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Global Advertising  
Lawyers Alliance

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## GREEN MARKETING: *A Global Legal Perspective*







## ABOUT GALA

The Global Advertising Lawyers Alliance (GALA) is the leading network of commercial communication lawyers in the world. With firms in more than 50 countries, each member has the local expertise and experience in advertising, marketing and promotion law that will help your campaign achieve its objectives, and navigate the legal minefield successfully. GALA is a uniquely sensitive global resource whose members maintain frequent contact with each other to maximize the effectiveness of their collaborative efforts for their shared clients. GALA provides the premier worldwide resource to advertisers and agencies seeking solutions to problems involving the complex legal issues affecting today's marketplace.

For further information about GALA, please contact the relevant member directly or alternatively GALA's Executive Director, Stacy Bess at:

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GALA is very grateful to **WENDY REED** of **HEENAN BLAIKIE LLP**

(GALA Canada) for her assistance in designing and editing this Global Survey, as well as to all contributing GALA members for their participation.

NOTE: These Surveys are not meant to be comprehensive in their responses nor to constitute, or be a substitute for, legal advice. This was a brief snapshot providing examples of types of provisions and actions occurring in some member countries relating to environmental marketing. For complete information and legal guidance, please contact legal counsel in the appropriate jurisdiction.

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## DEFINITION OF GREEN CLAIM:

'Green Claim' = a representation, in any media or on packaging, of environmental benefit or harm resulting from a product or organization's activities – e.g. recyclable, recycled, degradable, reduction in energy / resource / water use / waste, refillable, reusable, non-toxic, organic, less harmful or of benefit to the environment, animals, habitat, or a general claim of being environmentally friendly/safe, green, etc.



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## DEFINITION OF GREEN CLAIM:





**'Green Claim'** = a representation, in any media or on packaging, of environmental benefit or harm resulting from a product or organization's activities – e.g. recyclable, recycled, degradable, reduction in energy / resource / water use / waste, refillable, reusable, non-toxic, organic, less harmful or of benefit to the environment, animals, habitat, or a general claim of being environmentally friendly/safe, green, etc.



**GLOBAL ADVERTISING LAWYERS ALLIANCE (GALA)**  
**GREEN MARKETING:**  
**A GLOBAL LEGAL PERSPECTIVE**  
**NOVEMBER 2013**





	ARGENTINA 	AUSTRALIA 	BELGIUM 	BOLIVIA 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Law and Guidelines Self-Regulation - Code issued by Bureau for Advertising Self-Regulation includes green claims guidelines.	Yes Guidelines from Regulators - The Australian Competition and Consumer Commission's (ACCC) <i>Green Marketing and the Australian Consumer Law</i> aims to assess and improve environmental claims. In July 2012, Australia also introduced a 'carbon tax' and updated the <i>Carbon Price Claims</i> . Self-Regulation - <i>AANA Environment Claims in Advertising and Marketing Code</i> (September 2009).	Yes Law - <i>2010 Market Practices Act</i> Self-Regulation - Code for Environmental Advertising	No
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	Yes Many government agencies, including CONARP, have addressed green claims.	Yes. Since the introduction of the carbon tax, the ACCC has specifically targeted carbon price claims.	Yes Drafts for updates of the 2001 royal decree on CO2 emission disclosures gave rise to intense debate.	No
Which green claims provoke the most advertising challenges?	Energy savings claims, fuel emissions claims	Unqualified claims	Energy efficiency-related claims, biodegradable and superiority claims on environmental impact and damage	"Natural"
What product categories provide the most advertising challenges?	Cars (emissions), dangerous and toxic residues, substances that deplete the ozone layer, oil and water contaminants	Varied	Water and energy-saving devices	Food products
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	No	Yes Certain household electrical products must have an <i>Equipment Energy Efficiency</i> label. Certain household products must have a <i>Water Efficiency Label</i> . All new vehicles up to 3.5 tonnes must have a <i>Fuel Consumption Label</i> .	Yes New passenger cars must disclose information on consumption of fuel and CO2 emissions	Yes Food products must have labels approved by the Sanitary Service, which may impose various disclosure requirements, depending on the product.
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	No	Yes GM foods must be labelled as "genetically modified" (Food Standards Code).	No While there is no specific labeling obligation, this information is part of the general information duty towards customers.	No
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and beverages	No There are rules applying to organic products that are exported, but not those sold domestically.	Yes Food & Beverages - "Euro-leaf" label	No

**GLOBAL ADVERTISING LAWYERS ALLIANCE (GALA)**  
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**NOVEMBER 2013**


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<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Law Guidelines from Regulator Self-Regulation Voluntary	Yes Guidelines from Regulator - Relating to environmental claims, labelling textile articles derived from bamboo, and proposed guidelines on natural, naturally raised, feed, antibiotic and hormone claims Self-Regulation Voluntary	Yes Law Guidelines from Regulator	Yes Law Guidelines from Regulator Industry Specific Guidelines - e.g., flowers Voluntary
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	No	Yes	Yes	No
Which green claims provoke the most advertising challenges?	"Sustainable"	Fuel saving, emission reduction and energy efficiency-related claims, "biodegradable" and superiority claims	"Green", "natural"	Not applicable
What product categories provide the most advertising challenges?	Varied	Fuel saving and emission reduction devices; devices that purport to use less energy (i.e. suggesting they are Energy Star qualified)	Food and electrical appliances	Not applicable
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	Yes Ads for the following products must disclose specific information: agricultural chemicals (warning about environmental risks), lubricating oils (warning about environmental risks), vehicles (compliance with National Air Pollution Control), batteries (health and environmental risks), disinfecting agents (cannot indicate product is biodegradable) and remediation products (use precautions and environmental warnings).	Yes Energy-using products including major household appliances and heating systems must have EnerGuide labels that include energy-consumption information. Additional requirements apply for certain lighting products. Vehicles - By agreement, manufacturers apply the standardized EnerGuide label to light-duty vehicles (e.g. passenger cars and pickup trucks). Label provides fuel consumption data. Homes may be tested for and receive an EnerGuide rating (on a voluntary basis).	Yes Energy-consuming products which have been designated as requiring an energy efficiency label by the government (e.g. air-conditioner, micro-computer) require a label.	Yes Tobacco products must disclose health and environmental risks. Fabrics and products made from twine, wire ropes and sisal must feature the Colombian Environmental label and must disclose use and care information.
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	Yes Decree 4.680/2003 imposes the disclosure on labels of food and drink, for both human and animal consumption, of their genetically modified organisms ingredients and quantities, if over 1% in total.	No However, there is a national voluntary labelling standard for genetically engineered food.	No	Yes
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and Beverages Textiles Cosmetics and medicines	Yes Food and beverages Livestock feed Agricultural crops used for human food/beverages and livestock feed and the cultivation of plants	Food and beverages Textiles Fertilizer or lawn products	Yes Food and beverages



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	COSTA RICA	CZECH REPUBLIC	DENMARK	DOMINICAN REPUBLIC
				
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Self-Regulation - "Código de Autorregulación Publicitaria" contains a general prohibition to promote actions against environmental sustainability.	Yes Law Industry Specific Guidelines - e.g., cars and electronic products	Yes Guidelines from Regulators	No
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	No Green claims have not been an issue yet for either environmental regulators, consumer protection agencies, Consumers Associations or any other relevant group.	No	Yes The Consumer Ombudsman recommends that traders exercise caution in using isolated, general environmental or ethical claims in marketing.	No
Which green claims provoke the most advertising challenges?	Not applicable	"Natural", "fresh"	Environmentally neutral impact claims such as carbon neutral claims	Not applicable
What product categories provide the most advertising challenges?	Not applicable	Food	Advertising for fuel to cars	Not applicable
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	No	Yes Cars must disclose fuel consumption and CO2 emissions. Electronic products must disclose energy consumption data.	Yes European energy label required for products such as refrigerators, dishwashers, tumble dryers, lamps, electric ovens, air-conditioners, etc.	No
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	No	Yes	Yes All food consisting of, containing or produced of a GMO must be labelled with information about it.	No
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and beverages	Yes Food and beverages Textiles Fertilizer or lawn products	Yes Food and beverages	Yes Food and beverages





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	ECUADOR 	FINLAND 	FRANCE 	GERMANY 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	No	Yes Guidelines from Regulator	Yes Law Guidelines from Regulator Self-Regulation	Yes Guidelines from Regulator Industry Specific Guidelines - e.g., cars, household appliances Voluntary
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	No	Yes The fact that the Finnish Consumer Ombudsman has issued guidelines on applying general principles of the law to environmental marketing, can be seen as an indication of that Green Claims are an issue of concern for them.	Yes Both the govt. and self-regulatory body (ARPP) very concerned about Green Claims. There was a flurry of regulatory activity in 2008 and 2009 (see France survey responses for more).	Yes In light of originally restrictive case law, industry has initiated some self-regulation as well as activity of regulators in order to arrive at a balanced and standardized set of rules.
Which green claims provoke the most advertising challenges?	"Natural"	Carbon offsets, "natural", seals and certifications	"Natural", "environmentally friendly", "sustainable", "energy savings/efficiency"	"Biodegradable", "green", energy savings/efficiency, money savings
What product categories provide the most advertising challenges?	Not applicable	Cosmetics, detergents, furniture, cars, construction, energy, food	Cars, building ("bâtiment") and the decoration sectors	Cars, fuel, emission, water or energy-saving devices
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	No	Yes CO2 emission and fuel consumption information be presented in marketing of new cars. Energy efficient class or other information be presented in the marketing of dishwashers, refrigerators, washing machines, televisions, air-conditioning units, tumble dryers, electric ovens, washer dryers and sources of lights.	Yes Ads for personal-use new cars must disclose gasoline consumption and CO2 emissions. Labels for household appliances, cars and other products may disclose environmental impact information (experimental phase - not mandatory).	Yes Ads for household appliances must disclose energy consumption or price and the product's energy efficiency class. Labels for tires must disclose fuel consumption, wet grip and noise classification. Labels for electric household goods and appliances must include classification information via the European Energy Label. Other label disclosure requirements apply for textiles and products involving risks for the user.
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	No	Yes	Yes On January 31, 2012, a decree has been enacted and implemented, as of July 1, 2012, a label of food products which have been produced "without GMO" (non-compulsory rules – règles facultatives).	Yes Certain food products and ingredients must be marked if genetically modified.
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and beverages Agricultural products	Yes Food and beverages Live or unprocessed agricultural products, processed agricultural products for use as food, feed, and vegetative propagating material and seeds for cultivation	Yes Food and beverages	Yes Food and beverages Textiles Fertilizer or lawn products





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	GREECE 	INDIA 	IRELAND 	ISRAEL 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Law - restrictions on use of "eco", "ecologic", "biodegradable", etc. Self-Regulation	Yes Voluntary	Yes Self-Regulation – Ireland's self-regulatory Code of Standards includes a specific section on the "environment" and "green claims". The Code does not mention specific areas but complaints will be considered under the Environment Section on any ad that touches on the environment.	Yes Law Industry Specific Guidelines - e.g., cars
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	Yes	Yes Regulators believe that pro-active and promotional roles should be geared up in harmony with overall environmental protection strategy.	No	Yes
Which green claims provoke the most advertising challenges?	"Natural", "environmentally friendly", "biodegradable", energy savings/efficiency	Energy efficiency/saving claims are hotly debated although there is no challenge to such claims except some academic and media criticism to such claims.	Most claims have tended to relate to the comparative aspect of the advertisement e.g. "5 times as environmentally friendly". The other major issue that tends to arise is whether the claim made can be properly substantiated.	"Green", "environmentally friendly"
What product categories provide the most advertising challenges?	Fuel, energy-saving devices, plastic bags	Not applicable.	Cars, building materials and the energy industry	Water
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	Yes Cars - must disclose CO2 emissions and fuel consumption Household appliances and buildings - must disclose energy consumption information	Yes	Yes Ads for houses must include the Building Energy Rating.	Yes Cars must disclose CO2 emissions and gas consumption figures.
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	Yes	Yes Packaged food producers must disclose GM ingredients, if any, on the product label. Every package containing the genetically modified food shall bear at top of its principal display panel the words 'GM'.	Yes European Communities Regulation 1829/2003 applies which requires labelling of foods which which: (a) contain or consist of GMOs, or (b) are produced from or contain ingredients produced from GMOs.	No
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and beverages	Yes Food and beverages Textiles Cosmetics	Yes Food and beverages	Yes Food and beverages



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	ITALY 	LUXEMBOURG 	MEXICO 	NEW ZEALAND 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	No However, Specific provisions in Law no. 136 of April 26th, 1983 impose labeling and information requirements relating to 'biodegradability' claims and components of cleaning products in general.	Yes Law Self-Regulation	Yes Law Self-Regulation	Yes Guidelines from Regulators - Guidelines for Green Claims and Carbon Claims Self-Regulation - Revised Code for Environmental Claims
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	Yes	Yes	No	Yes
Which green claims provoke the most advertising challenges?	"Biodegradable", "environmentally friendly" and statements on carbon emissions However, all the claims mentioned are among those most frequently questioned.		"Biodegradable", "natural", "environmentally friendly" and "free of GMOs"	Absolute environmental claims
What product categories provide the most advertising challenges?	Cars, emission and fuel	Advertising relating to cars	Not applicable	Cleaning products
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	Yes Ads for energy and cars must disclose fuel consumption and CO2 emissions. Energy claims must make it clear what the actual advantages are. Labels for food, pharmaceuticals, automotive industry, devices are subject to energy efficiency/ environmental impact requirements or to specific cautionary measures referring to waste disposal require disclosure. The following needs to be disclosed: content, components, environmental impact, energy consumption, information about health or safety risks for users /consumers.	Yes Ads for new passenger cars must disclose fuel economy and CO2 emissions information. Labels for residential buildings and cars (fuel consumption and CO2 emissions) are also subject to disclosure requirements.	No	Yes Vehicles must disclose fuel economy information. Water-using products must disclose water efficiency data. Certain electronic products (e.g. washing machines, heat pumps, dishwashers) must disclose energy using characteristics.
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	Yes	Yes Food and feed products	Yes	Yes
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and beverages Textiles Fertilizer or lawn products Living or unprocessed products, animal feed, seeds and propagating material	Yes Food and beverages	Yes Food and beverages Other products (broad definition of "organic production")	No





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	NICARAGUA 	NORWAY 	PANAMA 	PARAGUAY 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	No	Yes Guidelines from Regulator - Consumer Ombudsman's Guidelines for: use of environmental claims and ethical claims in marketing' use of environmental claims in the marketing of vehicles; and use of "climate neutral" in marketing	Yes Guidelines from Regulator	No
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	No	No	No	No
Which green claims provoke the most advertising challenges?	Not applicable	"Environmentally friendly", "green", "climate neutral"	Not applicable	Not applicable
What product categories provide the most advertising challenges?	Not applicable	Cars and fuels	Not applicable	Not applicable
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	No	No	No	No
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	No	Yes Regulations in accordance with EU regulations on GMO products	No	No
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	No	Yes Food and beverages	No	No





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	PERU 	POLAND 	PORTUGAL 	ROMANIA 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Law Guidelines from Regulator	Yes Law Self-Regulation	No	No
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	No	No	Yes	No
Which green claims provoke the most advertising challenges?	"Natural", "green", "environmentally friendly"	Not applicable	Not applicable	"Organic", "ecological", "biological"
What product categories provide the most advertising challenges?	Energy-saving devices	Not applicable	Not applicable	Foodstuffs
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	Yes (voluntary) Industrial boilers must disclose CO2 emissions data. Electric motors, solar power systems, lighting, industrial boilers, water heaters must disclose information in accordance with energy efficiency classification system.	Yes Cars must disclose fuel consumption and CO2 emissions. Energy-consuming products must disclose energy efficiency class and other information. New buildings and apartments require energy performance certificates.	Yes Cars must disclose fuel consumption and CO2 emissions data.	Yes Energy-consuming products and other energy-impacting products - label must include information on energy consumption, other forms of energy and, if applicable, other essential resources used
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	Yes Must disclose genetically modified ingredients for food items (not yet in force)	Yes As set forth in EU Regulation	Yes	No
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and beverages Agricultural crops and production Animal husbandry	Yes As set forth by EU Food and beverages	Yes Food and beverages Fertilizer or lawn products	Yes Food and beverages

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	RUSSIA 	SINGAPORE 	SOUTH AFRICA 	SPAIN 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Law Self-Regulation Industry Specific Guidelines Voluntary	Yes Guidelines from Regulator Self-Regulation Voluntary	Yes Law - requires disclosure notice for GMOs, regulates the use of "free range" in relation to poultry and eggs; regulates use of claims like "fresh", "natural", "pure" in relation to foodstuffs Self-Regulation - use of green claims generally and in relation to cosmetics Voluntary - Carbon Protocol, Bio-Dynamic and Organic Certification Authority	Yes Self-Regulation - Code applies to all types of advertising including environmental claims relating to goods and services
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	Yes	No	Yes	No
Which green claims provoke the most advertising challenges?	Not applicable	"Wholly biodegradable", "green", "environmentally friendly"	"Free range" in relation to meat, milk and dairy products "Organic" in relation to foodstuffs	"Environmentally friendly"
What product categories provide the most advertising challenges?	Food products	Not applicable	Foodstuffs	Cars, emission-saving devices
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	Yes Products containing dangerous substances must provide advice on prevention and ways to use product (related symbols may be used). Refrigerators, TVs, electric washing machines, lifts, etc. must disclose energy efficiency class.	Yes Motor vehicles must disclose fuel economy information. All products except food, drink and pharmaceuticals must comply with Singapore Green Labeling Scheme (environmental standard and certification mark).	Yes	Yes Cars must disclose information on fuel consumption and CO2 emissions. Labels for domestic appliances including refrigerators and freezers, washing machines, dishwashers, dryers, household light sources, electric ovens, air conditioners must include brand name, energy efficiency class and other requirements depending on the functionality of the appliance.
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	Yes	Yes	Yes	Yes
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	No	No	No	Yes Food and beverages Textiles Farming, production

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	SWEDEN 	TURKEY 	UKRAINE 	UNITED KINGDOM 
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Guidelines from Regulator Self-Regulation	Yes Law Guidelines from Regulator Self-Regulation	Yes Law - GMO labelling required Voluntary	Yes Guidelines from Regulators Voluntary Guide
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	No	Yes	Yes	Yes
Which green claims provoke the most advertising challenges?	"Environmentally friendly" and other general claims	"Natural", "environmentally friendly", energy savings/efficiency, money savings	Not applicable	"Low" or "zero" carbon emissions claims, "100% recycled", "wholly sustainable"
What product categories provide the most advertising challenges?	Cars, energy	Liquefied petroleum, gas, food and food supplements, domestic appliances, heaters and coolers, cosmetics	Food products and household chemical goods	Cars
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	Yes Cars must disclose fuel consumption, CO2 emissions and environmental classification. Batteries must disclose environmentally damaging components. Chemical products must include warning label and disclose health environmental protection information.	Yes Packaged products require compulsory "recyclable" figure and appropriate abbreviation and numbering.	Yes Food products must disclose GMOs.	Yes Ads for cars must disclose CO2 emissions in respect of environmental claims. Disclosures required on labels - complex issue; details supplied on request.
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	Yes	Yes	Yes	Complex issue; details supplied on request
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes As adopted by EU Food and beverages	Yes Food and beverages Textiles Fertilizer or lawn products Other products, including seeds, organic bee breeds and water products	No However, Draft Law No. 0979 addresses certification and labelling of organic products	Complex issue; details supplied on request



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	UNITED STATES	URUGUAY	ZIMBABWE
			
<b>SPECIFIC GREEN PROVISIONS:</b> Does your country have SPECIFIC rules for Green Claims* in the form of law or guidelines (from regulators, self regulatory bodies or voluntary guidelines)?	Yes Law Guidelines from Regulator Self-Regulation Industry specific guidelines - informal policy for natural claims; standards for the use of "natural" in connection with meat and poultry products	No	Yes Law Self-Regulation Nothing specific - general false advertising laws only
<b>REGULATORY CONCERN:</b> Have your regulators indicated that Green Claims are an issue of concern for them?	Yes	No	No
Which green claims provoke the most advertising challenges?	Biodegradable, recyclable, and general environmental benefit claims	Not applicable	Not applicable
What product categories provide the most advertising challenges?	Food products, household products, cosmetics, and energy-saving devices	Not applicable	Not applicable
<b>AD OR LABEL DISCLOSURES - LEGAL:</b> Do laws in your country require ads or labels of particular products to contain environmentally related disclosures? Which products? What disclosures?	Yes Batteries must disclose recyclable information. Home appliances must feature Energy Guide labels. Cars must disclose fuel economy and environmental label information. Pesticides require label approval. Toxic chemicals and products containing or manufactured with ozone depleting substances require a warning label. Architectural coatings must disclose volatile organic compounds.	Yes Certain household appliances (washing machines, dryers, refrigerators), water heaters, lamps and electric motors must include energy efficiency label and address energy consumption and performance. Paints and varnishes containing lead must disclose lead content. Phytosanitary products and chemical agents, products and/or substances must include warnings.	Yes Label disclosures required for plastic water bottles/plastic bags
<b>GENETICALLY MODIFIED ORGANISMS (GMO)</b> Does your country require labeling of GMO products?	No	No However, National Biosafety Cabinet will promote actions aimed at the implementation of a voluntary "GM"/"no GM" labelling system for food products.	Yes
<b>ORGANIC REGIMES (LEGISLATIVE):</b> Do you have a legislative regime to certify organic products, whether federal or state-based? Does it cover Food & Beverages? Textiles? Fertilizer or lawn products? Other products?	Yes Food and beverages Textiles Fertilizer or lawn products	Yes Food and beverages Textiles Agricultural products	No



ARGENTINA

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### **Detail:**

#### **Law and Guidelines from Regulator:**

Law 25127 provides for guidelines and rules on organic, biological and ecological products, as well as the requirements to obtain the specific ecological label for the products that comply with the necessary requirements.

