

The Confederation of Swedish Enterprise's comments on the EU Commission's "Substantiating Green Claims" initiative

The Confederation of Swedish Enterprise welcomes the European Commission's ambition that companies should be able to substantiate environmental claims with the help of harmonized and standardized methods. The Confederation shares the view that there is an abundance of different types of environmental information about products, which makes it difficult for consumers to make appropriate choices. Lack of harmonization also constitutes an obstacle to the internal market. The sheer variety of environmental information based on different methods also risks undermining confidence in information that is communicated. Different national systems within the EU also mean that companies operating on the European market may need to register with a large number of systems in different countries. This is administratively burdensome and drives up costs for limited environmental benefit.

The ability to substantiate environmental claims through reliable, comparable, and verifiable methods, which are harmonized across the EU, improves clarity, and reduces the risk of "green washing". Harmonization also makes it easier for consumers and commercial and public purchasers to make more sustainable choices and increases confidence in eco-labelling and environmental information. Standardized, or other well-founded and reliable methods and criteria for reporting environmental impact, provides incentives for business to gradually improve and develop products with increasingly lower environmental impact and contribute to meeting long-term goals within the framework of the European Green Deal and global sustainability goals.

The Confederation believes that the harmonization of environmental claims within the EU should primarily focus on the harmonization of criteria for different eco-labels through **harmonized definitions and methods** for the development of environmental claims. This ensures that data is produced uniformly and that what companies want to be measured is treated in the same way for different labels and methods to enable fair comparisons.

The Confederation believes that the Commission's work to harmonize environmental claims – if appropriately structured and adapted to the circumstances of different products and companies – can be an important tool for the European Union's path towards achieving a fossil-free, circular economy.

The Confederation would like to make the following contributions to the Commission's initiative to draft legislation on environmental claims. The contributions contain the following key messages:

- Market-driven systems remain important if based on transparent communication
- The EU Commission must review which product groups should be subject to additional environmental information requirements in relation to expected environmental benefit
- Legal requirements for environmental and sustainability information for product groups must result in fair competition
- The Commission needs to ensure its various initiatives are co-ordinated

Market-driven systems remain important if based on transparent communication

The market must be allowed to continue to take the lead and drive the development of systems for environmental claims, but these need to be communicated in a transparent manner in accordance with current ISO standards.

Depending on which environmental impact measures a company wants to evaluate and communicate, the Confederation believes that individual companies should have the option of deciding for themselves which method is best suited to use as a basis for making their environmental claims. However, this presupposes that a recognized methodology is followed, for example long-established ISO 14024 type 1 eco-labels, life-cycle assessment (LCA) methodologies based on applicable ISO standards, or similar. The choice of method is governed, inter alia, by which environmental impact category or categories are to be evaluated and whether other information needs to be considered, such as the content of specially selected substances, the proportion of certified raw materials, or similar.

It is also important that companies operating on global markets have the option of producing environmental statements that are globally recognized and not limited to using only methods that are approved within the EU. There is a large number of global and regional market-driven systems for eco-labelling, certification, and information on the environmental and quality performance of various products that are based on the need for companies to be able to develop and compete on product performance. It should continue to be possible to use these standards, but communication must be clear and transparent regarding the choice of methods, criteria, and standards applied. The Confederation believes that the EU can play a role in contributing to the increased harmonization of criteria between different national, regional, and global systems and support the alignment of information between systems. This promotes fair free trade, which is important for an export-dependent businesses.

The EU Commission must review which product groups should be subject to additional environmental requirements in relation to expected environmental benefit

Regulatory requirements are already in place for reporting environmental or energy-related information for certain product groups and articles within the EU. For example, this applies to information on energy efficiency for products included in the European Ecodesign Directive, reporting of substances of very high concern (SVHCs) above certain levels to the ECHA's SCIP database, information on the content of chemical products, and information on fuel consumption and CO₂ emissions for different car models. The Commission should conduct a thorough impact assessment into the climate and environmental benefits of introducing new information requirements for different types of products set against the costs caused by such requirements.

The Confederation believes that it is not appropriate to introduce mandatory requirements for all companies to issue environmental declarations for all products on the internal market.

Requirements for environmental declarations should only be introduced for products where a clear climate and environmental benefit due to access to comparable environmental declarations can be expected to be achieved and where it has been identified that greater clarity in environmental information for consumers is necessary. When introducing requirements for companies to report the environmental footprint of products, a balance must also be struck between the expected environmental benefit and the costs and administrative burden that their introduction entails for companies.

The prerequisites for applying LCA methodologies differ greatly depending on the type of product being evaluated. Conducting LCA studies on, for example, complex composite products with different components and global value chains is often challenging due to the large amount of information that needs to be collected and analysed. It can also be difficult to access verifiable and accurate information for such analyses. For complex and composite products, therefore, it is currently often not possible to create a good basis for complete life-cycle analyses. For these products it is more appropriate to use LCA as an internal analysis tool to prioritize where the greatest environmental improvements can be made.

The level of knowledge and availability of resources for the production of environmental declarations also differs substantially between different companies. Different actors thus have different conditions and needs, which should be considered when formulating legislation.

