commonly used symbol to signify the recyclability or recycled nature of products. It is recommended to take into account that when used alone, the Möbius strip indicates that the product can be recycled; however, when used with a percentage figure, it means that the product contains recycled materials. In the latter case, it has to be clarified whether the percentage value refers to the product, the packaging or both.

### **3. Refillable**

If an undertaking informs customers of the refillability of its product, it is recommended to provide information about the manner it can be refilled as well.

**Example:** It can be misleading to claim that a wine bottle is refillable if there are no suitable facilities or processes in place for the collection and refilling of the bottles. It can be misleading to label the wine bottle as refillable simply because consumers can refill it with water at home.

### **4. 'Free from' claims**

Undertakings frequently emphasise that a given product is free from specific ingredients or is manufactured without the use of specific technologies. Such claims may be considered misleading if other ingredients of the product cause an identical (environmental) impact to the omitted ingredient.

These claims may also be misleading if the omitted ingredient is not generally contained by other similar products either. Furthermore, it may be misleading if the specified ingredient is not found in the product itself but it is contained by the packaging.

If the communication highlights that a specific product is 'free from' certain ingredients; however, the ingredients in question are replaced by other materials, which are at least as harmful to the environment as the omitted ingredient, this may also be considered misleading.

**Example:** It is not recommended to use a 'free from' claim to indicate that a cleaning agent does not contain a specific chemical ingredient if other cleaning agents do not generally contain this ingredient either.

**Example:** It is not recommended to promote a product using the 'GMO-free' claim on any communication medium if the ingredients or manufacturing process of the product is not in compliance with the applicable legal provisions. Furthermore, if you are promoting a product using the 'GMO-free' claim, make sure that it is clear to consumers whether it is your undertaking that claims that the product is GMO-free or if its GMO-free status is verified by a competent certification body.

### **5. Organic, 'bio'**

The use of the 'organic' and 'bio' adjectives may indicate to consumers that the product was grown or manufactured using 'bio' ingredients and processes only, including the relevant manufacturing and the agricultural processes as well.

If an undertaking claims that a product is 'organic' or 'bio', it must be ensured that the product and the raw materials used in its production are certifiably organic and that all ingredients are subject to a 'bio' product certification.



## **Did you know?**

In the European Union, agricultural products, as well as the food and feed products made thereof are only allowed to be distributed using ecological (eco, bio, biological, organic) markings if they were produced within the framework of an administrative control system in compliance with the applicable EU and national legislation and the relevant certificates are available to prove this fact. In Hungary, Biokontroll Hungária Nonprofit Kft. plays an important role in the bio certification system by certifying the work of players active in the Hungarian ecological food and economic sector.<sup>5</sup>

## **B) Claims related to production processes**

### **1. Claims related to renewable (green) energy**

When informing consumers about the use of green energy, undertakings must take into consideration whether the claims communicated to consumers (such as the cost savings achieved by using solar energy, the energy production capacity of solar panels, or other environmental benefits) are factually correct.

### **2. Claims related to the longevity and durability of products**

Sometimes, undertakings promote the environmentally friendly nature of a product by referring its longevity or durability.

If instead of the entire product, only parts of it were made of durable or environmentally friendly materials, this must be included in the communication.

In the case of claims about the durability and longevity of products, undertakings have to provide consumers with all information necessary for actually achieving the promised environmental benefit.

If an undertaking specifies the expected lifetime of a product, it must be ensured that this claim can be supported with evidence.

### **3. Claims related to carbon-dioxide emissions**

If an undertaking makes such a claim (e.g. carbon neutral, CO<sub>2</sub> neutral, low carbon footprint) about a product, it is important to take into account the full life cycle of the product.

Being carbon neutral is a typical claim related to carbon-dioxide emissions of the product, service or the operation of the undertaking. To consumers, this claim may mean that no carbon-dioxide is emitted during the full life cycle of the product (e.g. manufacturing, use, disposal) or in the course of the operations of the undertaking at all.

**Example:** A product cannot be claimed to be carbon neutral if this only applies to carbon-dioxide emissions during its manufacturing process and the use of the product results in carbon-dioxide being emitted.