Law 20284 provides for rules of air quality and establishes maximum level of emissions of CO2 for cars.

Disposition 761/2010 from the Secretary of interior Commerce (commercial loyalty bureau) and other similar dispositions provide rules requiring certain energy efficiencies for electric devices for domestic use, such as air conditioners, washing machines and dryers.

Finally, law 20284 establishes that automobiles must adjust to the limits on contaminating emissions, noises and parasite radiation according to what it is ordered in the appropriate legislation. This relates to law 24449, and its decree 779/95.

#### **Self-regulation:**

The bureau for Advertising self-regulation (CONARP) of Argentina has issued a code for self-regulation. Article 14 of the code provides for guidelines and rules on green claims.

It mentions that Advertising should be mindful of the environment. Accordingly it shall not, directly or indirectly, create or encourage:

- a. Any form of environmental pollution (visual pollution, water pollution, air pollution, etc.).
- b. Alteration of the natural and urban landscapes.
- c. Blocking the view of public places, tourist attractions and monuments.
- d. Displeasing sounds that disrupt the activity or balance of human life.

In addition, it states that Advertising and other forms of communication, such as labels and packaging products, which contain environmental statements should:

- refer to the current characteristics of the product and its impact on the environment, duly verified through scientific and technical methods.
- avoid ambiguity, explaining its real scope accurately;
- contain clear and legible claims; and
- clearly indicate to which phase of the product's life cycle the claim relates and provide corresponding justification.

- Those claims related to the absence or reduction of a particular ingredient can be used only if the level of the substance does not exceed acknowledged levels for trace contaminants.

On the other hand, according to the Consumers protection Law N° 24.240, modified by law N° 26.361, the information provided to the consumer has to be exact, clear, detailed and FREE of charge.

Article 4 of that law states that the supplier is required by law to provide the consumers with exact, clear and detailed information about the essential characteristics of the goods and services commercialized and the conditions of commercialization.

#### QUESTION 2:

***Do the above address claims relating to:***

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. **Seals and Certifications**

#### QUESTION 3:

***Which claims provoke the most challenges – e.g. "carbon neutral", "biodegradable", "natural", "green", "environmentally friendly", "sustainable", energy savings/efficiency, money savings, etc.:***

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

#### ***Detail:***

Argentina is still in a very primitive stage of the protection of environment. Most of the laws provide rules and protection for dangerous and toxic residues, substances that deplete the ozone layer, oil contamination, water protection and so on.

However, law 20.284 provides rules and controls over the emission of CO<sub>2</sub> by cars.

There are many dispositions issued by the Secretary of Commerce and Industry related to the requirements on electrical devices for domestic use (houses).

Therefore, the categories most regulated are energy savings and fuel emissions.

There also requirements for seals and certifications (eco labels) for organic foods. See law 25.127 above.

#### QUESTION 4:

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO<sub>2</sub> emissions, etc.)?***

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

YES

**Detail:**

Not only CONARP (the self-regulation authority in Argentina) has provided rules for green claims, there are also many provisions related to organic foods, car emissions and requirements for electric devices issued by different government agencies.

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

None that we are aware of.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

NO

## **LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

## **BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

N/A

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Detail:*

Resolutions 503/2005 and 1291/2012 of the Ministry of Agriculture provide for the procedures as well as the official eco label for those products which comply with the organic condition established in law 25127.

#### *Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?







AUSTRALIA

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

##### **Guidelines from Regulator:**

The Australian Competition and Consumer Commission (ACCC) published updated guidelines in March 2011 entitled *Green Marketing and the Australian Consumer Law (Green Marketing Guidelines)* which aims to assist manufacturers, suppliers, advertisers and others to assess the strength of any environmental claims they make and to improve the accuracy and usefulness to consumers of their labelling, packaging and advertising. The Green Marketing Guidelines are available <http://transition.accc.gov.au/content/item.phtml?itemId=815763&nodeId=90c89998139b822f949e69e227917455&fn=Green%20marketing%20and%20the%20ACL.pdf> online at:

The Green Marketing Guidelines are divided into four parts – Part 1 examines the *Australian Consumer Law* (schedule 2 to the *Competition and Consumer Act 2010*, formerly the *Trade Practices Act 1974*) (ACL) and how it applies to environmental claims; Part 2 provides a number of principles to consider as well as examples of some common and problematic claims and types of claims; Part 3 examines some regulatory schemes, such as energy ratings and water efficiency labelling; and Part 4 provides a “checklist” for marketers.

In addition, Australia introduced a 'carbon tax' as of 1 July 2012. Some larger businesses are now required to purchase carbon credits against their emissions which have resulted in consequential price increases. As such, the ACCC have been focusing on misleading carbon pricing claims and related environmental claims in recent times. The ACCC's updated guidelines entitled *Carbon Price Claims* are available from <http://www.accc.gov.au/content/index.phtml/itemId/1017091> . The *Carbon Price Claims* guidelines provide a guide for businesses who are providers of offsets, and businesses that promote their green credentials using purchased carbon offsets. It aims to improve the accuracy of information provided to consumers about carbon related claims, and contains a checklist of things to remember when making such claims.

##### **Self - Regulation:**

The Australian Association of National Advertisers (AANA) Code of Ethics contains a provision in the code (section 1.4) that states “Advertising or Marketing Communications shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have”.

In addition, in September 2009, the AANA introduced a standalone code, the *AANA Environment*

*Claims in Advertising and Marketing Code* (known as the *Green Code*) The code is available at <http://www.aana.com.au/data/Documents/Codes/EnvironmentalClaimsCode-September2009.pdf>. An associated Practice Note was also published in March 2010. The code requires environmental claims to be truthful and factual in presentation, must involve a genuine benefit to the environment, and must be able to be substantiated.

Generally most competitor complaints are made on the basis of alleged breaches of the ACL via Federal Court proceedings, especially if they are seeking urgent injunctive relief.

#### **QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### ***Detail:***

The Green Marketing guidelines provide a commentary on a number of terms that are commonly used in respect of green claims, including "green", "environmentally friendly", "environmentally safe", "energy efficient", "recyclable", "carbon neutral", "renewable energy" or "green energy" claims. The *Carbon Price Claims* guidelines deal with carbon price claims separately.

#### **QUESTION 3:**

***Which claims provoke the most challenges – e.g. "carbon neutral", "biodegradable", "natural", "green", "environmentally friendly", "sustainable", energy savings/efficiency, money savings, etc.:***

Claims which provoke the most challenges are broad or unqualified claims (which may occur in any of the examples above). It must be clear from the overall impression of the claim what the benefit is, having regard to the specific circumstances, including whether it applies to packaging or content and the product's whole life cycle.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

There has been no consistent theme in respect of advertising challenges to certain product categories which utilise green marketing.

Enforcement actions by the ACCC in recent years have targeted a broad range of products including 'free range' ducks, 'free range' eggs, air-conditioning units, motor vehicles, energy retailers, renewable energy certificate providers and biodegradable nappies

Similarly, complaints to the Advertising Standards Board (**ASB**) under the AANA's *Green Code* have dealt with a broad range of products, including energy comparison websites, natural gas products, lawn turf, dishwashers and wood heaters.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

***Detail:***

The ACCC have targeted environmental and green claims in the past. However, since the carbon tax was introduced, the ACCC have also specially targeted carbon price claims.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators – more than 10
- b. in Self-Regulatory Forum - 9
- c. Civil litigation by competitor or consumers against advertiser- Unknown

***Detail:***

The ACCC have taken action in respect of carbon claims concerning fitness centre prices, comparative energy savings representations of washing machines, comparative carbon price claims of solar panels, misrepresentations of affiliation with the Clean Energy Council, free range claims for chicken products, comparative energy consumption claims regarding refrigerators and power savings claims of an electricity outlet device which purportedly reduced consumption of electricity.

The ACCC utilises a number of methods of enforcement including administrative resolution (such as obtaining a trader's undertaking to cease certain conduct), the issuing of infringement notices, obtaining court enforceable undertakings, and commencing litigation. Most of the actions taken by the ACCC during this period involved administrative resolution or infringement notices and there were two (2) actions in the Federal Court.

There have been 9 complaints determined by the ASB on the basis of the *Green Code*, over a range of issues including carbon footprint claims in respect of lawn turf, environmental impact of natural gas, comparison of water usage between hand washing in respect of a dishwasher machine, cleanliness and efficiency claims of wood heaters. The complaints referred to advertisements across a broad range of media including print, commercial television and subscription television. However, all of the complaints have been dismissed.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:*** La Ionica (a manufacturer and retailer of chicken products)

***Complainant:*** ACCC (government regulator)

***Date:*** 23 January 2012

**Forum (court, other tribunal, self-regulatory):** Federal Court of Australia

**Claims at Issue:** "Free to Roam", "Health Farm", "The Good Life of a Lai Ionica Chicken", "[chickens] are free to roam in large open sheds— NO CAGES" and "Free Roaming/No Cages"

**Product or entity about which claim was made:** Free Range Chicken

**Facts:**

The advertiser produced a series of promotional posters containing the claims at issue above. One poster contained stylized cartoon pictures of a few chickens depicted in a large spacious area, including chickens lounging around on deck chairs.

The average stocking density of the meat chickens was between 12 – 18 meat chickens per square metre depending on the size/stage of the chicken's life cycle.

**Arguments on each side:**

The ACCC alleged that "free to roam" was a contravention of the Australian Consumer Law because the chickens grown by the respondents are covered by the representation and are reared in such densities that they do not, as a practical matter, have substantial space available to roam around freely.

At interlocutory proceedings, the respondents argued that chicken density is incapable of establishing that the free to roam representation is false or misleading on the basis that a statement of average space, that is the space of the shed divided by the number of chickens in it, is incapable of establishing that the space available to any one chicken is so limited as to affect its ability to move around.

However, La Ionica later admitted all contravening conduct alleged by the ACCC, save for one allegation which was not pressed. Orders were made by consent.

**Were claims found misleading or otherwise objectionable?**

Yes, the judge made declarations to the effect that the advertisements were in contravention of the ACL.

**Reasons:**

The judge found that the chickens were not raised and grown in a shed system such that they have at all times in the growth cycle, a substantial space to roam around freely. Therefore the claims were held to be misleading or deceptive.

La Ionica was required to cease using the advertisements and was further restrained from making similar statements for a three year period. They were also required to publish a corrective advertisement, pay a pecuniary penalty of AU\$100,000 and establish a trade practices compliance and education/training program.

**Can you hyperlink to a copy of the decision and/or ad?**

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2012/19.html?stem=0&synonyms=0&query=la%20ionica&nocontext=1>

See also interlocutory proceedings:

[http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2011/1382.html?stem=0&synonyms=0&query=title\(Australian%20Competition%20and%20Consumer%20Commission%20and%20Turi%20Foods%20Pty%20Ltd%20\)&nocontext=1](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2011/1382.html?stem=0&synonyms=0&query=title(Australian%20Competition%20and%20Consumer%20Commission%20and%20Turi%20Foods%20Pty%20Ltd%20)&nocontext=1)

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?*

See below

*What are the required disclosures?*

Certain household electrical products, such as refrigerators, washers, dryers, dishwashers, single phase air conditioners must have affixed to them an *Equipment Energy Efficiency* label which includes information such as average energy consumption figures.

Certain household products such as showers, tap equipment, toilet equipment, washing machines and dishwashers must show a Water Efficiency Label which contains information about water consumption.

All new vehicles up to 3.5 tonnes gross vehicle mass sold in Australia, regardless of fuel or body type, are required to have a Fuel Consumption Label affixed on the front windscreen which includes information about fuel consumption per 100km and CO2 emissions per kilometer.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

***Detail:***

Genetically modified foods, including genetically modified organisms must be labelled with the statement "genetically modified". This is a requirement under standard 1.5.2 of the Food Standards Code, which has the force of law under Australian State and Territory legislation.

## **ORGANIC PRODUCTS**

**QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

NO (other than general misleading or deceptive conduct provisions under the ACL).

***Detail:***

There are rules however covering the export of organic products but they have no application to the sale of products within Australia. There is a voluntary Australian standard for growers and manufacturers wishing to label their products 'organic' and 'biodynamic' (AS 6000-2009). This standard is used as a reference point when determining whether a product is organic or whether a claim is misleading or deceptive.





BELGIUM

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### ***Detail:***

Under Belgian law the assessment of environmental claims is subject to:

- the 2010 Market Practices Act (prior called the Act on Trade Practices and the Protection and Information of the Consumers (hereinafter referred to as: “MPA”);
- the self-regulatory Code for Environmental Advertising (“*Code de la publicité écologique*” - “*Milieureclamecode*”), based on the ICC Code on fair advertising principles.

The relevant provisions of the MPA cover mainly misleading and comparative advertising. The provisions are, all in all, a mere implementation into Belgian law of the European Directives 97/7/EG and 97/55/EG on advertising.

According to the MPA, advertising is “*each statement which directly or indirectly has the purpose to promote the sales of products or services irrespective of the place or the used means of communication*”. This definition is also accepted for other special regulations covering advertising matters and for the self-regulatory codes.

The Code for Environmental Advertising (hereinafter referred to as: “CEA”) is self-regulatory. The CEA sets out the limits for the advertisers, distributors and advertising agencies when promoting their products and services. The CEA also aims at protecting consumers against abusive use of their interest in the protection of the environment by advertisers and agencies.

The CEA is based on the advertising code adopted by the International Chamber of Commerce as implemented in Belgium by the Jury for Fair Advertising Practices (“*Jury d’Ethique Publicitaire*” – “*Jury voor Eerlijke Praktijken inzake Reclame*”). The CEA went into force on 1 May 1998 for the advertising part and on 1 July 1998 for the labeling part.

The CEA is applicable to all advertising referring to the consequences for the environment of a product, including its packaging, or a service, irrespective of the medium used, and such during their life-cycle (i.e. from design, production, over distribution, to use and destruction).

The basic principles of the CEA are:

1. All advertising must be compliant with the applicable legislation.
2. All advertising must be decent, truthful and correct.
3. All advertising must meet with the applicable environmental regulations and

mandatory environmental programs and must be compliant with the principles of fair trade practices generally accepted in commercial matters.

4. No advertising may harm the trust or confidence of the public in:
  - the efforts of the companies to improve their ecological performances,
  - the educational efforts of the social entities or the government in order to sensitize the public for the protection of the environment.

The CEA basically covers similar provisions as those applicable following the ISO 14021 Code. Most of the content may therefore sound very familiar.

**Application / Endorsement of the CEA.** As to enforcing of the CEA, until 2001 the controlling organism was the JEP (Jury for Fair Advertising Practices). Its case law can be consulted and is rather elaborated.

As from 2001, the controlling organism became a Department of the Commission for Environmental Labeling and Advertising, in itself depending from the Ministry of Economic Affairs. Backlog hereto is that the case law is no longer made public. One can no longer verify as transparent as one could how the CEA is currently constructed/interpreted, nor which provisions are emphasized. Discussions on a proposal to turn the CEA into binding legislation are pending, without it being clear if and when such proposal will pass parliament to become a statutory instrument.

#### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

As a general rule (applicable to any type of advertising on a product’s nature) the description of the product should not be false or misleading:

The MPA prohibits all advertising that can mislead the consumer as to the identity, nature, origin, composition, or characteristics of the products and its effects on the environment (hereunder referred to as “the General Rule”).

Art. 1649bis *et seq.* of the Belgian Civil Code (“Code Civil/Burgerlijk Wetboek” implementing Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees) provides that a product sold to a consumer must be in conformity with the contract of sale.

Consumer goods are presumed to be in conformity with the contract if they:

1. comply with the description given by the seller and possess the qualities of the goods which the seller has held out to the consumer as a sample or model;
2. are fit for any particular purpose for which the consumer requires them and which he made known to the seller at the time of conclusion of the contract and which the seller has accepted;
3. are fit for the purposes for which goods of the same type are normally used;
4. show the quality and performance which are normal in goods of the same type and which the consumer can reasonably expect, given the nature of the goods and taking into account any public statements on the specific characteristics of the goods made about them by the seller, the producer or his representative, particularly in advertising or on labeling.

Besides this general rule on advertising, Belgium does not have a specific body of regulations on green claims, except a self-regulatory code of conduct<sup>1</sup>. The controller of the code is the JEP (*Jury d'Ethique Publicitaire*).

This self regulatory code of conduct prohibits any misleading advertisement and provides that any advertiser should be able to justify and evidence its environment related claims. Should somebody (a competitor for example) contest such claim; evidence can be submitted to an institution to be elected by the parties if the controller of the code judges it necessary.

