The EU's Green Claims Directive

July 2024

The EU's proposed Green Claims Directive (GCD) sets out expansive new rules for companies making green claims in the EU. The directive is currently being negotiated. The table below charts the EU Commission, Parliament and Council's respective positions giving an indication of the key fault lines and the potential direction of travel.

	EU COMMISSION	EU PARLIAMENT	EU COUNCIL
1. Future-looking green claims[1]	• Future-looking green claims (eg about sustainability targets) must include a time-bound commitment for improvements across both the company's own operations and value chains (Art 5(4)).	Stricter requirements on future-looking green claims including: • time-bound commitments must be *science-based* and *measurable* • claims must be backed up by a publicly-available implementation plan (with measurable and verifiable interim targets), a monitoring plan and a reporting plan (Art 5(4)).	Future-looking green claims must include details about the implementation plan backing them up, as required under recent changes to the EU's Unfair Commercial Practices Directive (**UCPD**). Under the UCPD, the implementation plan must be detailed, independently-verified and contain measurable and time-bound targets.[2]
2. Climate claims[3]	• Businesses that rely on carbon offsets to make climate claims (eg 'carbon neutral' or 'net zero' claims) must be transparent about this and explain whether this relates to emission reductions or removals (Art 5(6)(f)). • When substantiating these claims businesses must separate out any offsets from greenhouse gas emissions and describe how the offsets relied on are of high integrity and accounted for correctly to reflect the claimed impact on the climate (Art 3(1)(h)).	Introduces additional stricter rules on climate claims based on carbon credits including: • that they can only be made if they relate to the 'residual emissions' of a company (to be defined by the European Commission) and only where the carbon credits have been certified under the EU's new Carbon Removal Certification Framework[4] • when making these claims, businesses must include information about the share of residual emissions and the type of activity underlying the credit (Art 3(1)(ha) and Art 5(6)(f)) • any *future-looking* climate claims (eg climate targets), must comply with the European Sustainability Reporting Standards (**ESRS**) (which mandate very detailed disclosures around climate targets)[5] (Art 3(3b)).	• Businesses must make it clear if a climate claim is based on carbon credits and must explain whether this relates to emission reductions or removals (Art 5(6a)). • When substantiating these claims, businesses must include information about: their total GHG emissions and reductions; the quantity of carbon credits used and whether they are used for emission reductions or removals; whether removals are permanent or temporary; the scheme which verified and certified the credits; and the registry which issued them (Art 3(1a)). • The European Council includes additional requirements for 'offset claims' (ie where carbon credits are used to balance out emissions). For these claims, companies must also prove they have a net-zero target (as defined in the ESRS), show progress towards meeting that target, and disclose the percentage of total GHG emissions that have been offset (Art 3(1a)(e)).
3. Third-party verification	• Businesses must get all green claims verified by an independent, third-party accredited verifier and get a certificate indicating compliance with the GCD *before* any green claim is used (Art 10). Member States must set up procedures for this. • The independent verifier must be a third-party 'conformity assessment body' accredited by a Member State's national accreditation body in accordance with Regulation (EC) No 765/2008[6] (Art 11). It is currently unclear who these third-party verifiers will be, although they could include the bodies already in place for existing safety and environmental certification requirements.	Introduces additional requirements for third party verification: • Member States must ensure the cost of verification and certification takes into account the complexity of the claim and the size of company making it (Art 10(3a)) • third-party verifiers must complete their verification within 30 days (although they can extend this in certain cases) (Art 10(4a)) • the European Commission must establish a simplified verification procedure within 18 months and must specify the types of claims it would apply to. This could include claims that do not require a full life-cycle assessment and claims which have already been certified under a separate scheme (Art 12(a)).	Sets out more detail for the simplified verification procedure: • it would apply to certain green claims including claims about environmental features that have already been certified under an eco-label, and claims that comply with relevant substantiation methodologies in other EU laws • the EU Commission would specify other claims suitable for the simplified verification procedure within 18 months, provided that those claims: (a) do not require a full lifecycle assessment; and (b) relate to a single environmental characteristic that does not lead to significant trade-offs with other environmental impacts • the simplified procedure would not apply to climate claims or future-looking claims • where claims qualify for the simplified verification procedure, businesses can demonstrate compliance by completing a specific technical document before the claim is made (Art 3a(1)-(4)).
4. Penalties	Penalties for non-compliance include: • fines with a maximum level of at least 4% of a company's annual turnover in the relevant Member State • confiscation of revenues gained (eg from products sold with non-compliant green claims affixed) • temporary exclusion from public procurement processes and access to public funding for 12 months (Article 17(3)).	Same as the EU Commission's draft.	Removes the references to specific penalties such as fines and instead leaves this to discretion of Member States to determine.
5. Timings	Member States would have 2 years to transpose the GCD – so it would likely apply in late 2026 or early 2027.	Member States would have 2.5 years to transpose the GCD – so it would likely apply in 2027.	Member States would have 3 years to transpose the GCD – so it would likely apply in late 2027 or early 2028.

[1] The GCD's provisions on future-looking green claims sit alongside recent changes to the UCPD which will make it unlawful for businesses to make future-looking green claims unless they are supported by a detailed and independently-verified implementation plan with measurable and time-bound targets (Art 6(2)(d)). These rules will apply from 27 September 2026 at the latest.

[2] see above at 1.

[3] Under recent changes to the UCPD, any claims that a product (as opposed to a business) has a neutral, reduced, or positive impact on the environment based on the use of carbon offset are banned outright (Annex I (4c)). These rules will apply from 27 September 2026 at the latest. Climate claims about a business that are based on carbon offsetting are allowed if they comply with the GCD.

[4] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_885

[5] See: https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en

[6] See: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0030:0047:en:PDF

Contacts

Olly Bray
Senior Partner
Advertising and Marketing
+44 7981 232 447
oliver.bray@rpc.co.uk

Ciara Cullen
Partner
Retail and Consumer
+44 7747 033 165
ciara.cullen@rpc.co.uk

Hettie Homewood
Senior Associate
Advertising and Marketing
+44 7759 524371
hettie.homewood@rpc.co.uk

Sophie Tuson
Senior Associate, Environment
and Climate Change Practice Lead
+44 7712 511 815
sophie.tuson@rpc.co.uk

rpc.co.uk