

# Green Claims Directive: TIC Council Recommendations for the Trilogue

July 2024

With the Council formally adopting its General Approach to the Green Claims Directive, co-legislators are ready to start the trilogues to agree on a final text. TIC Council supports the Directive as the best way to ensure that greenwashing practices do not have a place in the market. We are highly in favour of ex ante third party verification as the only way to ensure that traders do not market their products with unsubstantiated or false claims. TIC companies are already offering verification services for marketing claims and are ready to expand this experience to the needs of the Directive.

These are our recommendations for the [Council](#) and the [European Parliament](#) for their incoming negotiations.

## 1. Simplified procedure and presumption of conformity: process certification.

**Data certification should be included in the simplified procedure of verification, to ensure low costs for traders with more trust in the claim.**

Both the [Parliament](#) (article 12a) and [Council](#) (article 3a) propose to create a “simplified” verification system or procedure for the verification of claims. In both cases, this includes presumption of conformity for the trader in their claims. Presumption of conformity is the exact reality that forced the EU to legislate on this field and goes against the spirit of the Directive to avoid unverified claims. TIC Council alerts on the risk to see inappropriate claims in the absence of independent verification.

The TIC sector is aware of the high number of claims that will need to get verified following the Directive, and it is ready to propose new approaches. The inclusion of a data management process certification in the verification procedure might be a more effective way to apply the Directive. Having their environmental data management certified by a third party, allows traders to seek verification of their substantiated claims in a second simplified step by the verifier.

## 2. Independence from the scheme

**The need for the verifier to be independent from the scheme goes against the market structure and international standards. Independence is guaranteed by the accreditation.**

The [Council of the EU](#) proposes that verifiers should be “independent” of the environmental labelling schemes from which the claims to be verified are based on (article 11.3.a). Many verifiers successfully manage labelling schemes while maintaining high standards of objectivity and reliability in their verification processes. Limiting this option would potentially reduce the availability of both labels and verifiers in the market. This goes beyond the requirements of ECGT, that already mandates the third-party verification of environmental labels. Hence the requirement of further independence here is not deemed necessary.

This requirement is further in contradiction to ISO/IEC standards, such as ISO/IEC 17065 and ISO/IEC 17067, where a ‘scheme owner’ is defined as the “person or organisation responsible for developing and maintaining a specific certification scheme. The scheme owner can be the certification body itself, a governmental authority, a trade association, a group of certification bodies or others”. Not Commission nor Parliament proposed this requirement for verifiers. In

addition, this requirement will not be in line with the standard application on a global level. Therefore, we strongly recommend not including this requirement in the final agreement.

The Council also introduces (art. 11.3.c) the need to “guarantee” the “impartiality of the verifiers, their top-level management and of the personnel responsible for carrying out the verification tasks”. The independence of the verifier is already guaranteed by the accreditation of the verifier following Regulation (EC) 765/2008 as mandated by article 11. Accreditation is the highest guarantee of independence and continuous reliability of the verifier. It is provided by the National Accreditation Bodies and recognised by all the countries in the world. Accreditation is also necessary for other pieces of legislation in the EU, like the EU ETS or the Cyber Resilience Act.

### **3. Time/cost limit of the verification**

**No inclusion of time and cost limits to the verification, as this is in contradiction with international standards, legislation and best practices.**

The Parliament proposes to include a time and cost limit for the verification activities (articles 10.3a, 10.4a). This is the first time that any piece of legislation introduces this kind of limitation. The duration of the verification depends significantly on the applicant’s process to manage environmental data, on its size and number of staff as well as number of claims to be verified. Interpretative documents and guidelines already in place are used for the appropriate calculation of audit days, such as [IAF MD 5](#), but never imposing a fixed deadline in the laws.

The proposed approach of data management certification and the principles of the free-market economy should ensure an appropriate price level and short verification times.

### **4. EN ISO/IEC 17029 compliance**

**No determination of a specific standard for the compliance of verifiers.**

The Council of the EU proposes that verifiers shall “comply” with EN ISO/IEC 17029 (art. 11). Environmental labelling schemes are not generally based on ISO/IEC 17029, but mostly on ISO/IEC 17065 and ISO 14024. That is why the provisions of article 11 in the Directive on the independence of the verifier, the lack of conflicts of interest and professionalism are almost identical from the requirements of ISO/IEC 17065. Therefore, the inclusion of ISO/IEC 17029 does not add anything of substance to the work of the verifier nor the harmonisation of requirements in the Union.

### **5. Consultation Forum:**

**The inclusion of the verifiers in the Stakeholder Consultation Forum is strongly recommended.**

We warmly appreciate the proposal of the Parliament of a Consultation Forum for the secondary legislation (article 18a). Verifiers should also be included in it, alongside all other actors involved, due to the experiences conformity assessment bodies gathered along the years by being involved in the verification and conformity assessment of environmental claims and labelling schemes of hundreds of companies.

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