The Belgian law-maker has taken different specific regulations on certain specific substances, products or types of products. In the frame of such product-based regulations, some rules are sometimes provided as regards what has to be or can be advertised on the products or their packaging. Also, in order to facilitate collection, reuse and recovery (including recycling), and for purposes of identification and classification, some regulations apply, according to which products or their packaging must indicate the nature of the material used<sup>2</sup> (see European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste).

There is no specific regulation relating to most of the green claims as such. However, there are some regulations that define some of these terms, or directly related terms to the ones mentioned.

Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste defines "biodegradable waste" as "any waste that is capable of undergoing anaerobic or aerobic decomposition, such as food and garden waste, and paper and paperboard". Such definition appears also in Belgian Law (see Decree of 27 June 1996 of the Walloon Region relating to waste for example).

Appendix II of the Directive 1999/31/EC defines "Biodegradable waste" as "any waste that is capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water". This definition has been copy-pasted into Article 5 of the Royal Decree of 25 March 1999 on product norms relating to packaging.

The Belgian law maker issued a Royal Decree on “biodegradability” (9 September 2008).

The Directive 94/62/EC of 20 December 1994 on packaging and packaging waste defines 'organic recycling' as “the aerobic (composting) or anaerobic (bio methanisation) treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilized organic residues or methane. Landfill shall not be considered a form of organic recycling”.

This definition has been copy-pasted in Article 1 of the Belgian Act of 21 December 1998 relating to product norms aiming at the promotion of long-lasting schemes and consumption, and at the protection of environment and health, as well as in Article 2 of the Interregional Co-operation Agreement of 30 may 1996 on the prevention and management of packaging waste.

The Directive 94/62/EC of 20 December 1994 on packaging and packaging waste defines recycling as the reprocessing in a production process of the waste materials for the original purpose or for other purposes including organic recycling but excluding energy recovery;

This definition is also used in the Belgian implementation of this Directive (Interregional Co-operation Agreement of 30 may 1996 on the prevention and management of packaging waste).

In the Decree of 27 June 1996 of the Walloon Region relating to waste, recycling is defined as “reuse, including composting, consisting of the recuperation of raw material or products of wastes, but excluding energy.”

To be noted is that this answer is only valid for freely usable recycling symbols.



Symbols such as the Green Point (commonly used in Europe) can only be used by certain companies that accomplish their take-back & recycle obligations (as regards packaging) or that subscribe to taking back & recycling schemes organized by accredited companies.



The European Community has created an Eco-label. The use of such label is strictly regulated.

A 9 September 2008 Royal Decree establishes product norms for compostable and biologically degradable materials. The Decree has specific provisions on packaging and the form of logo mentioned.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

Energy efficiency-related claims, biodegradable and superiority claims on environmental impact and damage

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

Water and energy-saving devices

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?*

Cars

*What are the required disclosures?*

CO2 emissions

*Media in which disclosures required?*

TV                  Print                  Internet                  Radio                  Point of Sale                  Other

*Detail:*

There is a royal decree since 2001 on the availability of consumer information about the consumption of fuel and the CO2 emission by the introduction on the market of new passenger cars

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

YES

*Detail:*

Drafts for updates of the 2001 royal decree on CO2 emission disclosures gave rise to intense advice and debate

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators – 10*
- b. *in Self-Regulatory Forum - 20*
- c. *Civil litigation by competitor or consumers against advertiser – 20*

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:***

A leading US manufacturer of indoor and outdoor environmental cleaning solutions and specialty floor coatings

***Complainant:***

A leading German manufacturer of indoor and outdoor environmental cleaning solutions and specialty floor coatings

***Date:***

2012-2013

***Forum (court, other tribunal, self-regulatory):***

Courts

***Claims at Issue:***

Superiority in energy-saving and environmental footprint of the devices

***Were claims found misleading or otherwise objectionable?***

Pending

## **LABELS**

**QUESTION 8:**

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

YES

***What product(s)?***

Each product, the use of which has an effect on energy consumption. A Draft for Royal Decree on the mentioning of the energy consumption and consumption of other resources on the labeling and standard product information of energy related products is on the table and under discussion since 2011 (implementation of Directive 2010/30/EU).

## **BIOBASED PRODUCTS**

**QUESTION 9:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

NO

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### **Detail:**

Whilst there is no specific labeling obligation, this information is part of the general information duty towards consumers and failing to disclose that a product is GMO would be considered misleading through omission.

The Royal decree of 21 February 2005, implementing the Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC<sup>3</sup>, applies to any “organism” (any biological entity capable of replication or of transferring genetic material) that was genetically modified through the use of certain techniques.

The main aim of this law is to “ensure that all appropriate measures are taken to avoid adverse effects on human health and the environment which might arise from the deliberate release or the placing on the market of GMOs”. This law is very detailed and complicated.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### **Detail:**

The European Union has an organic logo, the “Euro-leaf”. It indicates that a product is in full conformity with the conditions and regulations for the organic farming sector established by the European Union. For processed products it means that at least 95% of the ingredients are organic (Council Regulation 834/2007) and Commission Regulation 889/2008. There is also a user manual with guidelines for the EU organic logo.

#### **Does it cover?**

- i. Food & Beverages – see above
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? If so, which?

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<sup>3</sup> Arrêté royal du 21 février 2005 réglementant la dissémination volontaire dans l'environnement ainsi que la mise sur le marché d'organismes génétiquement modifiés ou de produits en contenant.





BOLIVIA

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### ***Detail:***

Green claims are not very common in Bolivia. There is also no general advertising law that might apply to this matter. However, there are some laws that might be applicable indirectly, such as consumer protection regulation, and sanitary regulation. Nothing indicates that rules for Green Claims are likely to be introduced in Bolivia within the next year.

### QUESTION 2:

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### ***Detail:***

The laws mentioned above do not address claims related to these specific matters.

### QUESTION 3:

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

#### ***Detail:***

There are not many green claims in Bolivia. However, the ones that provoke the most challenges are, in our opinion, the ones referred to “natural”. The category that sees the most ad challenges is the one of food products.

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. by Regulators -
- b. in Self-Regulatory Forum -
- c. Civil litigation by competitor or consumers against advertiser - **No more than 5.**

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

NO

## **LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?*

Food Products

*What are the required disclosures?*

Prior to issuing the label, it has to be approved by the Sanitary Service, which is entitled to impose different kind of disclosures, according to the case.

## **BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

No, Bolivia does not have such guidelines.

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

### **QUESTION 10:**

*Does your country require labeling of GMO products?*

NO

## **ORGANIC PRODUCTS**

### **QUESTION 11:**

*Do you have a legislative regime to certify organic products?*

NO



BRAZIL

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### ***Detail:***

There is sparse federal and state legislation requiring the inclusion of disclosures on harms to the environment in advertisement of certain products such as agrochemicals, lubricating oil, vehicles, batteries, disinfecting agents and remediation products, pursuant Law No 7,802/89, Decree No 2,018/96, CONAMA Resolutions 362/2005, 018/1986 and 401/2008, ANVISA/RDC Resolution 34/2010 and IBAMA Normative Instruction 05/2010.

In addition, the Brazilian Consumer Defense Code (“CDC”), Federal Law No 8,078/1990, which provides for consumers’ protection in commercial relations, applies. Some principles, goals and consumers’ basic rights set forth therein may be applicable with respect to human’s dignity; enhancement of life quality; transparency; good faith; freedom of choice, product’s adequate and clear information as to the different products and services, quantity, characteristics, composition; and protection against abusive and misleading advertising.

On a different sphere, there is the Brazilian Advertising Self-Regulation Code, which establishes rules for the advertising industry and is enforced by the Brazilian Advertising Self-Regulation Council (CONAR). Despite the fact that the decisions are not binding, they are widely respected by the industry. The Brazilian Advertising Self-Regulation Code has been recently amended. Its new Annex U refers to sustainable claims and foresees certain requisites, such as (i) concreteness of the socio-environmental benefits, (ii) truthfulness of information provided, (iii) accuracy and clarity on the advertising, (iv) proof and source of the information, (v) relevance of the benefits, (vi) pertinence (vi) avoidance of absolute promises or advantages and (vii) use of third party’s information only when authorized.

The Brazilian Association of Technical Rules (ABNT) also has specific rules for environmental labels and statements. They do not have legal status, but they are equivalent to ISO rules, and therefore, may be required by ISO certified companies. ABNT NBR ISO 14020:2002, which foresees general principles for environmental labels and statements, and ABNT NBR ISO 14021:2004, which sets forth requirements for self-statements of environmental nature, its evaluation and verification, as well as rules for the use of certain claims.

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

CONAMA Resolution 018/1986 sets forth that any advertisement of vehicles must indicate if they are in compliance with the National Air Pollution Control (PRONCOVE).

ANVISA/RDC Resolution 34/2010 sets forth that labeling of disinfecting products cannot indicate that the product is biodegradable.

The Annex U of the Brazilian Advertising Self-Regulation Code regulates the use of sustainability and social responsibility claims.

ABNT NBR ISO 14021:2004 regulates the use of certain words, such as recyclable, recovered energy, recycled material, among others for any product.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

At the present moment, “sustainability” is the claim provoking the most challenges.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

At the present moment, the categories of products under scrutiny are very varied.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

YES

***What product(s)?***

Agricultural chemicals (Federal Law 7802/89); Lubricating oils (CONAMA Resolution 362/2005); Batteries (CONAMA Resolution 401/2008); Disinfecting Agents (ANVISA/RDC Resolution 34/2010); Remediation Products (IBAMA Normative Instruction 05/2010); and vehicles (CONAMA Resolution 018/1986).

***What are the required disclosures?***

Ads for agricultural chemicals must contain a warning about the risks to the environment.

Ads for lubricating oils must warn about the risks to the environment in case of inappropriate final disposal.

Ads for vehicles must indicate the compliance with National Air Pollution Control (PRONCOVE).

Ads for batteries must inform health and environmental risks of the products.

Ads for disinfecting agents cannot indicate that the product is biodegradable.

Ads for remediation products must contain information about their use precautions and warnings regarding environmental protection.

**Media in which disclosures required?**

N/A

**Detail:**

Disclosure requirements are not specific for one kind of media.

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

NO

**Detail:**

Despite the current reduced number of regulations and cases, we believe that it is only a matter of time until the Brazilian Regulators start being more active.

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- a. by Regulators –
- b. in Self-Regulatory Forum - 32
- c. Civil litigation by competitor or consumers against advertiser – 1

**Detail:**

The Department of the Consumer Protection and Defense – DPDC has been applying fines on companies for lack of information on the presence of genetically modified organisms in products. Federal Decree nº 4,680/2003 – that regulates the Brazilian Consumer's Defense Code, imposes the obligation to inform at the food label when the content of GMOs corresponds to over 1 %.

CONAR has been reviewing several cases about green claims in order to certify that the environmental claims are true and the consumer has the information needed to verify its accuracy.

On August 2012, in a public civil lawsuit filed by the Public Attorneys' Office, the 4<sup>th</sup> Regional Federal Court ordered Monsanto do Brasil to indemnify consumers for moral damages in the amount of R\$500,000.00 due to an ad that implied that genetically modified soy and glyphosate use were beneficial to the environment, especially at a time they were unlawful in Brazil. The court has also ordered Monsanto to counter advertise it. The decision is not final yet.



**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

**Advertiser:** Monsanto do Brasil

**Complainant:** Public Attorneys' Office

**Date:** August, 2012

**Forum (court, other tribunal, self-regulatory):** 4<sup>th</sup> Regional Federal Court

**Claims at Issue:** Truthfulness of information provided in the advertisement. Lack of warnings. Illegal product. Advertisement unlawfully directed at the general public, instead at farmers only.

**Product or entity about which claim was made:** Genetically modified soy and glyphosate.

**Facts:**

Monsanto do Brasil radio e television advertisement contains a dialogue in which the person says that she is proud of using genetically modified soy because and glyphosate use because they were beneficial to the environment conservation.

**Arguments on each side:**

Public Attorneys' Office challenged the scientific basis of the claim and the unlawfulness of the products at the time of the ad. Monsanto defended that the ad had institutional and not commercial purposes.

**Were claims found misleading or otherwise objectionable?**

Yes

**Reasons:**

Without scientific basis, the ad implied that genetically modified soy and glyphosate use were beneficial to the environment. The ad was aired at a time that both were not permitted in Brazil. The court has also ordered Monsanto to counter advertise and to pay indemnification for moral damages in the amount of R\$500,000.00. The decision is not final yet.

**Can you hyperlink to a copy of the decision and/or ad?**

..\Green Claims\Decisão Monsanto.docx

**LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

As far as we know, Brazil does not have any guideline for labeling biobased products.

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopREFERRED.gov/Labeling.aspx> - note current funding issues)*

There are many certification labels, but none is compulsory. For instance, Ecocert and the Brazil Biodynamic Institute (“IDB”) certify products that use natural and organic ingredients. The Brazilian Council of Forest Management (“FSC-Brasil”) certifies products produced out of certificated timber.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

Decree 4.680/2003 imposes the disclosure on labels of food and drink, for both human and animal consumption, of their genetically modified organisms ingredients and quantities, if over 1% in total. The gene donor specie must be informed at the ingredients list on the label as well.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Detail:*

Federal: Law 10831/2003, Decree 6323 / 2007 and MAPA Normative Proceeding 19/2009.  
State-based: Law 11.618/2000 and 12.117/2002 – Santa Catarina; Law 11.194/1998 – Rio Grande do Sul

#### *Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? **Cosmetics and medicines.**



CANADA

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

#### **Guidelines from Regulator:**

**i) Environmental Claims: A Guide for Industry and Advertisers (“Green Guide”)** – released by Canada’s Competition Bureau, our federal misleading advertising regulator, June 2008; in effect since June, 2009. The Green Guide includes definitions for various environmental claims as well as verification, disclosure and other principles for numerous claims when made by advertisers (i.e. “self-declared” claims). It was prepared in partnership with the Canadian Standards Association and is a “best practices” document meant to provide guidance to advertisers, but may also be used by the Bureau to determine whether claims are false or misleading.

**ii) Guidance on Labelling Textile Articles Derived from Bamboo** – released by the Competition Bureau on March 11, 2009, this indicates how fabrics derived from bamboo should be properly described – e.g. as “rayon” (or “rayon from bamboo”) or “viscose” (or “viscose from bamboo”) as opposed to simply “bamboo”, depending on the facts.

**iii) Proposed Guidelines on Natural, Naturally Raised, Feed, Antibiotic and Hormone Claims** – the Canadian Food Inspection Agency (“CFIA”) put these proposed guidelines out for comment in 2011 (deadline for comments was November 27, 2011). They discuss terms such as (but not limited to) “natural”, “grain-fed”, “fed no animal products and by-products”, “raised without the use of hormones” and “raised without the use of antibiotics”, on meat, poultry and fish products. CFIA stresses that similar claims, including brand names, trade-marks and images, may be assessed under the guidelines. The industry has been on notice of the rules proposed since a Discussion Paper on these terms was released by CFIA in 2005. CFIA put the guidelines out more recently to see whether the rules still accorded with public expectations. At the time of writing, CFIA had not published final guidelines.

For “organic” claims, see question 9 below.

#### **Self-Regulation:**

Advertising Standards Canada (“ASC”), the ad industry’s main self-regulatory body passed an interpretation guideline (Oct. 29, 2008) to its Canadian Code of Advertising Standards (“Code”) indicating that ASC Consumer Response Councils may take into account the standards under the federal Green Guide, described above, when deciding whether an environmental claim is deceptive under the Code.

**Voluntary:**

Standard for Voluntary Labelling and Advertising of Foods That Are and That Are Not Products of Genetic Engineering.

There are various eco-labels that marketers may use in Canada, subject to compliance with applicable requirements – e.g. the **EcoLogo™** program at [www.ecologo.org](http://www.ecologo.org)

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

The claim “sustainable” and the use of symbols (seals, etc.) are dealt with in **Environmental Claims: A Guide for Industry and Advertisers.**

Genetically engineered foods are dealt with in the voluntary guidelines discussed in Question 10 below: Standard for Voluntary Labelling and Advertising of Foods That Are and That Are Not Products of Genetic Engineering.

Claims such as “naturally raised”, etc., are dealt with in the **Proposed Guidelines on Natural, Naturally Raised, Feed, Antibiotic and Hormone Claims.**

Textiles are dealt with to some extent in the guidelines relating to bamboo-derived textiles.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

Fuel-saving, emission reduction and energy efficiency-related claims. Challenges have also involved “biodegradable” and superiority claims.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Fuel saving and emission reduction devices; devices that purport to use less energy (i.e. suggesting that they are Energy Star qualified).

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

**YES**

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators – 2
- b. in Self-Regulatory Forum - 2
- c. Civil litigation by competitor or consumers against advertiser – 1

***Detail:***

**Regulator: Competition Bureau, Jan. 17, 2011**

- a) January 17, 2011 – Brent Marsall, Dynasty Spas and Games Room, Dynasty Spas Inc., also doing business as EcoSmart Spas, and 1232466 Alberta Ltd., also doing business as Dynasty Spas re associating hot tubs/spas with Energy Star® program. Implied association of products with Energy Star program.
- b) September 1, 2010 – The Bureau entered into a consent agreement with a U.S. paint products company, requiring the latter to stop allegedly misleading claims on its painting kit (sold in Canada) that the paint was “biodegradable”. While specific facts were not reported, it is suggested that the paint released harmful substances during disposal or degradation.

**Self-regulatory: Advertising Standards Canada**

- a) Q2, 2010 - Power Workers' Union – re whether nuclear reactor is “emission-free”
- b) Q2, 2010 - Mountain Crest Brewing Co. – re whether beer cans are better for the environment than glass beer bottles

**Civil Litigation**

**Direct Energy Marketing Limited v. National Energy Corporation, 2012 ONSC 4232**

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:*** National Energy Corporation (National Energy)

***Complainant:*** Direct Energy Marketing Limited (Direct Energy)

***Date:*** July 17, 2012

***Forum (court, other tribunal, self-regulatory):*** Ontario Superior Court of Justice

***Claims at Issue:***

Among other price-related claims, that:

- a) Direct Energy’s water heaters are less efficient than National Energy’s; and
- b) none of Direct Energy’s water heaters are Energy Star efficient.

***Product or entity about which claim was made:*** Water heaters marketed by Direct Energy

**Facts:**

National Energy distributed a total of approximately 38,000 brochures around the Greater Toronto area as well as certain other cities in Ontario (Kitchener and London) in 2010 and possibly 2011, making or implying the claims above. The brochure also reproduced Direct Energy's trademark and logo (contrary to the law as well as a prior consent order between the parties).

**Arguments on each side:**

Direct Energy argued that:

- a) the above representations were false and misleading contrary to ss. 7(a) and 53.2 of the *Trade-marks Act* as well as ss. 52 and 74 of the *Competition Act*.
- b) the display of Direct Energy's trademarks in the brochure depreciated the value of the goodwill in the trade-marks contrary to s. 22 of the *Trade-marks Act*.

