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An: xxx, BMWK
Cc: xxx
Betreff: Green Claims Directive/EcoBeautyScore

Guten Tag,

ich möchte mich Ihnen kurz vorstellen: xxx. Unter die Definition der von unserem Verband vertretenen kosmetischen Mittel fallen eine Vielzahl von Produkten, wie z.B. Shampoo, Lippenstift, Zahnpasta und Sonnenschutz, um nur einige zu nennen.
Mein Kollege xxx betreut die rechtlichen Fragen, wie z.B. die Regelungen zu umweltbezogenen Werbeaussagen, inklusive der geplanten „Green Claims Verordnung".

Wir möchten Sie auf einige neuere Entwicklungen hinweisen und um Ihre Unterstützung bitten. Wie Sie bestimmt wissen, hat die EU-Kommission seit mehr als 10 Jahren ein Verfahren etabliert, mit dessen Hilfe der CO2-Fußabdruck von Produkten bestimmt werden kann. Die von der EU-Kommission festgelegte „PEF"-Methodik ist aber für kosmetische Mittel ungeeignet. Wir unterstützen allerdings den Grundsatz, dass umfassende Informationen über die Umweltauswirkungen von Produkten klar, transparent, wissenschaftlich fundiert und vergleichbar sein sollten, d. h. auf einer soliden Fußabdruckmethodik beruhen sollten, und glauben, dass solche Informationen den Verbrauchern helfen können, nachhaltigere Entscheidungen zu treffen. Um aber eine angemessene Methodik auf Basis der Regelungen der EU-Kommission zu entwickeln, wurde vor zwei Jahren das EcoBeautyScore-Konsortium (EBS) gegründet: The EcoBeautyScore Consortium a breakthrough initiative.
Dem EcoBeautyScore-Konsortium gehören 70 Firmen und Verbände weltweit an. Es hat sich zum Ziel gesetzt, ein weltweites System zur Bewertung der Umweltauswirkungen von kosmetischen Produkten und damit verbunden ein Bewertungsschema zu entwickeln. Durch die Einhaltung gemeinsamer und transparenter Grundsätze soll ein Punktesystem den Verbrauchern helfen, nachhaltige Kaufentscheidungen zu treffen, indem es den Vergleich kosmetischer Produkte und die Priorisierung umweltfreundlicher Optionen ermöglicht. Es soll auch Anreize für Unternehmen schaffen, die Nachhaltigkeit ihrer Produkte zu verbessern, um ihre Umweltbewertung zu erhöhen und so die Nachhaltigkeitsbemühungen in der gesamten Branche zu unterstützen.
Das Konsortium arbeitet mit externen Experten zusammen, darunter Wissenschaftler, Akademiker und Nichtregierungsorganisationen. Über den jeweiligen Stand der Ergebnisse informiert das Konsortium regelmäßig. Die vom Konsortium entwickelte Arbeit wird veröffentlicht und soll auf freiwilliger Basis sowohl von den Teilnehmern des Konsortiums als auch von allen anderen interessierten Parteien genutzt werden können. Seit dem 11. März findet nun auch eine erste öffentliche Konsultation zu den Arbeiten des EBS statt: EBS objectives and Public Consultation principles (ecobeautyscore.com). Ziel dieser Konsultation ist es, allen interessierten Parteien die Möglichkeit zu geben, die EBS-Methodik und das Bewertungssystem zu überprüfen und zu kommentieren und ihre Anmerkungen einzubringen, bevor diese Methoden für eine Auswahl von Produktkategorien (einschließlich Shampoo und Feuchtigkeitscremes für das Gesicht) fertiggestellt und in der Praxis angewandt werden.

Im Zuge der Beratungen zur geplanten Green Claims-VO wird derzeit auch über die in Art. 7 Abs. 2 des Kommissionsentwurfs vorgesehene Regelung diskutiert, nach der ein aggregiertes Scoring in Zukunft nur auf Basis von in EU-Vorschriften geregelten Kennzeichnungssystemen verwendbar sein soll. Im Hinblick auf die Arbeiten des EBS setzen wir uns dafür ein, dass zumindest während einer Übergangszeit - bis zur Einführung eines solchen Systems im Rahmen des Unionsrechts – auch andere seriöse Scoring-Systeme zugelassen werden sollten, die auf

einer vollständigen Lebenszyklusanalyse basieren. Zu diesem Thema und zur Frage einer verbindlichen „claim-by-claim“-Verifizierung durch Dritte im Rahmen der Green Claims Directive, die mit einem erheblichen bürokratischen Aufwand verbunden wäre, finden Sie anbei das aktuelle Positionspapier unseres Europäischen Dachverbands Cosmetics Europe.