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<sup>5</sup> For more information visit: <https://www.biokontroll.hu/biokontroll/rolunk/>

It should be taken into account that if reduced values of carbon-dioxide emissions are required by law in relation to a specific product, no claims may be made towards consumers about the product being more beneficial for the environment than the competition.

When promoting their carbon neutral operation, undertakings are expected to demonstrate in what way its past actions and future commitments (e.g. planting trees, providing financial support to sustainable forestry) contribute to its carbon neutral operation and what methods it uses to verify whether it is truly operating in a carbon neutral manner and at what frequency.

## **C) Green claims about the future**

### **1. Degradable**

A product may be claimed to be degradable if it fully degrades and its materials return to the environment within a reasonable timeframe. Undertakings must clearly inform consumers about the extent to which their products degrade at the typical place of disposal.

Undertakings are not permitted to use green claims referencing degradability if their products release substances harmful to the environment during the degradation process.

### **2. Claims related to composting**

If an undertaking claims about its products that they are compostable, it must be able to certify whether the products actually degrade into usable compost and whether this requires an industrial or household environment.

If a product cannot be composted by consumers at home only at specific locations or only part of the product is compostable, this must be communicated to the consumers. In this regard, it is recommended for undertakings to consider whether the composting options are available to the consumers (e.g. it is advisable to indicate whether composting facilities are available nearby).

Taking into account the fact that the purpose of composting is to produce a substance that improves soil quality and can have a beneficial impact on the environment, positive claims about the composability of the product shall be avoided if the product reduces the quality of compost or if it contains materials which have a negative effect on the environment.

### **3. Communications related to the activities and operations of an undertaking**

If an undertaking is making a commitment to the consumers in relation to future environmental protection efforts, make sure to only include measures which the undertaking is able to implement within a reasonable timeframe based on realistic plans, the scheduling and feasibility of which can be verified, and compliance with which can be monitored.

It is recommended for undertakings to avoid commitments related to the future which they are already fulfilling for the most part and therefore achieving the targets does not require any particular effort on their part and do not result in any particular improvement in terms of environmental protection.

## **D) Comparative claims and claims about market-leading status**

As a general requirement, claims comparing two or more products or services must never be misleading and they have to be factual, relevant and verifiable. In addition, the comparison has to apply to products in the same category, which fulfil the same needs and are suitable for the same applications.

When using comparative claims, make an effort to provide clear and specific facts (e.g. by specifying percentage or absolute values). Ambiguous and vague comparative claims are difficult or impossible to verify and reduce the chance of the consumers being able to compare the characteristics of the highlighted product or service in a truly factual manner.

If the advertising claim compares an older and newer product or service of the same undertaking, it is recommended to inform the consumers of the characteristic serving as the basis for comparison (e.g. the energy consumption of an older model of the product).

It shall also be kept in mind that generic green claims such as ‘the greenest’ or ‘most environmentally friendly’ are also considered comparative claims in relation to all other products on the market. In such cases, the relevant facts must be able to be verified for the full duration of the claim being published. Similarly, claims which relate to reduced energy consumption (e.g. energy-efficient, energy-saving) or water consumption (e.g. water-saving), among others, also fall within the scope of comparative claims. Since in the case of these claims there is no products with which the comparison is being made, undertakings making such claims shall pay special attention to the context of the claim (e.g. whether the scale used for categorisation is available to make the claim easier to interpret) and its possible interpretations by the consumers in order to avoid the claims being considered misleading.

## **V. Certification labels**

Various trust marks, quality marks, markings, logos, symbols, certificates, etc. (collectively referred to as certification labels) are intended to emphasise that the product, service, or operation of an undertaking has a positive effect on the environment in some way and compliance with the relevant requirements has been verified by an existing organisation on the basis of a specific system of criteria.

The use of such certification labels is generally only permitted if the undertaking complies with some system of criteria, the criteria of which have to be verifiable and controlled.

It is important to ensure that the advertising message conveyed by the undertaking does not extend beyond the scope of what the certification label is intended to certify and that the use of the label is not misleading for consumers.

This means that during the design process of the commercial communication, it has to be kept in mind that the use of certification labels related to the environmental characteristics of a product or service must be in line with the messages and factual content of other claims promoting the same product or service. Do not forget that the ways in which you present and

place green claims into context are important circumstances since the overall effect of the commercial communication may not be misleading either.