National Energy argued:

- a) among other things, that the plaintiff had not proven a specific amount of damages or loss

**Were claims found misleading or otherwise objectionable?**

Yes

**Reasons:**

Justice O'Neill found that the claims referenced above were false and misleading and tended to discredit Direct Energy. With respect to damages, Justice O'Neill found that during the relevant period Direct Energy lost over 60,000 water heater rental contracts, that the clear purpose of the misleading brochure was to draw customers away from Direct Energy and that it defied logic to argue that as a result of the distribution of the brochure not a single customer would have directed his business to National Energy. Even though the loss could not be accurately verified and calculated at that stage of the proceedings, it was appropriate to refer the matter to a Master to quantify and compute damages.

Relief granted:

- a) Permanent injunction on further distribution of the brochure;
- b) matter was referred to the Master to quantify monetary damages; and
- c) declarations that the defendant breached s.7(a), 22 and 53.2 of the *Trade-marks Act* and s.52 of the *Competition Act*.

The Court did not order a retraction to be published in newspapers, as Direct Energy requested. The Court found that too much time had passed (over a year) for the retraction to be of benefit to the public.

The decision was appealed but as at the date of writing, no further information is available.

**Can you hyperlink to a copy of the decision and/or ad?**

The decision is at:

[http://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCMQFjAA&url=http%3A%2F%2Fwww.canlii.org%2Fen%2Fon%2Fonsc%2Fdoc%2F2012%2F2012onsc4232%2F2012onsc4232.pdf&ei=GTVmUOKuBqPIyAHewYD4AQ&usg=AFQjCNHijhqTCGxYcouSEhnFEMS2L\\_PxBg&sig2=nwWqxqCOATlstjIMPrBiBg&cad=rja](http://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCMQFjAA&url=http%3A%2F%2Fwww.canlii.org%2Fen%2Fon%2Fonsc%2Fdoc%2F2012%2F2012onsc4232%2F2012onsc4232.pdf&ei=GTVmUOKuBqPIyAHewYD4AQ&usg=AFQjCNHijhqTCGxYcouSEhnFEMS2L_PxBg&sig2=nwWqxqCOATlstjIMPrBiBg&cad=rja)

## LABELS

**QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

- i. Legal: “Energy-Using Products” prescribed by regulation (e.g. including major household appliances and heating systems);
- ii. Voluntary: Vehicles – fuel consumption information; Homes – energy efficiency. Homes can also be tested for and receive an EnerGuide rating. Additional voluntary eco-certifications are also available for many products.

**What are the required disclosures?**

- i. For “**Energy-Using Products**” – Canada's Energy Efficiency Regulations require the EnerGuide label to be placed on “energy-using products” (e.g. major household electrical appliances, heating, ventilating and air-conditioning equipment, with the list continually growing). The label must indicate the product’s energy consumption and certain relative information, in a prescribed form. Certain **lighting products** also have requirements – e.g. to indicate Light Output (Lumens), Energy Used (Watts) and Life (Hours). Except for certain exempted products, the label of any energy-using product that is shipped from one province to another or imported into Canada for the purpose of sale or lease must include an approved verification mark.
- ii. For **Vehicles** – by agreement, manufacturers apply the standardized EnerGuide label to light-duty vehicles (including passenger cars and pickup trucks). The label provides model-specific fuel consumption data. Previously, fuel consumption data was collected by Transport Canada’s Fuel Consumption Program. For 2011 car models onwards, however, Environment Canada has been responsible for collecting the data. The data is published by Natural Resources Canada, which runs the EnerGuide label program through the Office of Energy Efficiency.

## BIOBASED PRODUCTS

**QUESTION 9:**

**Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?**

NO

**Is there a certification label for them, such as the USDA Certified Biobased Product label in the**



U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

NO

#### **Detail:**

There are no mandatory labeling disclosures in Canada that food is genetically modified (“GM”) or genetically engineered (“GE”) or contains GM or GE ingredients, although there is a national voluntary labelling standard for GE food in Canada, as discussed below.

In Canada, GM and GE foods are regulated as “novel foods” and are subject to pre-market notification requirements specified under Division 28 of Part B of the *Food and Drug Regulations (Novel Foods)*<sup>1</sup>. During the pre-notification evaluation, Health Canada evaluates the safety of the food. While Canadian law requires labelling if there is a health or safety issue (e.g. significant changes to a food’s nutritional value or composition or the presence of allergens) that can be mitigated through labelling, it does not require the fact of genetic modification or engineering *per se* to be disclosed.

Having said that, as the Government of Canada is aware that many Canadians would like to make a choice about buying food derived from biotechnology, it supported the development of a voluntary standard for such labelling. This came into effect in 2004, when the Standards Council of Canada officially adopted the Canadian General Standards Board (“CGSB”) *Standard for Voluntary Labelling and Advertising of Foods That Are and That Are Not Products of Genetic Engineering* (“CGSB Standard”)<sup>2</sup>. The CGSB Standard focuses only on GE food. An organism, such as a plant, animal or bacterium, is considered **genetically modified** if its genetic material has been altered through any method, including conventional breeding. An organism is considered **genetically engineered** if it was genetically modified using techniques that permit the direct transfer or removal of genes, also called recombinant DNA or rDNA techniques. The CGSB Standard is limited to claims about the use of genetic engineering in the production of foods and food ingredients, which it considers to be the information consumers wish to have. Adopting an objective stance, it explicitly states, “This standard ... does not imply the existence of health or safety concerns for products within its scope.”

We note that in July 2011, the Codex Alimentarius Commission, of which Canada is a member, adopted guidelines allowing (but not requiring) GE food product labelling. CFIA considers the CGSB Standard to be consistent with the Codex guidelines.

**Legislative Attempts:** There have been numerous attempts to pass legislation requiring labelling of GM products. In 2008, a private member’s bill introduced by Gilles-A. Perron to label GE foods (Bill C-517) was defeated in the House of Commons. (A private member’s bill is introduced by a member of the opposition party and rarely becomes law.) There have been various subsequent

<sup>1</sup> Health Canada, “Regulation of Genetically Modified Food”: [http://www.hc-sc.gc.ca/sr-sr/pubs/biotech/reg\\_gen\\_mod-eng.php](http://www.hc-sc.gc.ca/sr-sr/pubs/biotech/reg_gen_mod-eng.php)

<sup>2</sup> ”: <http://www.tpsgc-pwgsc.gc.ca/ongc-cgsb/programme-program/normes-standards/internet/032-0315/index-eng.html>

attempts to re-introduce the bill. The latest attempt was Bill C-257 – another private member’s bill, introduced in 2011. Bill C-257 languished after introduction and first reading.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

*Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?  
Livestock feed, agricultural crops used for human food/beverages and livestock feed and the cultivation of plants – all covered under the federal Organic Products Regulations.



CHINA

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### **Detail:**

#### **Certification and Accreditation Administration**

The Certification and Accreditation Administration is a government entity established under China's State Council (similar to a cabinet). It is China's highest certification authority. This regulator has a number of regulations encompassing when products may make a "Green Claim". E.g., it is responsible for issuing certificates relating to: organic products, green products (e.g., safe and high quality food product), good agricultural practice (GAP) (this is an international standard which includes best practice methods relating to reducing soil erosion, avoiding fertilizer run off, avoiding respect for animal well being etc) and non-harmful agricultural products (narrower than GAP and relates to a products, environment, production process and quality being at national standards). These regulations all specify penalties for illegally making a "Green Claim".

Additionally, an entity may apply for Green Market Certification (pursuant to the *Administrative Measures for Green Market Accreditation*) which allows the entity to use all of green marks on its goods. The Chinese government has a policy of promoting the construction of a 'green market' and the Green Market Accreditation is a direct result of such directive.

For instance, with respect to organic products, the relevant laws are the *Administrative Measures for Organic Product Certification* (effective since 2005) and the *Rules for Implementing the Certification of Organic Products* (effective 2005). China has also issued guidelines specifying that a product is determined to be organic based on international standards. These laws outline the procedures for registering a product as organic and also stipulate penalties. For instance, claiming a product is "organic", "natural" or "pollution free" without having gone through the certification process would expose a party to penalties. Under these laws such violation could result in a RMB 10,000 fine (US\$ 1,600).

#### **Ministry of Health and Ministry of Agriculture – GMO**

The Ministry of Health is responsible for oversight over inspecting GM food products. It has specific regulations detailing what constitutes a GM food product and what standards should be met. Also, there are corresponding penalties for not having gone through the review process.

The Ministry of Agriculture is responsible for administering the relevant mark for agricultural GMO products.

#### **Summary of Relevant Laws:**

These laws are available from a variety of sources but some require a subscription to access

(some provide English translations).

*Administrative Measures for Green Market Accreditation* (effective since 2005)

*Circular on Further Promoting the Green Market Construction* (issued 2005)

*Administrative Measures for Organic Product Certification* (effective since 2005)

*Rules for Implementing the Certification of Organic Products* (effective since 2005; amended 2012)

*Administrative Measures for Green Food Labels* (effective since 2012)

*Administrative Measures for Good Agricultural Products Certification* (effective since 2006)

*Administrative Regulations for Non-harmful Agriculture Products* (effective since 2002)

*Administrative Regulations for Non-harmful Agriculture Product Labels* (effective since 2002)

*Administrative Regulations for the Safety of Genetically Modified Food Products* (effective 2002)

*Administrative Regulations on the Security of Genetically Modified Agricultural Organisms* (effective since 2001)

*Administrative Measures for Agricultural Transgenic Organisms Labeling* (effective since 2002)

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

Sustainable: A key element in GAP certification is sustainability.

“Natural” “Free range”: The green food certification relates to claims that food is “green” or “pollution free”, although the words “natural” or “free range” are not specifically related, as the case in Q7 making such claims without certification could result in sanctions.

GMO: the GMO regulations above deal with these.

Seals and Certifications: Q1 deals with seals and certifications in depth.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

There are no definitive statistics differentiating the above categories, but based on our anecdotal experience claims relating to food and “green” and “natural” provoke many challenges. However, this is more related to food safety/quality rather than being “environmentally friendly”.

There have also been challenges with regards to changes of energy efficiency, e.g., a Chinese air conditioning company’s claims regarding the exact efficiency of its air conditioners was challenged in a Shenzhen court.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Food and electrical appliances.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

***Detail:***

Recently, there have been many problems regarding food in China, such as non-green food products circulating in the market. Therefore, such issues are of concern to regulators. For instance, on 30 July 2012, the Ministry of Agriculture strengthened the administration and use of the green food logo and to ensure that green food products meet the relevant qualifications. Correspondingly, authorities have also implemented stricter inspection procedures for products which wish to be listed as green products.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators –
- b. in Self-Regulatory Forum –
- c. Civil litigation by competitor or consumers against advertiser –

There are no official statistics for the abovementioned 3 points.

***Detail:***

Regulator: Chongqing Administration for Industry & Commerce, Aug. 25, 2011

From 1 January 2010 to 25 August 2011, 12 Walmart stores in Chongqing province labeled ordinary pork as “Green Pork”. This pork was also sold at the same price as genuine Green Pork. The sales revenue for this product reached RMB 600,000.

On the basis that the true nature of the product was not disclosed causing the consumer to be deceived, and because the rights of the consumer were infringed according to the principle of good faith, the Administration for Industry & Commerce fined Walmart.

Court: Chongqing No.1 Intermediate People's Court (see q7 for details)

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:*** A Supermarket and food company– names kept confidential

***Complainant:*** Chen Hui

***Date:*** Aug. 25, 2011

***Forum (court, other tribunal, self-regulatory):***

Chongqing No.1 Intermediate People's Court

***Claims at Issue:***

That the company had deceived the consumer with an incorrectly labeled product.

***Product or entity about which claim was made:***

Beef

***Facts:***

The advertiser sold ordinary beef with the label "pollution free, green food". However, the beef had not been certified as 'pollution free' or as 'green food'.

***Arguments on each side:***

The complainant argued that he had been misled because the beef product sold by the advertiser was only normal beef but it had been labeled as "pollutant free green food". However, the beef had not been certified by the plaintiff so the plaintiff considered this to deceive the consumer.

The advertiser claimed that the label "pollutant free, green food" was only an "introduction" to the beef and the packaging did not state that the beef was produced to be "green food" and "pollutant free".

***Were claims found misleading or otherwise objectionable?***

Yes

***Reasons:***

The court found that the label was misleading and deceived the consumer because the package "clearly indicated that it was high nutrition, pollution free, green food".

***Can you hyperlink to a copy of the decision and/or ad?***

N/A

## LABELS

### QUESTION 8:

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

YES

***What product(s)?***

Energy-consuming products which have been designated as requiring an energy efficiency label by the government (e.g. air-conditioner, micro-computer)

***What are the required disclosures?***

1. Name or shortened name of the manufacturer;
2. Specifications and type of product;
3. Energy efficiency grade;
4. Energy consumption; and
5. Number of the applicable national standards for energy efficiency

## BIOBASED PRODUCTS

### QUESTION 9:

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

Yes. For instance, *Standards for the Definition, Classification, Marketing and Degradability Requirements of Degradable Plastics* stipulate the labeling methods for the degradable plastics.

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

Yes. See link.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

***Does your country require labeling of GMO products?***

NO

According to the *Administrative Regulations on the Security of Genetically Modified Agricultural Organisms* and the *Administrative Measures for Agricultural Transgenic Organisms Labeling*, all GMO products in China must be affixed with a label indicating they are GMO.



## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### **Detail:**

Organic product certification is mentioned in Q1

#### **Does it cover?**

- i. Food & Beverages (see question 1: general)
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





COLOMBIA

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### **Detail:**

#### **Law:**

There are the following regulations regarding the control of organic products in Colombia:

Resolution Number 00074 of 2002 issued by the Ministry of Agriculture and Rural Development regarding the regulation for the production of raw materials, labeling, storage, commercialization and import of agricultural products.

Resolution Number 1555 of 2005 issued by the Ministry of Commerce, Industry and Tourism in conjunction with the Ministry of Environment, which regulates obtaining of the “Colombian Environmental Label”.

Resolution Number 4254 of 2011 issued by the Ministry of Social Protection, regarding the technical regulation that establishes the labeling of GMO products.

#### **Industry Specific Guidelines (e.g. cars):**

##### **Flor Verde Sustainable Flowers:**

Regarding the flowers industry, there is an independent social and environmental standard called Flor Verde Sustainable Flowers. This standard created by agronomist and social workers specialized in the sector, encourage growers to use alternative forms of pest control and fertilization. This includes Integrated Crop Management techniques, natural compost or mechanical alternatives to pesticides.

Growers are also prohibited from using banned chemicals as listed by the World Health Organization, U.S. EPA, European Union authorities, and national laws.

Florverde Sustainable Flowers also protects water sources by requiring growers to keep track of water usage, employ water efficient irrigation technologies in greenhouses, and comply with national regulations regarding wastewater.

Currently, there are two approved independent certification bodies authorized to certify flowers against the Florverde Sustainable Flowers. Which are ICONTEC and SGS.

#### **Voluntary:**

##### **“Colombian Environmental Label”**

In Colombia there are no specific laws that regulate Green Claims for the whole industries

of products or services. Nevertheless, the Colombian Environmental Ministry in conjunction with the Ministry of Commerce, Industry and Tourism has created an instrument to list a product or a service as environmental friendly.

This is a voluntary mechanism regulated in Resolution Number 1555 of 2005, in which the manufacturer can ask for an environmental label that recognizes that the product is environmentally friendly, according to some general standards. These general standards vary depending of the product or service, but in general means that, the product makes sustainable the resources that it uses (raw materials), works with materials that do not harm the environment, apply production processes that involve less energy, uses renewable energy sources, comply with recycling policies, utilize packaging materials that are recyclable, reusable or biodegradable, employs clean technologies that generate a less impact to the environment, or indicates to its consumer the best way to manipulate the product once it has been consumed.

In order to ensure the credibility and the economic sustainability of the “Colombian Environmental Label”, the program works under the National System of Normalization, Certification and Metrology of Colombia.

The Colombian Environmental Label operates under three fundamental stages. The first one, correspond to the selection of the categories of the products that are going to be normalized. The second is the normalization of the environmental standards for adjudication of the environmental tag. The third phase is the voluntary application of the standards.

The first phase starts with the request of the applicant of any product manufactured, imported or marketed in Colombia. However, the products that are regulated by the ecological tag granted by the Ministry of Agriculture are excluded from the environmental tag, as well as the products that by themselves represent a threat to the environment or consumers (for example they prohibit certain substances to be used as pesticides).

After the request is filed, it passes to a feasibility study in which is analyzed if the category in which the request was filed meets the five standards of selection. The six standards that define the category of the product are:

- (i) It must be in accordance with the programs of the government, related to the environmental sector of the products;
- (ii) It must have also a significant participation in the national or international market;
- (iii) The product must have important environmental effects in its life cycle;
- (iv) The product or service must be manufactured or rendered in appropriate infrastructure facilities according to the Colombian regulation.
- (v) It must provide the scientific information of the environmental considerations and the performance of the product.

The fulfillment of the above listed categories is verified in two instances. In the first one, the Internal Committee of the Colombian Environmental Tag analyzes the first four standards. In the second one, the last two standards are analyzed by a committee named

the Normalization Committee. This Committee elaborates the sketch of the technical regulation with the environmental requirements of the category. When the sketch is approved, the same is studied by the general public for a period of two months. After such period expires, the Normalization Committee study the observations and comments and makes the final adjustments to the technical regulation.

After the final modifications are carried out, comes the next phase, which consists of the approval and later publication of the technical regulation of the sketch. Once the publication has been done, the environmental tag is authorized.

Finally, it is important to mention one of the first brands that was certified with the Colombian Environmental Tag was Schneider Electric. This is a recognized multinational that has been in Colombia for over 35 years working in the electric field. It received the Environmental Colombian tag because of the reduction of ecological expenses and the implementation of ecological packaging.

***Nothing specific - general false advertising laws only:***

***Superintendency of Industry and Commerce:***

This entity is in charge of supervising and controlling that the seven guidelines of publicity (that it is accurate, sufficient, timely, verifiable, understandable, suitable and appropriate) are followed by any merchant.

Through these principles, it controls that the rights of consumers are not breached by the advertisers. Before this entity, consumers can file formal complaints regarding the violation of any consumer protection regulations, including those related to Green Claims as false advertisement.

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

***"natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish:***

The Ministry of Agriculture and Rural Development has created through Resolution 148 of 2004 the "Food Ecological Label" that certifies that during product's manufacturing and commercialization processes:

- No chemical substances were used.
- There has been a balance between the extraction of the product and its renovation.
- No use of external inputs.

***Building materials:***

In Colombia there has not been any developing of claims related with building materials.

***Textiles:***

The “Colombian Environmental Label”, mentioned above has created some general standards for textiles to be environmentally friendly. This through the technical norm NTC 5517 of 2007, which specifies the conditions concerning extraction of raw material, production, packaging, use and recycling in order to obtain the label.

***Genetically modified organisms (GMOs):***

Resolution number 5109 of 2005 stipulates in its article number 10 that the labeling of the GMO products should comply with the specifications of labeling that the National Government issues.

Resolution Number 4254 of 2011 issued by the Ministry of Social Protection, regarding the technical regulation that establishes the labeling of GMO products.

This resolution establish that all the packages of food that contain any kind of GMO products must be labeled when:

The value of the nutritional composition that contains GMO products is not equivalent with its counterpart in the market.

The type of storage, preparation of the product uses GMO raw materials.

The raw material that are not packaged and that contain GMO must specify the percentage of GMO contained in its product.

