

## Combating Greenwashing: Guidelines On Misleading Environmental Claims in Advertisements Has Been Published.

*21 Jul 2023*

Environmental awareness, which has become more prominent as a result of the climate crisis, is one of the leading themes that companies opt for in their communication with consumers. Besides trying to maintain high levels of awareness about this issue through the relevant consumer group, companies utilize this strategy to keep up with the current global trends. An aberration from the humanistic intentions of such a strategy is a phenomenon known as greenwashing in which firms appear to be more environment-friendly than they actually are by providing misleading or false information about the environmental impact of their products to create an unfair advantage.

To prevent greenwashing, the General Directorate of Consumer Protection and Market Surveillance at the Ministry of Trade adopted the "Guide on Advertisements Containing Environmental Claims" ("Guide") as a principal decision numbered 2022/2 at the meeting of the Board of Advertisement ("Board") dated December 13, 2022 and numbered 328<sup>[1]</sup>.

### **The Scope of the Guide:**

The Guide was prepared to instruct all persons, institutions and organizations involved in advertising to ensure the claims and visuals used in their advertisements and commercial practices comply with the relevant legislation. The Guide includes regulations concerning all kinds of advertisements and unfair commercial practices that contain environmental claims, statements and visuals targeted at consumers.

In the Guide, an environmental claim is defined as a statement or visual within the scope of a commercial advertisement or commercial practice, indicating that a good or service provides environmental benefits or does not have a negative impact on the environment during its composition, production, supply to the market, use or disposal processes. The principles and examples provided in the Guide are regulated in parallel with the main concepts used in the advertisement legislation. In addition, the Guide includes regulations elaborating further general principles set forth in the Regulation and the Law:

- Pursuant to Article 5(4), generic terms that may qualify as environmental claims (such as "green", "sustainable", "environment-friendly", "eco", "energy efficient", "recyclable") cannot be used without an explanation. Such an explanation should clarify the subject matter of the environmental claims, their purpose and how they are used, which part of the product's life cycle is covered by the claims, and the methods used to assess the environmental impacts. The use of these generic terms in a way that causes ambiguity about the environmental impacts of the good, service or production processes is prohibited.
- Under article 5(6), claims regarding the legal processes and standards that the advertiser or the goods and services at issue must comply with under the relevant legislation, or statements about processes or ingredients that are currently not used, shall not be utilized to create the impression that the process or the company is different or superior to its competitors or counterparts.
- It should be clearly indicated which part, component, or process of the good or service is the subject of the environmental claim contained in the advertisement (Article 5(7)). This principle aims to protect consumers against the misconception that the advertised good has a more positive and sustainable impact on the environment than it actually does. The principle is also applicable to both claims concerning biodegradation or composting of the goods (Article 5(9)) and those about their recyclability (Article 8(2)). Additionally, the Guide states that certificates used in the advertisement in regard to a good, its packaging or a service

(Article 6) must be verified and any claims concerning biodegradability (Article 7) must be substantiated by information and documents obtained from authorized public institutions and organizations, relevant departments at universities or accredited research, testing and inspection institutions.

- Environmental claims in advertisements should not, directly or indirectly, mislead consumers into thinking that the goods or their packaging are recyclable (Article 8), that the goods or their packaging are made of recycled ingredients (Article 9), and that renewable energy (Article 10) and recycled water (Article 11) have been used in the production of the goods, their packaging or in the delivery of the services. In the case of claims related to recycled materials, renewable energy, and recycled water, the percentage of and/or numerical data about these qualities must be clearly and distinctly stated to inform the consumer.

The Guide, which has very detailed regulations, holds advertisers, advertising agencies and broadcasting organizations individually responsible for environmental claims.

### **Board of Advertisement Practice:**

Now that environmental concerns are on the rise and sustainability is deemed the most viable solution and broadly discussed, there has been an increase in the number of advertisements containing claims which try to address this global issue. The rise in the number of such advertisements had attracted the attention of the Board of Advertisement even before the Guide was accepted and published. The following are decisions by the Board - after the adoption of the Guide - in which environmental claims have been evaluated:

- At the Board meeting dated 14.02.2023 and numbered 330, in the file 2022/6001 regarding the advertisements entitled *"Flat Packaging: An environment-friendly idea"*, the information and documents submitted were examined. The Board held that *flat packaging of the products resulted in the use of fewer vehicles for the shipping of the products, subsequently reducing fuel usage and carbon emission*, and the advertisements subject to the review were not found to be contrary to the Law and the Regulation.
- At the Board meeting dated 10.01.2023 and numbered 329, in the file 2022/4415, the Board accepted the objection against the previous decision by assessing the information, documents and test results submitted as proof of the following claims: "Biodegradable Ingredients", "It is made of 25% recycled plastic. (...) We aim to prevent the production of 70 tons of pure plastic on average with our bottles made of 25% recycled plastic.", "100% recyclable packaging". The objection was rejected in terms of the comparative environmental claim "More Sensitive to Nature". In the first decision subject to the objection, the statements in the promotions were characterized as "environmental claims." However, it was pointed out that under the latter claim, it was not clear whether the products were compared with the advertiser's previous products under the same brand name or with the competitors' products. The Board added that the *evidence to be presented should provide in a comparative manner the overall environmental impact of the detergents throughout the whole or a part of their life cycle*. In the decision subject to the opposition, the Board ruled that the advertisements were also in violation of Articles 7, 9 and 17 of the Regulation.

### **European Union Practice:**

It should be underlined that parallel principles to those set out in the Guide are also included in the Proposal for a Directive of the European Parliament and of the Council on Substantiation and Communication of Explicit Environmental Claims (Green Claims Directive) dated 22.03.2023. The Proposal states that consumers are willing to contribute to a greener and more circular economy, but such active and effective participation is hindered by lack of trust in the credibility of environmental claims and an increase in misleading advertisement practices regarding the sustainability of products. The Proposal sets forth regulations on two main topics: preventing greenwashing based on ambiguous or inadequately substantiated claims, and ensuring the use of reliable and transparent environmental labels.

[1] The legal basis of the Guide is Article 61 and 62 of the Law on Consumer Protection No. 6502 ("Law") and the Regulation on Commercial Advertisement and Unfair Commercial Practices ("Regulation").

## **Related Practices**

- [Unfair Trade Practices](#)
- [Product Liability and Consumer Protection](#)

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