Wir würden Ihnen und Ihren interessierten Kollegen gerne in einem Gespräch die Arbeiten des EBS näher vorstellen und gerne auch über Fragen zur Formulierung der Green Claims-VO diskutieren.

Vielen Dank und viele Grüße
xxx
Industrieverband Körperpflege- und Waschmittel e. V.
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04.03.2024

Green Claims Directive proposal

Cosmetics Europe recommendations ahead of Council General approach

Cosmetics Europe[1], the European trade association for the cosmetics and personal care industry, welcomes the European Commission's proposal for a Green Claims Directive and supports its overarching goal to tackle "greenwashing" and develop an EU-harmonised legislative framework on green claims. This would help creating a level playing field for businesses and truly empower consumers to make more sustainable choices.

Given the crucial role of claims in differentiating cosmetic products, stimulating innovation and fostering competition, and given Cosmetics Europe's longstanding engagement in this field, we would like to share our recommendations on how to reach further a workable framework which allows timely market access for improved products for which substantiated environmental claims are made.

Workable alternative to the ex-ante verification

The mandatory external ex-ante verification of environmental claims would lead to high administrative costs and a considerable administrative and bureaucratic burden, which would inhibit the spontaneity and speed, on which marketing lives to a large extent. This in turn will delay the offer of key information on more sustainable products and might lead to green hushing as fewer companies could find themselves in a position to communicate the more sustainable aspects of their products. Thus, it would be counterproductive for the goals of the Green Deal.

The claim-by-claim pre-approval process should be replaced by the obligation for companies to set-up **internal verification processes** to verify the substantiation and communication of environmental claims. Upon completion of such procedure, a company would draw up a substantiation dossier mutually recognized within the EU at the time of making the claim public. The substantiation dossier would be made available upon request in any audit procedures as part of **in-market controls** of national authorities of the Member State where the economic operator is established, to ensure correct application and enforcement.

Our alternative proposals for a wording of Article 10, which are based on external audits of the internal procedures of traders, are highlighted below with the following amendments presented in the annex, which in our view would be necessary to make the system workable.

Aggregated scoring and private labels

We support the principle that broad environmental impact information on products should be clear, transparent, science driven and comparable, hence based on a robust footprint methodology, and believe that such information can help consumers make more sustainable choices. Therefore, we welcome **the recognition of the usefulness of science driven private labels and aggregated scoring** if they provide added value to the consumers.

By adhering to shared and transparent principles, a scoring system would support consumers in making sustainable purchase decisions by enabling cosmetic product comparison and prioritisation of environmentally

[1] For more information about Cosmetics Europe, visit www.cosmeticseurope.eu

friendly options. It would also incentivise companies to improve the sustainability of their products to upgrade their environmental scores, supporting sustainability efforts in across the industry.

We agree with the intention to ensure that environmental labelling systems should be robust, and science based to ensure consumers have access to transparent information as reflected by the wording of the Directive. Therefore, to ensure continuous legal certainty, we suggest that **an interim framework should be developed to allow the use of aggregated scoring systems that are based on a full life-cycle analysis until a dedicated "Union law" is adopted** and not only to be established in national legislation.

Potential ban for environmental claims for products containing hazardous substances.

We would like to remind authorities that, even if a substance would be hazardous, it could still be properly risk managed, controlled, and further used in consumer products without provoking adverse effects on human health or the environment. Consequently, this should not preclude the use of environmentally claims, provided they are properly justified and compliant with the GCD.

Many Natural Complex Substances (NCS) derived from plants or plant components–find extensive use in cosmetics, being well known in terms of safety and consumer benefits, despite their inclusion of substances with inherent hazardous properties. Implementing such a system could disincentive the use of this substances and then damage the EU agriculture, contradict the objectives of the Green Deal by preventing genuinely sustainable products from making environmental claims. **Therefore, we strongly oppose any potential ban for environmental claims for products containing hazardous substances, specifically on natural products.**

Annex - Cosmetics Europe proposals for amendments.