Legal requirements for environmental and sustainability information for product groups must result in fair competition

For those product groups which, following an impact assessment, the Commission believes that stricter requirements are required for reporting environmental and sustainability information, definitions and methods must be clear and harmonized. Businesses should be given the opportunity to participate in establishing definitions of environmental and sustainability criteria and in selecting or developing methods for producing certain environmental or sustainability information. If different methodologies are accepted for producing such information, they must still be competition-neutral and allow for fair comparison between equivalent products.

Different methods of LCA-based information should be applied

We understand that the Commission is focusing on Product Environmental Footprint (PEF) as a method for producing LCA-based environmental information about products. However, this methodology is not yet fully applicable except for an extremely limited number of product types where approved PEFCRs, (category rules for these product groups), are available. If the Commission concludes that the PEF method will be used at scale, extensive work will be required to develop PEFCRs for additional product groups. In addition, significantly more high-quality secondary data will need to be made available. Business must be involved in these efforts.

However, many sectors – the building materials industry in particular and others – have used Environmental Product Declarations (EPDs) as environmental declarations for many years.

These are based on a well-established LCA methodology according to ISO 14026 and, for example, European standard EN15804 “Sustainability of construction works - Environmental product declarations - Core rules for the product category of construction products” plus a large number of product-specific PCRs (product category rules). Considerable resources have been invested in the EPD initiative and this needs to be safeguarded and maintained. We call on the European Commission to work for greater harmonization of the EPD system and the PEF.

Life-cycle-based environmental impact may need to be supplemented

Applying only LCA as a methodology for information requirements on products’ environmental and sustainability performance can be misleading. This may be because LCA studies do not always include all relevant environmental impacts, health risks, or other sustainability aspects associated with a product and its functional properties. There may therefore be a need to supplement an LCA-based environmental declaration with other environmental or sustainability indicators. The Confederation believes that the various tools environmental declarations, environmental and sustainability labels, and product passports should be able to work together to varying degrees for different product groups to achieve the goal of “Substantiating Green Claims” and at the same time provide expanded and transparent information about product content.

Environmental data should be communicated at reasonable intervals

All reporting involves administration for companies. It is therefore important to establish reasonable requirements in terms of reporting frequency for companies to communicate data regarding environmental claims. The value, i.e., the environmental benefit, of the frequency of certain data points must also be carefully analysed before it is established. For example, the Commission proposes in its battery regulation that reporting of carbon footprints should be done at batch level. This is not a reasonable reporting period for a continuous manufacturing process. The use of average data on an annual basis should be sufficient to make environmental claims about a product. Even an annual basis is a relatively strict requirement in that LCA product analyses are typically based on annual values expressed as an average value of data three years back in time. Against this background, the Confederation calls on the Commission to set the level of ambition for the frequency of reporting for any mandatory environmental information for products at an annual average at most.

Need for market control and equivalent requirements for imported products

If the Commission proposes the introduction of requirements for companies to report environmental declarations based on life-cycle analyses for their products, market control must be ensured and possibly strengthened to guarantee a level playing field. In particular, compliance must be monitored for products manufactured outside the EU to prevent European companies being disadvantaged and that the objectives of the regulation are not being achieved. For business, it is important that active supervision takes place. Supervision needs to be conducted for environmental claims for consumer products and products that are sold business to business. An existing national authority with relevant competence for tasks should be appointed for this task.

Guidelines are needed for environmental communication to various stakeholders

There should be different guidelines for which environmental information should be reported and in what way depending on the intended target group. In addition to setting a framework for companies' reporting, the "Green Claims" legislation should also consider the form in which information can be communicated to consumers and that this may need to look different for private consumers and private and public buyers. It is vital that information an environmental claim is intended to communicate is in fact conveyed and therefore guidelines for communication need to be developed.

The Commission needs to ensure its various initiatives are co-ordinated

In summary, the Confederation of Swedish Enterprise wants to emphasize that it is crucial that all the various initiatives that the European Commission oversees are co-ordinated so that they do not work against each other, result in regulatory duplication, or create ambiguity for business or public administration. This applies to initiatives such as the broadening of the Ecodesign Directive, the introduction of a European Product Passport, the development of criteria for sustainable products to use in, for example, green public procurement (GPP), further development of the EU Ecolabel, and the introduction of PEF as a methodology for environmental declarations. The EU has access to all these initiatives and the Confederation calls on the Commission to use elements of these concepts to establish uniform and relevant criteria to the greatest extent possible, set relevant minimum requirements, and provide guidance for consumers on environmental information.

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This year the Commission is expected to present a legislative proposal regulating how companies substantiate green claims. The initiative is a part of the Circular Economy Action Plan and aims to harmonise the way in which environmental performance of products is calculated and communicated. Thereby, the Commission wants to tackle "green wash" and make it easier for consumers and commercial and public purchasers to make more sustainable choices. The initiative is of principal importance for The Confederation, our member organizations and their member companies and we therefore want to contribute to the process ahead by emphasizing our positions in this paper.