Finally it is important to mention that the entity that is in charge of the surveillance of this identified measures is the “INVIMA” (Health Registration Office)

***Renewable energy or materials:***

In Colombia there has not been any development of claims related with renewable energy or materials.

***Seals and Certifications:***

The “Colombian Environmental Label” has regulated through different technical norms the obtainment of the seal. These technical norms are:

- (i) Technical Regulation Number 5131, establishes the criteria for industrial and domestic cleaners.
- (ii) Technical Regulation Number 5517, establishes the environmental criteria for packaging, twine, wire ropes and sisal fabric.
- (iii) Technical Regulation Number 5585, establishes the environmental criteria for motor oils.
- (iv) Technical Regulation Number 5637, establishes the environmental criteria for crafts, fabric and products from sisal material.
- (v) Technical Regulation Number 5133, establishes the environmental criteria for hotels and hostels.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

N/A

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

N/A

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?* Tobacco

*What are the required disclosures?* In every package there must be written that tobacco is harmful for health and affects the healthy environment.

*Media in which disclosures required?*

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**Detail:**

The advertising of any kind of propaganda regarding tobacco is prohibited unless it is done over the same package.

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. by Regulators – 0
- b. in Self-Regulatory Forum - 0
- c. Civil litigation by competitor or consumers against advertiser – 1

**Detail:**

As there is no official record that specifies this information, we are not able to provide an accurate answer to these questions. However and based on our legal practice we can affirm that such claims are not common, since usually the same are filed or construed under false advertisement charges.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

*Advertiser:* Detergentes LTDA.



**Complainant:** Carlos Hernan Vargas Jaramillo

**Date:** January 23, 2013

**Forum (court, other tribunal, self-regulatory):**  
Superintendence of Industry and Commerce.

**Claims at Issue:**

The advertiser assured that a detergent sold with the brand “Top Terra” contained sodium sulfate metiléste, a renewable product that made it an ecological detergent. According to the Superintendence of Commerce and Industry, Detergentes LTDA had to demonstrate this fact by a third duly certified laboratory that has international or national recognition of its activity.

**Product or entity about which claim was made:** Top Terra

**Facts:**

-Top Terra detergent assures in its package that it was an ecological product because it uses sodium sulfate metiléste, a renewable product, it didn't use phosphate and it used recycled materials for the elaboration of its package.

-Carlos Hernan Vargas Jaramillo, a consumer of the product, claimed that Top Terra had not demonstrated the use of sodium sulfate metiléste in its content.

**Arguments on each side:**

Detergentes LTDA claimed that it used sodium sulfate metiléste in its product. For the demonstration of this, it provided the technical information certificated by the INVIMA, (Health Registration Office), where it was confirmed that the product utilized this substance.

However, the Superintendence of Commerce claimed that the document provided by the defendant was not enough and that it must provide the scientific studies that support it.

As result of these arguments, the Superintendence of Industry and Commerce initially resolved to impose on Detergentes LTDA a fine of maximum \$32.700.00 US. It also demanded the modification of the publicity of the product “Top Terra”.

**Were claims found misleading or otherwise objectionable?**

Detergentes LTDA objected to the decision, arguing that the document of the INVIMA (Health Registration Office) was a technical valid support to demonstrate that sodium sulfate metiléste was used on its product. According to these arguments, Detergentes LTDA claimed that the legal evidence was not evaluated in a correct way.

In its second judgment the Superintendence of Industry and Commerce accepted the INVIMA document as a valid certification of the components of the product. For this reason it determined, through Resolution N. 924 of 2013, to remove the penalty.

**Can you hyperlink to a copy of the decision and/or ad?**

<http://www.topterra.com.co/website/index.php/top-terra>

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

#### *What product(s)?*

The Colombian Environmental Label regarding the packing with twine, wire ropes and sisal fabric.

The Colombian Environmental Label regarding Craft, fabric and products from sisal material.

#### *What are the required disclosures?*

On packages made with twine, wire ropes and sisal fabrics the manufacturer must specify that is the package that has the Colombian Environmental Label, not the product inside.

Regarding Craft, fabric and products from sisal material the inclusion of the Ecological Label requires from the manufacturer to specify the use and care of the product.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

Regarding labeling of GMO products there are the following regulations;

Cartagena Protocol on Biosafety to the Convention on Biological Diversity. Law 740, 2002.

Resolution number 5109 of 2005 stipulates in its article number 10 that the labeling of the GMO products should comply with the specifications of labeling that the National Government issues.

Resolution Number 4254 of 2011 issued by the Ministry of Social Protection, regarding the technical regulation that establishes the labeling of GMO products.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### **Detail:**

The Ministry of Agriculture and Rural Development has created through Resolution 148 of 2004 the “Food Ecological Label” that certifies that during product’s manufacturing and commercialization processes:

- No chemical substances were used.
- There has been a balance between the extraction of the product and its renovation.
- No use of external inputs.

The authorization of the “Food Ecological Label” must be requested by the producer without any cost before the Ministry of Agriculture. The Ministry of Agriculture issues the label for a period of three years, which can be extended if the requirements are maintained.

The process of certification implies the verification of the chain of production; it consists of two phases; inspection and certification. During the inspection there is evaluated if the processes of production meet the ecological standards. During the phase of certification a special entity grants the “Food Ecological Label”.

Finally, it can be highlighted the corporation “Ecologizate” that has the “Food Ecological Label” which it distributes different organic products around the country.

#### **Does it cover?**

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





# COSTA RICA

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

Industry's self-regulation code "**Código de Autorregulación Publicitaria**" contains a general prohibition to promote actions against environmental sustainability. Also, specifies some requirements for making environmental claims.

The Code came into force in November 2010, and the environmental provisions were included since its first version.

As per possible regulations, the director of the consumer protection authority expressed publicly their purpose to issue a regulation on green claims, but no specific efforts have been made to that end.

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

Self-regulation code contains general regulation about environmental claims, without being specific in any of these subjects

### QUESTION 3:

*Which claims provoke the most challenges – e.g. "carbon neutral", "biodegradable", "natural", "green", "environmentally friendly", "sustainable", energy savings/efficiency, money savings, etc.:*

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

**Detail:**

Green claims have not been an issue yet for neither environmental regulator, consumer protection agencies, Consumers Associations, nor any other relevant group

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

N/A

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

Green claims have not really been an issue. No high profile case has been brought yet.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

NO

## **LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency):*

NO

## **BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

N/A

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

N/A

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

NO

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

*Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





CZECH REPUBLIC



## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### **Detail:**

#### **Law:**

**Act no. 242/200 Coll. On Ecologic Agriculture (“O ekologickém zemědělství”):**

Before the Czech Republic’s entrance to the European Union in 2004, this Act provided for relatively detailed rules how the co-called bio-products and bio-food should be correctly marked.

After the Czech Republic joined the EU, it became bound by the EU’s regulations which directly governed this subject matter – firstly by regulation no. 2092/91, later (up until today) by **regulation no. 834/2007** and its implementary **regulation no. 889/2008**.

According to these regulations, to use any expression that refers to ecologic production (such as “eco”, “bio” etc.) as a mark, in advertising or in business materials, is allowed only if the product does not contain GMO and under certain other conditions (for instance, these expressions can be used within business mark of a processed food only if at least 95 % of its substance is of ecologic origin etc.). These regulations also specify EU’s ecological production logo and the terms of its usage.

The control over adherence to the Czech Act and the EU regulations is performed by the Ministry of Agriculture of the Czech Republic.

Another generally binding regulation is to be found in the executive regulations. According to the **executive regulation no. 113/2005 Coll. On the Manner of Marking Food and Tobacco Products (“o způsobu označování potravin a tabákových výrobků”)**, it is allowed to mark a food product as “home-made”, “fresh”, “active”, “clean”, “natural”, “rational” etc., only if there is expressly stated concession in special legislature. Such special concessions can be found for instance in executive regulation no. 77/2003 Coll., where it is stated that milk or cream can be marked as “fresh”, only if thermally treated by pasteurization.

#### **Industry Specific Guidelines (e.g. cars)**

**Act. No. 56/2001 Coll. On Conditions of Operating Cars on Ground Communications (“o podmínkách provozu vozidel na pozemních komunikacích”):**

In this act, it is stated that any certified car producer is – among other things - obliged to provide that for every newly produced car, there is in the point of sale a poster informing

consumers on its fuel consumption and CO<sup>2</sup> emissions. Also the car producer must provide that in any promotional material concerning its newly produced cars, there is clearly stated information on the car's fuel consumption and CO<sup>2</sup> emissions.

**Act. No. 406/2000 Coll. On Energy Management. ("o hospodaření s energií), and its executive regulation no. 337/2011 Coll. On Energetic Labelling and Ecodesign of Products Connected with Energy Consumption ("o energetickém štitkování a ekodesignu výrobků spojených se spotřebou energie")**

This act and executive regulation provide for the rules for labeling electronic products with information on energy consumption. This information – at least concerning certain categories of products – must be also mentioned in advertising.

#### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

As mentioned above, the special "green" regulation in the Czech Republic (which also covers directly applicable EU regulation) deals with every mention that implies that certain product has ecological origins – such as "bio", "eco", but also "natural", "home-made" etc.

And as was also mentioned, there is also special regulation dealing with the mentioning of CO<sup>2</sup> in the advertising materials for cars + energy consumption in the advertising materials for certain electronic products.

#### QUESTION 3:

*Which claims provoke the most challenges – e.g. "carbon neutral", "biodegradable", "natural", "green", "environmentally friendly", "sustainable", energy savings/efficiency, money savings, etc.:*

Mostly "natural", "fresh" etc.

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

Food

#### QUESTION 4:

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO<sub>2</sub> emissions, etc.)?*

YES

**What product(s)?**

Cars  
Electronic products.

**What are the required disclosures?**

Fuel consumption and CO<sup>2</sup> emissions  
Energy consumption

**Media in which disclosures required?**

TV                  Print                  Internet                  Radio                  Point of Sale                  Other

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

NO

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:** We are not aware of any such actions (of any relevance) in the period.

- a. by Regulators –
- b. in Self-Regulatory Forum –
- c. Civil litigation by competitor or consumers against advertiser –

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

We are not aware of any such interesting case (of any relevance) in the recent years.

## **LABELS**

**QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?** Electronic products.

**What are the required disclosures?** Energy Consumption.

## **BIOBASED PRODUCTS**

**QUESTION 9:**

**Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?**

YES, see answer to Question 1.

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

Indeed, there are several labels for these types of products.

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

### **QUESTION 10:**

***Does your country require labeling of GMO products?***

YES

#### ***Detail:***

Act No. 78/2004 Coll. On Dealing with GMOs and Genetic Products (“o nakládání s geneticky modifikovanými organismy a genetickými produkty”)

## **ORGANIC PRODUCTS**

### **QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

YES

#### ***Detail:***

Act no. 242/200 Coll. On Ecologic Agriculture (“O ekologickém zemědělství”)

#### ***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





DENMARK

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

ii. The Executive Order on Cosmetics contains a ban against misleading marketing. The Danish Environmental Agency has the authority to address issues in relation to the marketing of these products.

The general rules on misleading marketing in section 3 and the general clause on good marketing practice in section 1 of the Danish Marketing Practices Act concern green claims in general. These are specified in a guideline from the Danish Consumer Ombudsman who has authority to address issues in relation to breach of the Danish Marketing Practices Act:

Guidance from the Danish Consumer Ombudsman on the use of environmental and ethical claims, etc., in marketing, January 2011: [www.consumerombudsman.dk](http://www.consumerombudsman.dk)

### QUESTION 2:

**Do the above address claims relating to:**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

The Guidance is both general in relation to the use of green claims and specific in relation to important issues which are highlighted.

### QUESTION 3:

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

Where factual statements are made, these must be capable of being substantiated by documentation.



General claims like ‘environmentally friendly’, ‘environmentally correct’, ‘gentle on the environment’, ‘natural’ and ‘green’ amongst others, are likely to convey the impression to consumers that a product or an activity of a trader mainly has a positive effect on the environment, is gentle on the environment or has no or only a limited environmental impact. General claims like this are often likely to create confusion about the specific contents.

In general, statements about products or activities like this must be assessed against similar products, etc., in the market. Consumers must be able to trust, e.g., that a product has a smaller environmental footprint than similar products if a trader markets his product as environmentally friendly, possibly supplemented by an explanatory statement of what makes the product environmentally friendly or less polluting.

When a trader markets a product using general statements, the Consumer Ombudsman finds that it is of vital importance that the product is among the top products in the market. If that is not the case, the trader may risk misleading the consumers. If the statement is specified by a more detailed explanation, it is required instead that the emphasized environmental benefit may not be a general characteristic of similar products.

The Consumer Ombudsman has specifically addressed claims related to environmentally neutral impact, such as carbon neutral, which indicates that he has specific concerns about this type of claims.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Advertising for fuel to cars sees the most add challenges for the time being.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

***Detail:***

The Consumer Ombudsman recommends that traders exercise caution in using isolated, general environmental or ethical claims in marketing.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators – 5 or more
- b. in Self-Regulatory Forum –
- c. Civil litigation by competitor or consumers against advertiser -

**Detail:**

Only a few selected ones are listed on [www.consumerombudsman.dk](http://www.consumerombudsman.dk) and a few decisions from The Danish Environmental Agency regarding cosmetics are mentioned in the Guidance from the Danish Consumer Ombudsman on the use of environmental and ethical claims.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

**Advertiser:** Unknown airline company

**Complainant:** None – The Consumer Ombudsman

**Date:** 22.10.2010

**Forum (court, other tribunal, self-regulatory):**

The Consumer Ombudsman

**Claims at Issue:**

“essential information for all environmentally conscious travelers”

“propelled aircrafts fully competitive with other forms of transport on the route”

“less CO2 than a jet”

**Product or entity about which claim was made:**

Travelling with propelled aircrafts

**Facts:**

The airline company stated that their propelled aircraft on the route between Copenhagen and Aalborg emitted less CO2 than a jet. The ad, however failed to disclose that IC3 trains emit far less CO2.

**Arguments on each side:**

The Consumer Ombudsman found that in his opinion the marketing was not given a fair and balanced description about fuel consumption and environmental and climate impact, and that he considered the marketing as placing misleading omission.

**Were claims found misleading or otherwise objectionable?**

Misleading omission

**Reasons:**

Not given a fair and balanced description

**Can you hyperlink to a copy of the decision and/or ad?**

Only in Danish:

<http://www.forbrugerombudsmanden.dk/Sager-og-praksis/Markedsfoeringsloven/Sager-efter-markedsfoeringsloven/miljoeoetik/Flyv-Groent-kampagne>

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

#### *What product(s)?*

- Refrigerators and freezers
- Dishwashers
- Washing Machines
- Tumble driers
- combined washer-driers
- Light Bulbs
- Electric ovens
- Air conditioning for household use
- Lamps (light bulbs, halogen lamps, fluorescent lamps, etc.)
- Cars
- Televisions (only applicable products delivered to the dealer from December 2011)

#### *What are the required disclosures?*

The European energy label

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

YES

The guidelines in relation to each product can be found on:  
<http://www.ecolabel.dk/inenglish>

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

YES

The EU Ecolabel and the Nordic Ecolabel can be used depending on the criterias and the product.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

***Detail:***

All food consisting of, containing or produced of a GMO must be labeled with information about it.

## **ORGANIC PRODUCTS**

**QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

YES

***Detail:***

The rules on labeling of organic foods are found in the EU Organic Regulations. The Danish Ministry of Food, Agriculture and Fisheries, the Danish Veterinary and Food Administration has the authority to address issues.

***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?



DOMINICAN REPUBLIC



**ADVERTISING****QUESTION 1:**

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. **Nothing specific – general false advertising laws only**

**QUESTION 2:**

***Do the above address claims relating to: N/A***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

**N/A**

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

**N/A**

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

**NO**

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

**NO**

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010: N/A*

- a. by Regulators -
- b. in Self-Regulatory Forum -
- c. Civil litigation by competitor or consumers against advertiser -

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

**LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

**BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

**GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

NO

**ORGANIC PRODUCTS**

**QUESTION 11:**

*Do you have a legislative regime to certify organic products?*

YES

*Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?







ECUADOR

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### *Detail:*

Beyond provisions that prohibit false advertising (thus prohibiting claiming that a product is “green” when it is not) we do not have specific Green Claim Rules.

### QUESTION 2:

*Do the above address claims relating to: N/A*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

### QUESTION 3:

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

Due to lack of specific rules, very few challenges have been raised, and mainly on the use of a “Natural” claims.

### QUESTION 4:

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

### QUESTION 5:

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**Detail:**

Although the environment is a major cause of concern, Ecuadorian regulators have not indicated to any extent that Green Claims are an issue of concern.

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

Due to the lack of specific Green Claim Rules in my country, no actions that I am aware have been filed regarding to them. There have been few actions brought up on the basis of false advertising, which may have something to do with green advertisement issues, just not regarding its quality as green claims.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

Unfortunately, we are not able to do so, due to the lack of regulations regarding green claims.

## **LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

## **BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

NO

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

*Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? Agricultural products raw or processed



FINLAND

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

**(i) Law:** There are no specific provisions in the Finnish legislation on environmental marketing. General principles for marketing are set out in the Consumer Protection Act (38/1978) which applies to marketing directed at consumers and Unfair Business Practices Act (1061/1978) which applies to business-to-business marketing.

**(ii) Guidelines from Regulator:** In 1992, The Finnish Consumer Ombudsman issued guidelines on the use of environmentally oriented claims in marketing. Last update to these guidelines was made in 2002. In February 2005, the Finnish Consumer Ombudsman together with Consumer Ombudsmen of the other Nordic countries issued joint guidelines for the use of environmental and ethical claims in marketing. The most recent guidelines issued by the Finnish Consumer Ombudsman deals with the use of environmental claims in the marketing of cars. Said guidelines were issued in 2009.

The revised Finnish guidelines can be found here:

<http://www.kuluttajavirasto.fi/en-GB/guidelines/>

The 2005 Nordic guideline on ethical and environmental marketing claims can be found here:

<http://www.consumerombudsman.dk/About-us/intcooperation/nordiccooperation>

### QUESTION 2:

**Do the above address claims relating to:**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

**(i) Carbon offsets:** In the 2009 guidelines on the use of environmental claims in the marketing of cars, the Finnish Consumer Ombudsman held that corporate image advertising may also describe measures other than those directly related to reducing the carbon dioxide emissions of cars, such as

planting trees. Such measures may not, however, be linked to the marketing of a specific car. The measures described must also be significant in relation to the overall context and their environmental impacts must be backed by evidence.

**(iii) “Natural” for non-food products:** According to the Consumer Ombudsman’s 2002 guidelines on the use of environmentally oriented claims in marketing, as well as the 2005 Nordic guideline on ethical and environmental marketing claims, any general claim, such as “natural”, “green”, “environmentally friendly” and “ecological” can only be used if a thorough study of the entire life cycle of the product has been made. This kind of statement can be used if the product has considerably less environmental impact during its entire life cycle, “from cradle to grave”, than other products in the same product group.

**(ix.) Seals and Certifications:** In the 2002 guidelines on the use of environmentally oriented claims in marketing, the Consumer Ombudsman stated that if Nordic or EU environmental symbol criteria have been established for the product group, it is far preferable to use a symbol of this kind rather than generalized statements regarding the product’s environmental friendliness.