Article 2

Definitions

Commission proposal	Cosmetics Europe recommendation
Article 2, point 2 'explicit environmental claim' means an environmental claim ***that is in textual form or contained in an environmental label;***	**Article 2, point 2** 'explicit environmental claim' means an environmental claim ***where the specification of the claim is provided in clear and prominent terms on the same medium or through digital means***. ***For the avoidance of doubt, this excludes any messages or representations regarding product composition, ingredients, packaging, or other attributes of traders, products and services, provided such messages or representations primarily focus on aspects other than environmental impact.***

Article 7

Environmental labels

Commission proposal	Cosmetics Europe recommendation
Article 7, paragraph 1 Member States shall ensure that environmental labels fulfil the requirements set out in Articles 3 to 6 and are subject to verification in accordance with Article 10.	**Article 7, paragraph 1** Member States shall ensure that environmental labels fulfil the requirements set out in Articles 3 to 6 and are subject to verification in accordance with Article 10. ***This paragraph shall apply to all environmental labels presenting a rating or score of a product or trader, including those run by economic and non-economic operators.***
Article 7, paragraph 2 Only environmental labels awarded under environmental labelling schemes established under Union law may present a rating or score of a product or trader based on an aggregated indicator of environmental impacts of a product or trader.	**Article 7, paragraph 2** Only environmental labels awarded under environmental labelling schemes established under Union law may present a rating or score of a product or trader based on an aggregated indicator of environmental impacts of a product or trader. ***Until a dedicated Union law establishing such labelling scheme is adopted, environmental labels may present a rating or score if these rely on a full life cycle analysis-based methodology complying with the requirements of this Directive.***

Recital 41 The environmental labels often aim at providing consumers with an aggregated scoring presenting a cumulative environmental impact of products or traders to allow for direct comparisons between products or traders. Such aggregated scoring however presents risks of misleading consumers as the aggregated indicator may dilute negative environmental impacts of certain aspects of the product with more positive environmental impacts of other aspects of the product. In addition, when developed by different operators, such labels usually differ in terms of specific methodology underlying the aggregated score such as the environmental impacts considered or the weighting attributed to these environmental impacts. This may result in the same product receiving different score or rating depending on the scheme. This concern arises in relation to schemes established in the Union and in third countries. This is contributing to the fragmentation of the internal market, risks putting smaller companies at a disadvantage, and is likely to further mislead consumers and undermine their trust in environmental labels. In order to avoid this risk and ensure better armonizedon within the single market, the explicit environmental claims, including environmental labels, based on an aggregated score representing a cumulative environmental impact of products or traders should not be deemed to be sufficiently substantiated, unless those aggregated scores stem from Union rules, including the delegated acts that the Commission is empowered to adopt under this Directive, resulting in Union-wide armonized schemes for all products or per specific product group based on a single methodology to ensure coherence and comparability.	**Recital 41** The environmental labels often aim at providing consumers with an aggregated scoring presenting a cumulative environmental impact of products or traders to allow for direct comparisons between products or traders. Such aggregated scoring however presents risks of misleading consumers as the aggregated indicator may dilute negative environmental impacts of certain aspects of the product with more positive environmental impacts of other aspects of the product. In addition, when developed by different operators, such labels usually differ in terms of specific methodology underlying the aggregated score such as the environmental impacts considered or the weighting attributed to these environmental impacts. This may result in the same product receiving different score or rating depending on the scheme. This concern arises in relation to schemes established in the Union and in third countries. This is contributing to the fragmentation of the internal market, risks putting smaller companies at a disadvantage, and is likely to further mislead consumers and undermine their trust in environmental labels. In order to avoid this risk and ensure better armonizedon within the single market, the explicit environmental claims, including environmental labels, based on an aggregated score representing a cumulative environmental impact of products or traders should not be deemed to be sufficiently substantiated, unless those aggregated scores stem from Union rules, including the delegated acts that the Commission is empowered to adopt under this Directive, resulting in Union-wide armonized schemes for all products or per specific product group based on a single methodology to ensure coherence and comparability. ***Until Union rules are adopted, scoring systems are only allowed if they rely on a full life cycle analysis-based methodology that complies with the requirements set by the Directive.***

