

Green Claims Directive legislative proposal

Comments from the European non-ferrous metals industry

Introduction

The legislative proposal on substantiation and communication of explicit environmental claims, called in short the Green Claims Directive, follows on from the EU Green Deal and 2020 Circular Economy Action Plan commitment to tackle false environmental declarations.

The EU non-ferrous metals industry, delivering materials for many low-carbon applications needed for the green and digital transitions, sees the proposed directive as a tool paving the way for better-informed choices of consumers on the products available on the EU single market.

In this paper, Eurometaux comments on selected issues, presenting its views on possible improvements.

Key recommendations

- **Product Environmental Footprint (PEF) methodology** – As the official EU methodology, the Environmental Footprint needs to be referred to in the Art. 3 of the Greens Claims proposal and not only mentioned in the recitals.
- **Presence of hazardous substances** – Some hazardous substances are needed to fulfil the objectives of the EU Green Deal as they provide unique product performance, e.g. in EV batteries or PV panels. The risk associated with the necessary uses of these substances can be managed by controlling (reducing) exposure. Their presence in a product should not be the sole reason for prohibiting an environmental claim for a given product, thus exposure/risk considerations should be part of the evaluation.

Product Environmental Footprint (PEF) methodology (Recitals 17, 32)

Product performance needs to be assessed on the full life cycle basis. We see this approach effectively implemented in the Batteries Regulation. As there are many LCA-based methods available, we would like to refer particularly to the Environmental Footprint (EF) methodology that improves them by integrating data quality requirements and rules that improve consistency. It also requires a cradle-to-grave approach, which includes the End-of-Life (EoL) stage.

In 2013, this methodology was proposed by the European Commission as a common way to measure environmental performance of products (PEF) and organisations (OEF). The updated Commission



JULY 2023

Recommendation (EU 2021/2279) included changes based on the so called EF Pilot Phase when >20 industry sectors developed PEF or OEF category rules for various products and sectors. As Eurometaux we have been actively engaged in the process via the preparation of the Product Environmental Footprint Category Rules (PEFCR) for “Metal Sheets in Various Applications” and “Rechargeable batteries”.

2020 Circular Economy Action Plan confirmed that the European Commission will prepare the Green Claims proposal with an objective of proposing that companies substantiate their environmental claims using Product and Organisation Environmental Footprint methods. To our surprise, the legislative proposal contains only a minimal reference to it, not even in the articles but only in the Recitals 17 and 32.

We recommend that the Green Claims Directive prioritises the EU Environmental Footprint methodology, even if certain impact categories (e.g. toxicity, ecotoxicity, resources use) are not robust enough to be used for metals at this stage.

We understand that not all products have PEFCR available, and some may use a different LCA methods like construction products. Their dedicated Regulation, EU 305/2011, refers to EN 15804 standard on the Environmental Product Declarations (EPDs) which is based on the assessment of specific life cycle stages of the product. Nonetheless, over the last years, an alignment has been extensively sought between EN15804 and PEF.

Our recommendation:

- Introduce in Art. 3 a reference to the Product Environmental Footprint (PEF) as the EU methodology and insert its definition in the Art. 2.
- Allow for the use of other LCA- and scientific evidence-based methods, if PEF category rules are not existing, or if sectoral specificities have to be accounted for (e.g. construction products), or when certain impact categories in PEF are not robust enough (e.g. toxicity, ecotoxicity).

Presence of hazardous substances (Art. 21)

The legislative proposal introduces in Art. 21 a few additional aspects that could be considered when the Directive is evaluated in light of presenting a report to the co-legislators, the European Parliament and the Council. One of the references is made to the *“transition towards toxic free environment by considering introducing a prohibition of environmental claims for products containing hazardous substances except where their use is considered essential for the society in line with the criteria developed by the Commission”*.

A lot of non-ferrous metals / metal compounds, including those necessary in applications crucially needed for the Green Deal's twin transition, e.g. in EV batteries, wind turbines, solar PV systems, electronics, have classifiable hazards of some type. These hazards are communicated via the CLP Regulation. However, the possible risks



JULY 2023

along their manufacture, use in products and recycling can be controlled by compliance with the REACH Regulation, occupational safety and health (OSH) legislation and/or sector-specific environmental legislation to ensure that they do not pose an unacceptable risk to human health or the environment.

The use of these substances is driven by physical and chemical properties critical to the functionality, safety and performance of products, for example in batteries. Very often substituting (i.e. replacing) these materials is neither technically nor economically feasible at this stage.

Another key characteristic of metals is that when, in mixtures like alloys, or in materials like glass, ceramics, tiles, the hazard properties may be different than those of the pure metal (compounds). This is due to the presence of a matrix in which metals are combined. As a consequence, the concentrations of the metal ingredients in such materials are often not good predictors of the actual contribution that those ingredients make to the material's hazard and risks. These contributions can be tested and demonstrated.

Eurometaux recommends not to include a reference to the “essential use” concept in the legislative text until it is properly defined, criteria are set and experiences on its implications and workability are gained.

Therefore, any future considerations around prohibition of environmental claims for products containing hazardous substances need to be made upon risk management and not hazard-based approach also with a consideration of the Green Deal objectives. The essential use criteria developed by the European Commission may allow to identify these substances requiring fast-track risk management if not yet in place.

Our recommendation:

- Allow for environmental claims for products containing hazardous substances and use risk control and exposure (not only hazard) as the basis for evaluation.
- Abstain from referencing the “essential use” concept until it is properly defined, criteria are set and experiences on its implications and workability are gained.

Contact: Kamila Slupek, Sustainability Director | slupek@eurometaux.be | +32 (0)2 775 63 25

About Eurometaux: Eurometaux is an industry association representing the collective European non-ferrous metals industry, including smelters, refiners, fabricators and recyclers of all non-ferrous metals produced industrially in Europe. In total the industry employs 500,000 people across over 900 facilities, with an annual turnover of €120bn.