Self-declared environmental symbols and the like should, as a basis, be avoided. In decision number 2001:009, the Market Court prohibited an enterprise from using a symbol of its own invention. This symbol was used, without legitimate grounds, by the company to emphasize the environmental friendliness of its activities.

#### QUESTION 3:

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

Unspecified general claims on environmental benefits

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Cosmetics; Detergents; Furniture; Cars; Construction products; Energy; Food

#### QUESTION 4:

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

YES

***What product(s)?***

- Cars
- Dish washers
- Refrigerators, freezers and their combinations
- Washing machines
- Televisions
- Air conditioning units
- Tumble dryers
- Sources of light
- Washer dryers
- Electric ovens

**What are the required disclosures?**

For cars, fuel consumption information and CO<sub>2</sub>-emissions are required. For other energy-related products listed, the energy efficiency class is a required disclosure.

**Media in which disclosures required?**

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**Detail:**

A national Government Decree (938/2000) based on Directive 1999/94/EC requires that CO<sub>2</sub>-emissions and fuel consumption information be presented in the marketing of new cars. In addition, the Ecodesign Act (1005/2008) requires that the energy efficiency class or equivalent other information of certain energy-related products be presented in the marketing material of such products. Relating thereto, regulations issued by the former Ministry of Trade and Industry as well as a number of Commission Regulations already in force or coming into force in 2013, specify that the energy efficiency class of the above-mentioned product groups must be given.

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

YES

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- a. *by Regulators* - 1
- b. *in Self-Regulatory Forum* - 0
- c. *Civil litigation by competitor or consumers against advertiser* - 0

**Detail:**

The Market Court, which is a special court that handles marketing cases, has given only one decision related to Green Claims since Jan. 1, 2010 (*see below*). However, the Finnish Consumer Ombudsman has been active in its surveillance, with specific focus on unspecified Green Claims in the marketing of cosmetics, detergents, furniture, cars, construction products, energy and food.

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

**Advertiser:** Leaf Finland

**Complainant:** The Finnish Consumer Ombudsman

**Date:** 8 April 2011

**Forum (court, other tribunal, self-regulatory):** The Market Court of Finland

**Claims at Issue:**

The Consumer Ombudsman alleged that Leaf engaged in misleading commercial practice stating that for the purchase of the product, Leaf would plant a tree. In fact, Leaf had already committed to planting a certain number of trees and the consumers' purchases did not influence such actions.



**Product or entity about which claim was made:** Candy

**Facts:**

Leaf advertised the sale of candy bags by stating that for every three bags sold, Leaf would plant one tree. However, in reality Leaf had already, independent from the number of candy bags sold, agreed to plant a certain number of trees. A purchase of the product by the consumer would therefore not have any impact on Leaf's commitment to plant the trees. The Consumer Ombudsman claimed that Leaf took advantage of consumers' credulity by playing on their concern for the environment, this by falsely claiming that only by buying from Leaf, the consumer could impact the planting of trees. According to the Consumer Ombudsman, the consumers were given misleading information with the aim of unlawfully favoring the sale of Leaf's products.

**Were claims found misleading or otherwise objectionable?**

The Market Court considered that regardless of the fact whether Leaf committed in advance to finance the planting of 33.000 trees, Leaf did not provide any information to the consumers as to whether the planting of trees was dependent on the purchase of Leaf's products. For this reason, the court ruled that the commercial practice was misleading.

The court further clarified that the misleading character of the information is likely to influence the transactional decision of the consumer, hence the practice was considered unfair. The court finally considered that imposing a penalty payment was not necessary, as Leaf had beforehand agreed to follow the Consumer Ombudsman's recommendations.

**Can you hyperlink to a copy of the decision and/or ad?**  
<http://www.markkinaoikeus.fi/fi/index/paatokset/markkinaoikeudellisetasiat/markkinaoikeudellisetasiat/54602.html> (in Finnish)

## LABELS

**QUESTION 8:**

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

YES

***What product(s)?***

See below summary

***What are the required disclosures?***

According to the Ecodesign Act (1005/2008), household devices, energy using construction products and other energy using products must include an energy-consumption marking, which indicates the amount of energy the product or device uses and other related information such as possible water consumption. The specific devices/products for which the energy-consumption marking is mandatory are listed in regulations given by the European Commission and the Ministry of Employment and Economy and the Ministry of the Environment. The products/devices, for which the energy-consumption marking is mandatory at the moment, are listed above in Question 4 of the Advertising chapter.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

There are currently no specific guidelines on labeling or advertising of bio-based products.

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

According to EU Regulation 1829/2003, consumers must be provided with information on the labeling of foodstuff that contain or consist of GMOs, or are produced from or contain ingredients produced from GMOs. The words ‘genetically modified’ or for example ‘produced from genetically modified soya beans’ must appear in the list of ingredients on the food packaging immediately following the genetically modified ingredient.

However, the labeling requirement does not apply to foods and ingredients containing less than 0.9 % GMO content, provided that the GMO portion was unintentionally and unavoidably introduced.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Detail:*

In the European Community area, organic production is regulated through common legislation (EC Council Regulation 834/2007). In Finland, the highest authority in organic production and its control rests with the Ministry of Agriculture and Forestry. The operating authority regarding control of organic production is the Finnish Food Safety Authority, “EVIRA”.

#### *Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? If so, which?

Live or unprocessed agricultural products, processed agricultural products for use as food, feed, and vegetative propagating material and seeds for cultivation.



FRANCE

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

##### **i. Law**

► The decree dated December 23, 2002 does provide that each personal-use new car must be presented, in the point of sale, with a label mentioning the gasoline consumption and the CO2 emissions

(<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000783616&dateTexte=>).

The Arrêté dated April 10, 2003 does provide specific information as to the content of the label (<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000777718&dateTexte=>).

► Section L 362-4 of the French Environment Code prohibits the direct or indirect advertising which presents a vehicle in a way which would offend the general principles provided by this Code (<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006833703&cidTexte=LEGITEXT000006074220&dateTexte=20130305&oldAction=rechCodeArticle>).

► Section L 541-34 of the French Environment Code deals with the advertising of recycled products.

(<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000023268787&cidTexte=LEGITEXT000006074220&dateTexte=20130305&oldAction=rechCodeArticle>)

► A decree dated November 28, 2006 (which implemented the law dated July 13, 2005 establishing the framework of the policy on energy) sets the conditions of the obligation, required from the companies which sell energy or energy related services, to promote a reasonable use of the energy and to reduce its consumption (<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000610775&dateTexte=&categorieLien=id>).

► The law of July 12, 2010 (“Grenelle II”) sets a global framework to protect the environment (248 articles) and address various items such as the way to achieve the reduction of the energy consumption, the renewal of the transportation policies...etc (<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022470434&dateTexte=&categorieLien=id>).

► This law also lead to the enactment of an Ordonnance (dated July 15, 2011) aiming at ensuring the compliance of national regulation with those issued by the European Union, as regards the sale of plants protection products (“*produit phytopharmaceutique*”; i.e., products consisting of, or containing, active substances, safeness or synergists, notably destined to protect plants)

(<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024363244&dateTexte=&categorieLien=id>).

► This *Ordonnance* provided the creation of a new Section in the *French Code rural* (Section L253-5) according to which the advertising for the *produit phytopharmaceutique*, through TV, radio and posters (outside the distribution's points) is prohibited where it targets the consumers ("*le grand public*")

(<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000024373496&cidTexte=LEGITEXT000006071367&dateTexte=20130305&oldAction=rechCodeArticle>).

### ii. Guidelines from Regulator

► The ISO 14021 norm has been incorporated in the Guidelines drawn up by the AFNOR, *Association française de normalisation* (official French body of normalization and member of the ISO) referred to as the "Self-declared claims: the environmental promotion of products". Available at <http://observatoiredelapublicite.fr/wp-content/uploads/2009/02/autodeclaration-la-norme-iso-14021.pdf>.

► The ISO 14021 norm is also referred to in the "Guidelines related to the use and the assessment of green claims" drafted by the European commission in December 2000. Available at <http://observatoiredelapublicite.fr/wp-content/uploads/2009/02/guidecenormeiso14021declarationsenvironnementales.pdf>.

### iii. Self-Regulation

The *Autorité de Régulation Professionnelle de la Publicité* (ARPP) (Before June 25, 2008, the ARPP was previously known as the "*Bureau de Vérification de la Publicité*", BVP) is an association created under the care of the three advertising partners : the advertisers, the agencies and the media. It plays an important role in favor of the professional self-discipline insofar as it is currently the main organization ensuring the advertising self-regulation.

The BVP/ARPP issued two Recommendations, which lay out the self-discipline rules for the advertising profession. The recommendations concern the deontological rules applicable to the use of ecological arguments (1998) and the sustainable development (2003) in advertising.

The BVP/ARPP issued a deontological rule in June 2007 prohibiting the representation of the motor vehicles in natural areas. More precisely, the representation of the motor vehicles in ads must clearly locate them in the marked traffic lanes.

On June 18, 2009, the ARPP issued a Recommendation called "*Développement durable*" (sustainable development) which replaces the aforementioned previous texts: the Recommendation on "Ecological Argument", the previous/old Recommendation on "Sustainable Development" and the Doctrine on motor vehicles shown in an off road situation.

The use of one single text instead of three is destined to help professionals (agencies, advertisers...etc) complying with global guidelines. This Recommendation entered into force on October 1, 2009.

This text brings new definitions, such as the notion of "*life-cycle*" which refers to the consecutive and interlinked steps in the life of a product, from the stage of production to the final disposal of the product. Thus, an advertising argument referring to several stages of the life-cycle of a product has to be sustained for each referred stage (section 2.3 of the aforementioned Recommendation).

Further, the signs or symbols used in an ad may only be used if their origin is clearly indicated and if there is no risk of confusion as regards their meaning (section 5.1 of the aforementioned Recommendation). In addition, the ad should not promote behaviors that have negative consequences on the environment (for instance excessive consumption of energy or of natural resources) (Section 9.1 of the aforementioned Recommendation).

([http://www.arpp-pub.org/IMG/pdf/Sustainable\\_Development.pdf](http://www.arpp-pub.org/IMG/pdf/Sustainable_Development.pdf))

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

The claim “carbon” is addressed by the decree dated December 23, 2002 and the *Arrêté* dated April 10, 2003.

The claims “sustainable” or “natural” (irrespective of the product) are addressed by the ARPP’s Recommendation on Sustainable Development.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

The “natural”, “environmentally friendly”, “sustainable”, “energy savings/efficiency” claims provoke the most challenges.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Cars, building (“*bâtiment*”) and the decoration sectors.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

YES

***What product(s)?***

Personal use new car

***What are the required disclosures?***

Gasoline consumption and CO2 emissions

**Media in which disclosures required?**

TV	Print	Internet	Radio	Point of Sale	Other
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**Detail:**

Each personal-use new car must be presented, in the point of sale, with a label mentioning the gasoline consumption and the CO2 emissions

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

YES

**Detail:**

In particular the ARPP through the implementation of the Recommendation on Sustainable Development.

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- a. by Regulators -
- b. in Self-Regulatory Forum - 18 breaches addressed in 2010 and 36 breaches addressed in 2011 (the figures for 2012 have not yet been officially published by the ARPP)
- c. Civil litigation by competitor or consumers against advertiser -

**Detail:****Self-regulatory forum :**

► In 2010, most of the breaches did concern (i) the presentation of behaviors that are contrary to the environment (7 cases) and (ii) the presentation of claims that have been deemed misleading (11 cases).

► In 2011, most of the breaches did concern (i) the presentation of behaviors that are contrary to the environment (22 cases) and (ii) the use of ecological claims which have been deemed too general/broad and not sustained enough (6 cases).

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

**Advertiser:** The company SNC Socheleau

**Complainant:** The association aiming at defending and promoting the nature and the environment ("Association Nature et Environnement")

**Date:** May 2, 2011

**Forum (court, other tribunal, self-regulatory):**

Self-regulatory (the *Jury de Déontologie Publicitaire* : the "JDP" which is the self-regulatory jury)

**Claims at Issue:**

Violation of the Recommendation, issued by the ARPP's Recommendation Sustainable Development, because of :

- the use of the wording "*the ecological apple*",
- the lack of clear information and information not sustained, which led the public to the confusion *vis-à-vis* the real biologic products ("*produits issus de l'agriculture biologique*"), and
- the reference to the wording "*recommended by all good nutritionists*".

**Product or entity about which claim was made:** Apples

**Facts:**

The advertiser promoted on its website its "*the ecological apple*"

**Arguments on each side:**

► **The advertiser** claimed, among other things, that the wording "ecological apple" is a registered trademark. In addition, he provided explanations on the way the apples at stake are produced so that they can be presented as being ecological.

► **The complainant** claimed, among other things that the wording "ecological apple" was not sustained enough. In addition, the association insisted on the fact that the ad did not refer to the negative aspects of the production and sale of the products.

**Were claims found misleading or otherwise objectionable?**

Yes

**Reasons:**

The JDP notably referred to Sections 1/1, 2/1 and 2-3b and 6/1 of the Recommendation entitled "*Sustainable Development*" according to which :

- "*Advertisements must not mislead the public about the actual actions of the advertiser or the properties of its products in terms of sustainable development*";
- "*The advertisement must accurately express the action of the advertiser or the properties of its products, in accordance with the available evidence. The reality of these actions or properties may be assessed in the light of the different pillars of sustainable development, the different types of impacts and the various stages of a product's life-cycle*";
- "*The message should not unduly suggest a total lack of negative impact*";
- "*The terms and expressions used must not mislead the public about the nature and scope of the product's properties or the advertiser's actions in terms of sustainable development*".

On the wording "*ecological apple*", the JDP concluded that the website at stake did not provide as much information as necessary concerning the action of the advertiser *vis-à-vis* its environmental claims, so that the consumers can be led to confusion on the appropriate ("*juste*") quality of the product

On the claim "*recommended by all good nutritionists*", the JDP also considered that the presentation, as a medical recommendation, even not inaccurate, can lead the consumer to the confusion on the real properties of the products.



Then, the JDP concluded that the ad at stake was not compliant with the ARPP Recommendations, which resulted in the publication, on the JDP's website, of its decision. The JDP also asked the general manager of the ARPP to ensure that the discontinuation of the ad be carried out.

**Can you hyperlink to a copy of the decision and/or ad?**

Decision : <http://www.jdp-pub.org/Le-verger-de-la-Blottiere.html>

Ad : <http://www.jdp-pub.org/IMG/pdf/Verger-2.pdf>

## LABELS

### QUESTION 8:

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

Household appliances, cars, other products (experimentation)

**What are the required disclosures?**

► **Household appliances:** The household electrical appliances are sold with a label featuring their energy consumption. The label is a colored scale line from A to G (A represents the category of appliances which offer the best energy savings).

A law dated November 9, 2011, implementing the 2010/30/UE Directive, did extent the type of products concerned (e.g., as of 2013 : central air conditioner).

► **Cars:** The motor vehicles manufacturers must inform the customers of the gasoil consumption of the vehicle as well as of the CO2 emissions.

► **Other products (experimentation)**

Section 228 of the law n°2010-788 dated July 12, 2010 ("the Grenelle 2 law") codified in the *Code de la consommation* under Section 112-10 provides :

*"As from July 1, 2011, and after concertation with the players of the industries concerned, an experimentation is conducted for a minimal duration of one year in order to progressively inform the consumers through any appropriate means on the carbon equivalent content of products and their wrapping, as well on the natural resources consumption or on their impact on the natural environment during their life cycle.*

*This experimentation will be the subject of a report submitted to the Parliament which will evaluate the opportunity of an extension of these measures.*

*On the basis of this report, if need be, a Conseil d'Etat decree will set the generalization conditions of these measures. It will specify, taking into consideration the specificities of the very small companies in order to fulfill the required objectives, the nature of the information to be communicated, the information media, the economic players' respective liabilities, the data registration conditions, and the access conditions to the scientific data supporting this information as well as the categories of products subject to this obligation.*

*Conseil d'Etat decrees specify, on the basis of the rules set forth, for each category of products, the nature of the pertinent information depending on their distribution networks, the information media as well as the references to be used".*

Consequently and for a period one year, the French legislator organized an experimental phase and set no obligation on the manufacturers or distributors to modify their labeling in order to add any reference to the environmental impact.

In the context of this experimental phase, 168 companies of all fields of industry have, after selection by the Ministry of Ecology, agreed to participate in the disclosure to their consumers of the CO2 footprint of, and other information on, some of their products ; it being understood that such companies were free to choose :

- (i) the products that would be subject to this specific labeling/disclosure and the communication media used (internet, point of sale information, product labeling..), and
- (ii) the presentation of the environmental information that they decided to disclose (graphics, global notes, gross value...)

A non-exhaustive list of the companies involved follows : BEL, MAILLE, H&M, LA REDOUTE, LEVI STRAUSS, OXYLANE [DECATHLON], PROMOD, RIP CURL...etc.

The Ministry of Ecology has to draw conclusions from this experimentation phase in order to prepare a communication to the Parliament that is scheduled for the beginning of 2013 so that same evaluate the opportunity to generalize these measures (which information, accounted in accordance to which measures....).

If it is generalized, a *Conseil d'Etat* decree will set the conditions that will be enforceable for products that are manufactured and used in France as well as imported into and used in France.

These conclusions will also take into account the answers to a questionnaire that will be sent to all companies pertaining to the economical and technical feasibility of the labeling, investigations conducted by the DGCCRF (the French consumer protection agency), the opinion of the consumers' organizations and of experts.

## **BIOBASED PRODUCTS**

### **QUESTION 9:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?***

See answers in Question 11 below (Organic Products).

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

See answers in Question 11 below (Organic Products).

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

***Does your country require labeling of GMO products?***

YES

#### ***Detail:***

The biotechnology Council ("*Haut Conseil des biotechnologies – HCB*") has been implemented in 2008 (law dated June 25, 2008). Its missions are, in particular, to issue public advices (destined to help the French Government) on the use of GMO, in particular regarding the assessment of the risk for the public health.

On January 31, 2012, a decree has been enacted and implemented, as of July 1, 2012, a label of food products which have been produced "without GMO" (non-compulsory rules – *règles facultatives*).

## ORGANIC PRODUCTS

### QUESTION 11:

***Do you have a legislative regime to certify organic products?***

YES

#### ***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?

The European Council Regulation N°834/2007 dated June 28, 2007, concerning the organic production and the labeling of organic products and modified by the European Council Regulation n°967/2008 dated September 29, 2008, is directly enforceable in France.

In France, in order to have his products recognized as organic products, a farmer may choose between six certification bodies (*Aclave, Agrocert, Ecocert, Qualité France, SGS, Ulase*).

These bodies deliver certificates each year to the farmer (renewed each year).

A certificate allows the farmer to establish that he complies with the current rules on organic products.