Article 8

Requirements for environmental labelling schemes

Commission proposal	**Cosmetics Europe recommendation**
Article 8, paragraph 5 a (new)	**Article 8, paragraph 5 a (new)**

	When interpreting what constitutes an added value, Member States should recognise the ability that such schemes have to rapidly respond to the latest industry innovation and environmental standards.
Article 8, paragraph 5 b (new)	**Article 8, paragraph 5 b (new)** ***Private environmental labelling schemes established prior to that date may continue to award the environmental labels on the Union market, provided they meet the requirements of this Directive.***

Article 10

Verification and certification of the substantiation and communication of environmental claims and environmental labelling schemes

Commission proposal	**Cosmetics Europe recommendation**
1. ***Member States*** shall set up procedures for verifying the substantiation and communication of explicit environmental claims against the requirements set out in Articles 3 to 7. 2. Member States shall set up procedures for verifying the compliance of environmental labelling schemes with the requirements set out in Article 8. 3. The verification and certification requirements shall apply to traders that are microenterprises within the meaning of Commission Recommendation 2003/361/EC only if they so request. 4. The verification shall be undertaken ***by a verifier fulfilling the requirements set out in Article 11, in accordance with the procedures referred to in paragraphs 1 and 2, before the environmental claim is made public or the environmental label is displayed by a trader.*** 5. For the purposes of the verification the verifier shall take into account the nature and content of the ***explicit environmental claim or*** the environmental label. 6. Upon completion of the verification, the verifier shall draw up, where appropriate, a certificate of conformity certifying that ***the explicit environmental claim or*** the	1. ***Traders*** shall set up procedures for verifying the substantiation and communication of explicit environmental claims against the requirements set out in Articles 3 to 7. 2. Member States shall set up procedures for verifying the compliance of environmental labelling schemes with the requirements set out in Article 8. 3. The verification and certification requirements shall apply to traders that are microenterprises within the meaning of Commission Recommendation 2003/361/EC only if they so request. 4. The verification ***of environmental claims*** shall be undertaken ***the traders via internal procedures.*** ***4a new. External audits shall be set up recurrently by the traders to review the internal procedure implemented.*** ***4b new. The verification of an environmental label shall be undertaken by a verifier fulfilling the requirements set out in Article 11, in accordance with the procedures referred to in paragraphs 1 and 2, before the environmental label is displayed by a trader.*** 5. For the purposes of the verification the verifier shall take into account the nature and content of the environmental label.

environmental label complies with the requirements set out in this Directive. 7. The certificate of conformity shall be recognised by the competent authorities responsible for the application and enforcement of this Directive. Member States shall notify the list of certificates of conformity via the Internal Market Information System established by Regulation (EU) No 1024/2012. 8. The certificate of conformity shall not prejudge the assessment of the environmental ***claim*** by national authorities or courts in accordance with Directive 2005/29/EC. 9. The Commission shall adopt implementing acts to set out details regarding the form of the certificate of conformity referred to in paragraph 5 and the technical means for issuing such certificate of conformity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19.	6. Upon completion of the verification, the verifier shall draw up, where appropriate, a certificate of conformity certifying that the environmental label complies with the requirements set out in this Directive. 7. The certificate of conformity shall be recognised by the competent authorities responsible for the application and enforcement of this Directive. Member States shall notify the list of certificates of conformity via the Internal Market Information System established by Regulation (EU) No 1024/2012. 8. The certificate of conformity shall not prejudge the assessment of the environmental ***labelling scheme*** by national authorities or courts in accordance with Directive 2005/29/EC. 9. The Commission shall adopt implementing acts to set out details regarding the form of the certificate of conformity referred to in paragraph 5 and the technical means for issuing such certificate of conformity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19.

Article 25

Transposition

Commission proposal	**Cosmetics Europe recommendation**
Article 25, paragraph 1 Member States shall adopt and publish by [OP please insert the date = *18 months after the date of entry into force of this Directive*] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately communicate the text of those measures to the Commission. They shall apply those measures from [OP please insert the date = ***24*** *months after the date of entry into force of this Directive*].	**Article 25, paragraph 1** Member States shall adopt and publish by [OP please insert the date = *18 months after the date of entry into force of this Directive*] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately communicate the text of those measures to the Commission. They shall apply those measures from [OP please insert the date = ***36*** *months after the date of entry into force of Directive*] ***to products, informational and packaging materials placed on the market after this date.***