**Example:** It can be misleading if an undertaking refers a certification label with respect to all of its products even though only certain products were involved in the certification or other similar process.

**Example:** It can be misleading to use the title ‘*Natural brand*’ in connection with an undertaking if only a portion of the products it distributes is subject to a certification label concerning natural ingredients. Make sure that the communication presents the environmentally friendly operation of your undertaking and the environmental effect of its products or services to the consumers clearly and separately from each other.

Depending on the relevant market practices, the organisations certifying environmental impact may be

- governmental (official) agencies or other organisations appointed by such agencies,
- non-profit organisations and interest groups,
- for-profit undertakings or the distributor of the product itself.

The use of the labels certified by governmental agencies or organisations related to or appointed by such agencies has strict legal requirements, including the product categories that can be certified and the certification process used.

### Did you know?

In Hungary, the legal background of the certifying labels ‘Environmentally friendly product’ and ‘EU Ecolabel’ are provided by Decree 29/1997 (VIII. 29.) by the Ministry of Environment and Regional Development and Regulation (EC) No 66/2010 and the certification process is performed by Herman Otto Nonprofit Kft. in both cases.



If a for-profit undertaking awards a certification label related to environmental protection to another market player as a result of a competition held by the awarding undertaking, it is especially important to ensure that the award is given on the basis of a system of requirements defined and disclosed in advance, which is applied consistently to the entirety of the reviewed undertaking. Make sure that the system of requirements applied guarantees that an undertaking that does not fulfil the pre-defined conditions cannot be entitled to use the certification label or title. In addition, the level of due diligence expected from the undertaking defining the requirements of the competition also includes ensuring that the awarding mechanism is in compliance with the message conveyed by the certification label.

Taking into account the fact that different certification labels related to environmental characteristics may be obtained on the basis of various systems of criteria, it is especially important that the certifications awarded by independent third parties are able to be clearly distinguished from the undertaking's own certification labels.

## **VI. Requirements for supporting green claims**

Undertakings must support the green claims with evidence both towards the consumers and the authorities. Green claims must be based on solid, independent, verifiable and well-supported evidence, which takes into account the latest scientific findings and methods. Such evidence may include independent professional research, relevant test results or other credible data. In regard to justification, it is always important to keep in mind the specificity of the claim in question.

The relevant evidence must already be available to the undertaking when it publishes its green claims for the first time. If the relevant professional or scientific studies contradict each other with respect to the verifiability of the claim in question, it is not recommended to use the claim. In addition, it is recommended to take into account the constant development of science and technology, as well as any changes to the relevant results; any green claims made based on these may be required to be reviewed from time to time.

## **VII. Checklist**

To ensure compliance, pay special attention to the following when planning and performing your advertising activities.

- ✓ **Use unambiguous language, which is easily understandable by consumers, when describing the environmental benefits of the products, services, operations or programmes of your undertaking.**
- ✓ **Provide opportunities for consumers to verify the factuality of your claims themselves.**
- ✓ **Make sure that your claims are verifiable, your evidence clear, factual, and convincing. Evaluate whether your green claims are based on the most appropriate and latest research, data and measurement methodology.**
- ✓ **It is recommended to refrain from using claims which are supported by research or studies that may raise doubts about the effects of your product or service on the environment.**
- ✓ **Continuously review your claims to ensure that they are always up-to-date.**
- ✓ **Do not claim an environmental benefit to be a unique feature of your product or service if such features are available to consumers anyways as a result of legal provisions or typical market practices.**
- ✓ **Communicate sustainability results already achieved rather than commitments related to future performance.**

## **VIII. Summary**

Taking the advice and recommendations included in this guidance into consideration may help avoid the environmental claims used or planned to be used by your undertaking being misleading to consumers. In addition, it can be useful to consult a person or organisation aware of the legal requirements and take their opinion into account as well as to monitor the current enforcement practice of the GVH.

The GVH continuously monitors the development of market processes and whenever it detects commercial practices which are likely to infringe the law, whether based on a complaint or its own observations, it may initiate a proceeding in order to investigate the market practices of the undertaking in question.