GERMANY

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### *Detail:*

#### **General legal environment:**

Although Germany has no specific statutory rules addressing specific permitted or prohibited statements of Green Marketing, German courts have developed a dense network of guidelines. Up to about 2006, the tendency was to restrict statements of Green Marketing on the basis of their potentially misleading effect (exploiting the consumer's social conscience). The German Federal Supreme Court has – based on EU Law – liberalized the framework. In essence, if claims regarding environmental or other green aspects are sufficiently specific, true and accurate, they are permitted. Statements relating to the manufacturer's image (it's social or environmental engagement) must be true and accurate, but need not disclose specific details of such engagement, whereas claims relating to specific environmentally relevant aspects and features of a product must identify the specific technical, chemical or other context that supports the environmental claim. For example, advertising natural gas as an environmentally friendly source of energy is permissible if it is substantiated by reference to a reduction of CO-emissions. It is not necessary to address the fact that haulage and transportation of gas are a burden on the environment. Diesel engines may be advertised as secure, saving and environmentally friendly if, in respect of each claim, the concrete environmentally relevant advantage is described.

#### **Specific Laws and Regulations:**

Regulation Concerning Consumer Information on Fuel Consumption and CO<sup>2</sup>-Emission of New Cars: The Regulation requires that advertisements for new cars disclose prominently the CO<sup>2</sup>-Emission and Fuel Consumption in a defined manner.

Regulation Concerning Advertising and Marking of Household Appliances Regarding Consumption of Energy and Other Important Resources: The regulation applies to specific groups of high energy consumption electric products and prescribes a categorization in energy efficiency classes

#### **Self-Regulation:**

There are a number of organizations which address environmental aspects of production and products, some of which provide awards ("Blue Angel" <http://www.blauer-engel.de/en/index.php>).

### QUESTION 2:

*Do the above address claims relating to:*

- i. Carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal,

- v. poultry, eggs or fish
- vi. building materials
- vii. textiles
- viii. renewable energy or materials
- ix. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**Detail:**

The existing rules are based on the industry standards developed in the European Union and in Germany in respect of specific product categories.

In principle, German courts refer to requirements of fair trade practices (fair disclosure, no misleading content, comparative advertising to comply with specific EU and German regulations, no unfair and misleading exploitation of consumer expectations, conscience and emotions). For example, the use of “Bio”, “Öko”, and “Natural” is restricted to situations where the reference is relevant to the product or services, sufficiently specific, and substantiated in respect of the relevance. “Environmentally friendly” may not be used if the product contains – even to a lesser degree than other products – environmentally unfriendly components or ingredients. As concerns substantiation requirements, it is not generally required to name evidence of substantiation in the advertisement, but evidence (test results etc.) must be available upon request. If test results are referred to, the source must be disclosed.

Environmentally relevant claims must be specific and may not mislead as to the scope of the claim.

**QUESTION 3:**

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**

**QUESTION 4:**

**Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?**

YES

**What product(s)?**

Cars, Household Appliances. Similar Rules apply regarding the marking of tires in respect of fuel efficiency, emission saving, and other relevant parameters (EU Regulation)

**What are the required disclosures?**

Manufacturers and importers are required to include in any advertising that refers to the energy consumption or the price of an advertised appliance that the ad also names the energy efficiency class of the product (Section 6 a of the Energy Consumption Regulation (Energieverbrauchs-kennzeichnungsverordnung (EnVKV)

<http://www.gesetze-im-internet.de/envkv/BJNR261600997.html>

See also Question 8

**Media in which disclosures are required?**

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**Detail:**

Disclosures are required in any media used for advertising purposes.

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

**Detail:**

In light of originally restrictive case law, industry has initiated some self-regulation as well as activity of regulators in order to arrive at a balanced and standardized set of rules.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators -
- b. in Self-Regulatory Forum -
- c. Civil litigation by competitor or consumers against advertiser -

**Detail:**

Specific numbers are not available.

Based on Germany's system of fair competition enforcement, the government, (regulators) do not play a direct role in enforcement and prosecution. This is a matter for competitors, self-regulatory bodies and industry/consumer associations to pursue. There is an uncountable number of cease and desist requests and court actions relating to green claims in the broadest sense.

Particularly relevant cases relate to the promotion of sponsorship engagement for the benefit of environmental organizations (appellate court Cologne, 1993), sponsorship of WWF (district court Stuttgart, 1998). A brewery claiming that the purchase of each crate of beer would effectively protect one square meter of rainforest in Central-Africa (appellate court Hamm, 2002), was originally defeated, upon appeal approved. In all of these cases, the entry courts denied originally a sufficient connection between the advertised social commitment and the advertised product.

As explained above, the German Supreme Court has since then liberalized the case law. In a case of 2005 the Supreme Court abandoned its earlier requirement that there must be an objective connection between the advertised product and the marketing claim. In that case, an optician was permitted to refer to his support of an organization for the protection of endangered species in an advertising campaign for sunglasses (BGH, 22 September 2005 in GRUR 2006, 75). Based on this decision, the above brewery case was also revised by the Supreme Court, adding that an advertiser was not even required to disclose exactly how and to what extent it was committed to the advertised environmental support.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

**Advertiser:** Air-conditioner Manufacturer



**Complainant:** Consumer Protection Association Hesse

**Date:** Judgment of Sept 08, 2010

**Forum (court, other tribunal, self-regulatory):**

District Court Hannover, Docket 21 O 27/10

**Claims at Issue:**

“Environmentally Compatible Coolant Agent”

**Product or entity about which claim was made:**

Coolant, Air Conditioner

**Facts: :**

Print advertising

**Arguments on each side:**

**Claimant:** “Environmentally Compatible Coolant Agent” prompts the consumer to assume that the used cooling agent is ecologically neutral.

**Defendant:** The consumer knows that chemical substances are not ecologically neutral and understands that the claim meant to say that the used agent is an improvement versus coolants previously used.

**Were claims found misleading or otherwise objectionable?**

According to the judgment of the District Court Hannover, the advertised claim “environmentally compatible coolant agent” was in the given case a misleading statement regarding the property of the air-conditioner. The use of a global warming gas is not compatible with the environment, any such claim is, therefore, misleading. Although the H-FKW coolant agent R410A has no ozone depletion potential, it still has a global warming potential. Relative to formerly used coolants, there may be a higher energy efficiency of this product but this does not justify the claim “environmentally compatible.”

**Can you hyperlink to a copy of the decision and/or ad?**

The decision is not available online.

For information on current issues of unfair advertising in Germany see in particular:

[www.vzby.de](http://www.vzby.de), the website of the German Consumer Protection Center.

As well as <http://www.dolceta.eu/united-kingdom/Mod3/index.php> (EU sponsored website of consumer protection association).

## LABELS

**QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

Tires, Electric Household goods and appliances, textiles, products involving risks for the user.

**What are the required disclosures?**

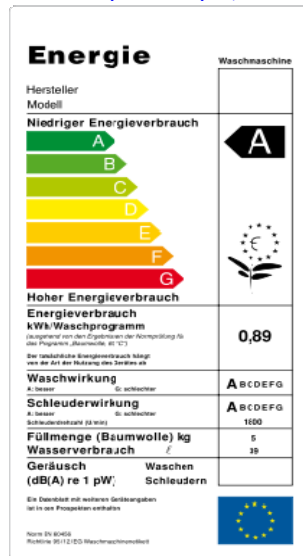
Labeling on household appliances:

According to the classification scheme of the European Energy Label:

Disclosure of energy consumption on refrigerators, freezers, washing machines, laundry dryers, dishwashers, lamps, air conditioners, stoves and ranges, cars and TV sets, relative to size and volume of appliance, further appliance properties.

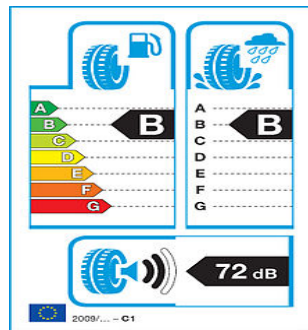
Source:

Energy Consumption Regulation (Energieverbrauchskennzeichnungsverordnung (EnVKV) =: <http://www.gesetze-im-internet.de/envkv/BJNR261600997.html>



Labeling on tires relating to fuel consumption, wet grip and noise classification according to EU Regulation No. 1222/2009.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:342:0046:0058:DE:PDF>



If test result labels are used, the labeling must be true and accurate as to the test origin and content (i.e. “Blauer Engel” (Blue Angel): [www.blauer-engel.de/en/index.php](http://www.blauer-engel.de/en/index.php)

The same applies to the European Union ECO-Label based on Regulation (EC) 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community ECO-Label award scheme (see [http://ec.europa.eu/environment/ecolabel/pdf/regulation/001980\\_en.pdf](http://ec.europa.eu/environment/ecolabel/pdf/regulation/001980_en.pdf))

Also see [www.eco-label.com](http://www.eco-label.com) for further details and <http://ec.europa.eu/ecat/>

## BIOBASED PRODUCTS

### QUESTION 9:

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

(see EU-Bio Regulation No 271/2010, No 889/2008 and No 834/2007, which provide for rules regarding foods and related products - content and usage of the definition of biological products).

Minimum criteria to meet the requirements of the Regulation:

- 95 % of product ingredients must be organic farmed; remaining ingredients must reach the criteria of the Appendix.
- Prohibition of pesticides and chemical fertilizers
- No use of genetic engineering.

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.?***



For further details see <http://ec.europa.eu/ecat/>

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

***Does your country require labeling of GMO products?***

YES

#### ***Detail:***

- The following food products and ingredients must be marked if genetically modified, irrespective of whether packaged, unpackaged or sold in restaurants or canteens:
  - any genetically modified organism
  - any product using genetically modified organisms
  - any product containing genetically modified organisms.

- There is no GMO labeling required for:
    - Food products of animals such as milk, meat, eggs provided the animal has been fed with non-GMO feed;
    - Additives, aromas and vitamins which have been manufactured with GM microorganisms;
    - Accidental or technically unavoidable additions up to 0.9 percent if the manufacturer is located within the EU and has been classified as safe;
    - Honey which contains single pollen of GMO plants;
    - Materials which do not have to be declared on the ingredients list of food products (such as enzymes, technical additions, media)
- Sources:  
EU Regulation No 1829/2003  
[http://www.transgen.de/pdf/recht/2003-1829\\_gmo-lebens-und-futtermittel.pdf](http://www.transgen.de/pdf/recht/2003-1829_gmo-lebens-und-futtermittel.pdf)
- See also:  
Guidelines of the Federal Ministry of Foodstuffs, Agriculture and Consumer Protection:  
<http://www.bmelv.de/SharedDocs/Standardartikel/Landwirtschaft/Pflanze/GrueneGentechnik/EuropaeischeRegelungen.html>

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Detail:*

There are currently **4,181** companies having registered their use of the Bio-Siegel for a total of **65,977** products (31st January 2013).

For details it is recommendable to consult the website of the Federal Ministry of Foodstuffs, Agriculture and Consumer protection which provides full information in the English language:

<http://www.bio-siegel.de/english/homepage/>

German Bio label:



Sources regarding bio labeling in Germany:

- ÖkoKennzG [http://www.gesetze-im-internet.de/\\_kokennzg/](http://www.gesetze-im-internet.de/_kokennzg/)  
ÖkoKennzVO

For information on the certification process regarding imported products see also

<http://www.gfrs.de/zertifizierung/import/faq/?L=2>

The mark “Bio according to EU-Öko-Regulation” is protected by federal and state law and covers food and beverages. Textiles can be labeled with the EU-ECO-Label [www.eco-label.com/default.htm](http://www.eco-label.com/default.htm).

EU Bio Logo:



Sources re biolabelling in the EU: see below EU regulations.

EU Sources:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:084:0019:0022:DE:PDF>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:250:0001:0084:DE:PDF>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:189:0001:0023:DE:PDF>

Products claiming to be harvested from biological agriculture are marked with the EU Bio Logo (see design below).

Voluntary marking and labeling but if marked the applicable rules must be observed.

Qualifying products are living and unprocessed products of agriculture and aquaculture. Processed agricultural and aquaculture products which are intended to be used for food or feed.

The following products do not qualify: game and wild fish, cosmetics, drugs and certain other products.

For further details it is recommended that you consult the website of the Federal Ministry of Foodstuffs, Agriculture and Consumer protection which provides full information on German and EU legislation and procedures in the English language:

<http://www.bio-siegel.de/english/homepage/>

**Does it cover?**

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





GREECE

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### **Detail:**

#### **Law:**

i) The Ministerial Decision No F1-218/30.01.1998 forbids the use of the term “ecologic” or “eco” in goods’ advertising, unless the goods are granted the EU Ecolabel according to the EC Regulation No 66/2010.

ii) A recent Ministerial Decision (No Z3-1531, Government Gazette, issue B 1306/18.04.2012), lays down the requirements under which plastic materials and packaging (e.g. plastic bags) are permitted to use terms such as “biodegradable” etc. Under this Decision, the use of the terms “biodegradable” or “compostable” on said materials and packaging is allowed provided that they comply with the European norms EN 13432 and EN 14995. In addition, an ad hoc committee of experts is established in order to examine the environmental claims on plastics and provide advice to the Authorities (General Secretariat of Consumer Affairs). On the other hand, the same Ministerial Decision forbids the use of the term “ecologic” or “eco” in the advertising and selling of plastic materials and packaging, unless such products are granted the EU Ecolabel (according to the EC Regulation No 66/2010). In addition, any environmental claim (including the claims “environmentally friendly”/ “environmentally safe”/ “green”) should not be used in these materials and packaging unless it is fully substantiated.

Generally speaking, in case of a misleading or unfair Green Claim, the Unfair Competition Law and the Consumers Protection Law are also enforceable.

#### **Self - Regulation:**

The Greek self regulation Code (“Hellenic Code of Advertising - Communication Practice”) specifically addresses Green Claims in two ways: a) It includes a special Annex (Annex III) entitled “Ecology and Environment” and b) it includes also a special chapter on environmental claims (chapter E). The aforementioned chapter is identical to the relevant chapter of the ICC Code of Advertising Practice (entitled “Environmental Claims in Marketing Communication”) which incorporates ISO 14021 norm.



**QUESTION 2:**

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. **genetically modified organisms (GMOs)**
- ix. Seals and Certifications

**Detail:**

The labelling requirements of Genetically Modified Food and Feed are discussed in Question 10 below.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

“Natural”, “environmentally friendly” “energy savings/efficiency” and “biodegradable” claims.

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

Fuel, energy saving devices, plastic bags.

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?* Cars

*What are the required disclosures?*

Information on CO2 emissions and fuel consumption

*Media in which disclosures required?*

TV	Print	Internet	Radio	Point of Sale	Other
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**Detail:**

By virtue of the Ministerial Decisions No 11762/2006 and 90364/2002, Greece has fully adopted EC Directives 2003/73 and 1999/94 relating to the availability of consumer information on fuel economy and CO2 emissions in respect of the marketing of new passenger cars.

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

YES

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators - 1*
- b. *in Self-Regulatory Forum - 1*
- c. *Civil litigation by competitor or consumers against advertiser - 1*

**Detail:****Regulator: General Secretariat of Consumer Affairs**

On 2011, the Secretariat imposed fines on seven enterprises which marketed energy saving devices. These devices were advertised to reduce electric power consumption by 45%, claim which was considered misleading by the Secretariat.

**Self-Regulatory Forum:** On 2012, a car manufacturer submitted a complaint before the Greek Self Regulatory Body (SEE) challenging the advertising claim used by another car manufacturer. The said claim related to the fuel efficiency of a car equipped with an LPG fueling system (see details in Question 7 below).

**Civil Litigation:** A company which imports natural cosmetics filed before Athens Courts a petition for interim measures against another company which marketed cosmetics claiming that they contain "95% natural substances". In fact, the defendant's cosmetics did not contain natural substances but they were made with natural ingredients which had undergone chemical processing. The Court upheld the petition as it considered that under these circumstances the claim "95% natural substances" was misleading (Decision No. 1066/2012 of Athens Single-Membered First Instance court).

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

*Date: 09.07.2012*

***Forum (court, other tribunal, self-regulatory):*** Greek Self Regulatory Body (SEE)

***Claims at Issue:*** The tv advertisement in question included two claims, namely "fuel cost is only 0,06 Euros per km" and "it is more economical than diesel" (the latter having a comparative nature also).

***Product or entity about which claim was made:*** car equipped with an LPG fueling system

***Arguments on each side:*** N/A

***Were claims found misleading or otherwise objectionable?*** YES

***Reasons:***

The SEE held that both claims were not substantiated given that they were based only on mathematical calculations and not on fuel consumption tests; therefore the advertisement

in question should be amended.

*Can you hyperlink to a copy of the decision and/or ad?* Text available only in Greek

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?*

- a) Household appliances e.g. refrigerators, freezers, washing machines, dish- washers, ovens, water heaters, lighting fixtures, air-conditions.
- b) Buildings (Greek Law No 3661/2008 concerning measures reducing energy consumption of buildings provides for an energy performance certificate for buildings. It is mandatory to issue such a certificate if the surface of the building exceeds 50 m<sup>2</sup>).

*What are the required disclosures?*

Information on the consumption of energy

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

*Detail:*

EC Regulations No 1829/2003 and 1830/2003 concerning “the traceability and labelling of genetically modified organisms and the traceability of food and feed produced from GMOs” fully apply in Greece.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### ***Detail:***

All EC Regulations on the topic, including EC Regulations No 889/2008 and No 834/2007 on “*organic production and labelling of organic products and repealing EC Regulation No 2092/1991*” are in full effect in Greece.

Marketing of organic products in Greece requires their prior control/ certification by specific inspection and certification bodies. The certification of organic products, in Greece, is made by 8 different certification bodies, all approved by EU. Any indication or claim regarding organic production that could mislead consumers is prohibited.

#### ***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?

INDIA

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

Many organizations and companies voluntarily have adopted advertising practices which provide for promotion of environment friendly practices, materials and technologies. It includes promotions such as NOKIA-Recycle my phone; TOYOTA GREENATHON; PANASONIC-Ideas for Life; GE-Ecomagination; Petroleum Conservation and Research Association (PCRA)-Save Fuel & Save Money etc.

Further, provision of Unfair Trade Practice under Indian Consumer Protection Act, 1986 provides for cases where green claims if found to be false and misleading may be dealt with.

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

There are instances of advertising where it has been claimed that cosmetics contain only herbs and not any animal extract or chemical; claim in advertisement that products have been manufactured using renewable energy or materials and agricultural products have been grown by way of organic farming.

### QUESTION 3:

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

Energy efficiency/saving claims are hotly debated although there is no challenge to such claims except some academic and media criticism to such claims. Energy efficiency/saving devices are certified by BEE (Bureau of Energy Efficiency) which is a voluntary certification. The BEE certification increases the credibility of the green claims.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

N/A

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

NO

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010: N/A (only media and academic debate)***

- a. by Regulators -***
- b. in Self-Regulatory Forum -***
- c. Civil litigation by competitor or consumers against advertiser -***

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

N/A

## **LABELS**

**QUESTION 8:**

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

YES

***What product(s)?***

Genetically Modified Products (GM products)

***What are the required disclosures?***

The Legal Metrology (Packaged Commodities) (Amendment) Rules, 2012, which came into effect on January 1, 2013 say "every package containing the genetically modified food shall bear at the top of its principal display panel the letters 'GM'."

## **BIOBASED PRODUCTS**

**QUESTION 9:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?***

N/A (No specific guidelines but there are provisions for voluntary certification).

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues: Ecomark or Eco mark*** is a certification mark issued by the Bureau of Indian Standards (the national standards organization of India) to products conforming to a set of standards aimed at the least impact on the ecosystem. It is a voluntary certification.

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

### **QUESTION 10:**

***Does your country require labeling of GMO products?***

YES

#### **Detail:**

A Notification was issued by the Ministry of Consumer Affairs, Food and Public Distribution which mandates packaged food producers to disclose GM ingredients, if any, in a label on their product. Every package containing the genetically modified food shall bear at top of its principal display panel the words ‘GM,’ under the Legal Metrology (Packaged Commodities) (Amendment) Rules 2012.

## **ORGANIC PRODUCTS**

### **QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

YES

#### **Detail:**

In India, Agricultural & Processed Food Products Export Development Authority (APEDA) regulates the certification of organic products as per National Standards for Organic Production (NPOP). The NPOP standards for production and accreditation system have been recognized by European Commission and Switzerland as equivalent to their country standards. Similarly, USDA has recognized NPOP conformity assessment procedures of accreditation as equivalent to that of US. Organic food products manufactured and exported from India are marked with the **India Organic** certification mark issued by the APEDA. APEDA has recognized 11 inspection certification bodies, some of which are branches of foreign certification bodies, others are local certification bodies. The products which has been certified as Organic are Basmati rice, Pulses, Honey, Tea, Spices, Coffee, Oil Seeds, Fruits, Processed food, Cereals, Herbal medicines and there value added products. The production is not limited to the edible sector but also produces organic cotton fiber, garments, cosmetics, functional food products.

#### **Does it cover?**

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? Cosmetics





IRELAND

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation [www.asai.ie](http://www.asai.ie)
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

**Detail:**

The Advertising Standards Authority of Ireland Code of Standards on Advertising Promotional and Direct Marketing contains a specific section on the environment and “green claims”. There are also general consumer protection laws that apply but are non specific.

### QUESTION 2:

**Do the above address claims relating to:**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**Detail:**

The Code does not mention specific areas but will consider complaints under the Environment Section on any advertisement that touches on the environment.

### QUESTION 3:

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

Most claims have tended to relate to the comparative aspect of the advertisement e.g. “5 times as environmentally friendly”. The other major issue that tends to arise is whether the claim made can be properly substantiated.

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**

The main product categories that have been the topic of complaints have tended to be cars, building materials and the energy industry.

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?*

Houses

*What are the required disclosures?*

A Building Energy Rating must be displayed on all advertisements for the sale or rent of the house.

*Media in which disclosures required? ALL*

*TV                      Print                      Internet                      Radio                      Point of Sale                      Other*

*Detail:*

A Building Energy Rating Certificate and report must also be available with the title deeds for the house.

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. by Regulators -*
- b. in Self-Regulatory Forum -*
- c. Civil litigation by competitor or consumers against advertiser -*

*Detail:*

It is impossible to give an accurate figure however generally we would expect 2-3 complaints a year to the ASAI concerning environmental issues.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

*Advertiser:* Ecocem

*Complainant:* Cement Manufacturers Ireland (CMI)

*Date:* June 2012

*Forum (court, other tribunal, self-regulatory):* ASAI

*Claims at Issue:* Use of the term "green cement"

*Product or entity about which claim was made:* Cement

**Facts:**

CMI is a business association which challenged whether the use of the term “green cement” contravened the ASAI Code on the basis that they claimed there was no evidence that the product was an improvement in environmental terms against competing products on the market.

**Arguments on each side:**

Advertiser argued that the environmental performance of this cement was superior to other cements and provided some evidence on the benefits.

**Were claims found misleading or otherwise objectionable?**

Complaint was upheld as misleading.

**Reasons:**

On the basis that while the cement did have lower CO2 emissions it did still have those emissions and the unqualified use of “green” was misleading.

*Can you hyperlink to a copy of the decision and/or ad?*

[http://www.asai.ie/complaint\\_view.asp?CID=976&BID=47](http://www.asai.ie/complaint_view.asp?CID=976&BID=47)

## **LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

## **BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

None that we are aware of save for standard product labeling guidelines.

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

N/A

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### **Detail:**

European Communities Regulation 1829/2003 applies in Ireland and sets out specific labelling requirements for GM foods which are to be delivered as such to the final consumer or mass caterers and which:

- contain or consist of GMOs; or are produced from
- or contain ingredients produced from GMOs

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### **Detail:**

There is a requirement under EU law where a producer using the term on a product must hold a licence from a relevant body in their country of origin. In Ireland the body is the **Irish Organic Farmers and Growers Association**.

#### **Does it cover?**

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





ISRAEL

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

The Clean Air Law (2008) was enacted in 2008. The law relates to the quality of the air and is designed to prevent and/or reduce pollution. This law also prescribes the manner in which vehicles may be advertised. Vehicle ads must contain information relating to gas consumption and CO<sub>2</sub>/CO discharge.

Organic foods are now in vogue and there are laws and regulations which cover this area and define the manner in which these goods may be imported, exported, marketed, packaged and advertised.

### QUESTION 2:

**Do the above address claims relating to:**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

The carbon discharge of vehicles appears on all car advertisements, which depicts a scale. Cars at the lower end of scale are considered “green”/environmental friendly, while those at the top of the scale are “polluters”.

### QUESTION 3:

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**



**Detail:**

There has been some controversy surrounding companies which market “mineral water”. It appears that not all “mineral water” which is marketed is in fact, “mineral water” or healthier and safer than regular tap water.

**QUESTION 4:**

**Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?**

YES

**What product(s)?**

Car ads requiring Co2 omissions - see above

**What are the required disclosures?**

CO2 Omissions and gas consumption figures (kilometers per liter of petrol)

**Media in which disclosures required?**

TV	Print	Internet	Radio	Point of Sale	Other
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**Detail:**

The size of the disclosure (percentage of screen/page) is detailed.

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

YES

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- by Regulators - 5
- in Self-Regulatory Forum -
- Civil litigation by competitor or consumers against advertiser - 5

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

N/A

**LABELS****QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

Organic Products may be marked with the organic symbol after receiving the required approvals.

## BIOBASED PRODUCTS

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

**QUESTION 10:**

*Does your country require labeling of GMO products?*

NO

## ORGANIC PRODUCTS

**QUESTION 11:**

*Do you have a legislative regime to certify organic products?*

YES

**Detail:**

See Question 8 above

**Does it cover?**

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?



ITALY

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws

- Specific provisions in Law no. 136 of April 26<sup>th</sup>, 1983 impose labeling and information requirements relating to ‘biodegradability’ claims and components of cleaning products in general.
- Apart from the above, in Italy, no provisions specifically regulating ‘green claims’ are in place. Therefore the topic is governed by the principles and requirements set for commercial communication in general, which are to be found (primarily but not exclusively) in:
- Legislative Decree no. 206 of September 6<sup>th</sup>, 2005 (the ‘Consumer Code’, Sections 18 to 27, focusing on B2C relations and dealing with advertising and other commercial communications),
- Legislative Decree no. 177 of July 31<sup>st</sup>, 2005 (the Radio & TV Broadcasting Act, Sections from 37 to 41, with special rules on sponsoring, TV-selling, limits for commercials within TV programs and advertising of Public Authorities),
- Legislative Decree no. 145 of August 2<sup>nd</sup>, 2007 (focusing on misleading advertising and unfair commercial practices in B2B relations),
- Legislative Decree no. 44 of March 15<sup>th</sup>, 2010, implementing the EU Directive on Audio-Visual Media Service and amending the Radio&TV Broadcasting Act),
- Code of Marketing Communication Self-Regulation (administered by the Institute for Advertising Self-Regulation – IAP, an Industry association, website at the URL: <http://www.iap.it/en/index2.htm>).

(\* N.B: There are no official English translations available for local Statute Laws)

#### **Detail:**

There is no reason to foresee that in the near future Statute Law provisions specifically addressing green claims will be introduced. It is likely that local Authorities will give increasing scrutiny to green claims and environmental marketing.

### QUESTION 2:

*Do the above address claims relating to*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics) “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- iv. building materials
- v. textiles
- vi. renewable energy or materials

- vii. genetically modified organisms (GMOs)
- viii. Seals and Certifications

**Detail:**

As indicated in Question 1. none of the terms is addressed by specific rules. But all of them are subject to the general principles requiring advertising to: (i) not be misleading, (ii) be readily recognizable as such and distinguishable from editorial content, (iii) not encourage behavior grossly prejudicial to the protection of the environment, (iv) not to result in a misleading commercial practice, (v) be able to properly substantiate all claims made.

In addition, the (Industry) Code of Marketing Communication Self-Regulation (Section 12 - Health, Safety and Environment) expressly requires that, *“Marketing communication involving products that may potentially endanger health, safety or the environment, especially when such dangers are not immediately recognizable, should indicate such dangers clearly”*.

Furthermore, according to the 'Consumer Code' (Legislative Decree no. 206 of 2005), misleading information provided to the public on a 'product's characteristics' constitutes an unfair commercial practice (Section 21 of the Code; it's obvious that the provisions will cover improper environmental claims); the same goes for undue omissions on a product's characteristics (Section 22; again false information on environmental impact would be covered by the provision).

Finally, EU Directives 2007/65/EC of December 11<sup>th</sup>, 2007 and 2010/13/EU of March 10<sup>th</sup>, 2010 require that *“1. Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements: .....(c) audiovisual commercial communications shall no: ..(iv) encourage behavior grossly prejudicial to the protection of the environment..”* (Section 9 of Directive 2010/13).

Italy has transposed this provision exactly inserting it into the Radio & TV Broadcasting Code without any changes to the Directive's wording.

Seals, certification and trust marks will obviously have to comply with specific requirements.

**QUESTION 3:**

***Which claims provoke the most challenges - e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

All the claims mentioned are among those most frequently questioned both, by local Authorities as well as by consumers (and their associations). In a hypothetical ranking list, “biodegradable” and “environmental friendly” - together with statements on carbon emissions - would probably figure in top positions.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Cars, emission and fuel face challenges most frequently.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

YES

***What product(s)?***

- Cars,
- Energy

***What are the required disclosures?******Cars:***

According to Presidential Decree no. 84 of February 17<sup>th</sup>, 2003 (implementing EU Directive no. 1999/94) – aside from the information to be made available at the PoS - all promotional material prepared for distribution to the general public has to comply with the prescriptions contained in a specific standard form and has to report the indications on fuel consumption and CO2 emissions with respect to all car models mentioned in promotional messages.

The Annexes to the Presidential Decree additionally require:

- information available at the PoS as well as leaflets or electronic displays to:
  - respect minimum dimensions (70 cm x 50 cm, the leaflets, 25 cm x 32 cm, the displays),
  - be easily readable (leaflets),
  - list the indications for all car models present in a certain order,
  - feature a standard text,
  - be updated periodically at least every 6 months (leaflets, 3 months displays),
- all commercial communication performed in places different from the PoS (e. g. in media) to be compliant with some minimum requirements; specifically, the indications on both, fuel consumption as well as CO2 emissions:
  - must be easily readable and be highlighted in a way identical to that used for all the other messages delivered to the public,
  - must be easy to understand, even when looked at quickly or superficially,
  - must report the official (certified) fuel consumption (reference is to be made to liters per 100 Km or Km per liter; fractions must report first decimal number),
  - must refer to all car models present in the promotional material.

Finally, car dealers are held to provide each car offered for sale or leasing with a specific label informing about fuel consumption and CO2 emissions of the respective model; such label has also to comply with a standard form, prescribing also the use of a particular text font (Times New Roman 12).

***Energy:***

Environmental marketing with claims intending to highlight beneficial effects (or lower impact) of certain energy sources over others will have to pay maximum attention to the structure and wording used and will need to make absolutely clear and easily perceptible the actual advantages consumers are offered. Extensive information about aspects such as the product's (or service's) characteristics, safety requirements, price, supply conditions, will have to be provided or made easily accessible.

**Media in which disclosures required?**

TV	Print	Internet	Radio	Point of Sale	Other
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**Detail:**

Save a few specific cases (e. g. cars, as mentioned above), most regulations setting disclosure requirements usually apply to all commercial communication, regardless of the medium used for its diffusion.

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

YES

**Detail:**

Over the last three years domestic Authorities and Watchdogs have been more and more worrying about potentially misleading environmental marketing and have both definitely given a higher level of attention as well as intensified scrutiny to green claims and green-washing practices.

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- by Regulators** – 2010 – 140 (118 upheld); 2011 - 123 (91 upheld); 2012 – number not yet tallied
- in Self-Regulatory Forum** - 2010 – 4; 2011 – 4; 2012 - none\_\_
- Civil litigation by competitor or consumers against advertiser** - \_n/a\_

**Detail:**

**(a) Regulators' interventions (i.e. opening a proceeding):** The Market and Fair Competition Commissioner (i. e. the local authority for misleading advertising and unfair commercial practices) publishes annual reports about its interventions. The figures made public refer to more general 'areas' such as 'Energy & Industry', 'Food, Pharmaceuticals & Transport', 'Services', just to mention those where environmental claims are most likely to come into play. The Authority's interventions against misleading advertising and unfair practices in the context of environmental marketing are therefore included in the numbers reported for such general areas – but not all complaints relate to environmental claims:

**2010:**

- 'Energy & Industry' sector: 51 proceedings were opened and 46 complaints were upheld and resolved through decisions (29% of all fines awarded relate to this sector),
- 'Food, Pharmaceuticals & Transport' sector: 39 proceedings were opened and 27 complaints were upheld and resolved through decisions (17% of all fines awarded relate to this sector),
- 'Services' sector: 50 proceedings were opened and 45 complaints were upheld and resolved through decisions (14% of all fines awarded relate to this sector).

**2011:**

- 'Energy & Industry' sector: 49 proceedings were opened and 34 complaints were upheld and resolved through decisions (23% of all fines awarded relate to this sector),
- 'Food, Pharmaceuticals & Transport' sector 46 proceedings were opened and 33 complaints were upheld and resolved through decisions (27% of all fines awarded relate to this sector),
- - In the 'Services' sector 28 proceedings were opened and 24 complaints were upheld and resolved through decisions (12% of all fines awarded relate to this sector).

Back in November 2008, a local not-for-profit association ('No auto') flagged to the attention of both the IAP as well as the Market and Fair Competition Commissioner, its view that the environmental claims used in the commercial communications of almost all major car brands on sale were noncompliant with the respective provisions and prescriptions.

**(b) Self-Regulation:** The Institute for Advertising Self-Regulation certainly has detailed and sector-specific statistics available, but reserves them for internal use. Courtesy of the Office of the Institute's Secretary General, I'm able to report that over the last three years the following cases related to environmental claims have occurred:

- 2012: None,
- 2011: 4 cases (food product packaging, shoppers used retail chain, mineral water packaging, cleaning product),
- 2010: 4 cases (leather industry, cleaning product, mineral water [2]).

**(c) Civil Courts:** There are no official statistics publicly available. Italian Courts only recently have started adopting electronic means for handling their proceedings and therefore do not yet offer detailed sector data as to the topics dealt with by the judgments issued.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:*** Well-known company producing and distributing mineral water

***Complainant:*** Competitor

***Date:*** Decision no. 23278 of February 8<sup>th</sup>, 2012

***Forum (court, other tribunal, self-regulatory):*** Authority for Market and Fair Competition

***Claims at Issue:*** "Zero Impact® product. Respect Nature"

***Product or entity about which claim was made:*** Mineral water bottle

***Facts:***

After an earlier halt imposed (through decision April 15<sup>th</sup>, 2011) by the Jury of the Italian Advertising Self-Regulation against its advertising campaign, a local mineral water producer received an additional halt from the Authority for Market and Fair Competition. The questioned ads – diffused via labels, product packaging, leaflets, posters and the company



website – contained a range of claims and among them that: “..... makes its family packages (1,5 liter and 1,25 liter per [bottle] a Zero Impact® product and confirms its sustainability efforts by compensating CO2 emissions created in the life cycle of the product” (reference is made to the 'Zero Impact®' re-forestation project offered by the carbon broker agency LifeGate).

**Arguments on each side:**

In complainant's view the questioned campaign contained misleading statements and suggestions resulting in an unfair commercial practice. Specifically the position was that when a promotional message of a product or service is associated with a “Zero Impact” statement, it delivers the idea of (and therefore has to actually grant) a total lack of environmental impact.

The defendant argued that its advertising messages were absolutely honest and truthful (verifiable as such) and its practices correct, in strict compliance with the EU Commission's 'Guidance for Making and Assessing Environmental Claims' (issued in 2000). During the course of the proceeding, the advertiser spontaneously renounced to airing its campaign on Radio and modified part of the wording used in its outdoor campaign.

**Were claims found misleading or otherwise objectionable?**

Yes. The claims were found misleading and incorrect.

**Reasons:**

The statements contained in the campaigns about the product's environmental impact were considered unsuitable to correctly describe (and inform consumers about) the characteristics, nature and effects of the company's participation in the re-forestation project. In addition, the campaign suggested to consumers that the promoted product was characterized by complete eco-compatibility. Instead, the defendant's (occasional and timely limited) adherence to the LifeGate project simply resulted in compensating a certain – rather marginal - quantity of the annual CO2 emissions involved in the product's manufacturing process through the purchase of 'carbon credits' relating to a certain voluntary environmental project. The promotional initiative therefore appeared capable of taking undue advantage of consumers' increased sensitiveness towards environmental issues and problems related to climate change. In addition to an injunction, the defendant was also fined 30.000 Euro.

**Can you hyperlink to a copy of the decision and/or ad?**

The decision may be found in the News Bulletin no. 6 of February 27<sup>th</sup>, 2012 (available on the Authority's website at: <http://www.agcm.it/>).

**LABELS**

**QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

Food, pharmaceuticals, automotive industry, devices subject to energy efficiency/ environmental impact requirements or to specific cautionary measures referring to waste disposal.

**What are the required disclosures?**

Content, components, environmental impact, energy consumption, information about health or safety risks for users /consumers.

**BIOBASED PRODUCTS****QUESTION 9a:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

Yes – for biobased cleaning products and bio-fuels.

**(i.) Bio-based cleaning products:** Legislative Decree no. 21 of February 6<sup>th</sup>, 2009 implements EU Regulation no. 648 of 2004 (concerning detergents) and contains identical packaging and labeling requirements for cleaning products.

**(ii) Biofuels:** The Consumer Code sets out (in Section 15) specific information requirements about sales prices, to be identified on displays that are easily visible both at the pumps and from the streets.

**QUESTION 9b:**

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

Yes - for biobased cleaning products.

The Italian Institute for Environmental and Ethic Certifications (ICEA) licenses the use of a specific mark as a result of a verification procedure ascertaining:

- the nature, origin and characteristics of the product’s components,
- the correct description of their chemical composition,
- the product’s components’ environmental impact,
- their potential effects on health,
- the characteristics of product packaging (where certain material is banned)

The products will also have to undergo performance tests and present very detailed label indications.

Regulation (EC) no. 66/2010 of the European Parliament and of the Council of November 25<sup>th</sup>, 2009 provides rules for the establishment and application of the voluntary EU Eco-label scheme (for details see last paragraph of general comments relating to Question no. 11 below).

Note that most regulations set for labeling of organic food products apply also to bio-based products (see below comment to Question no. 11).

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

***Does your country require labeling of GMO products?***

YES

EU Regulation no. 1830/2003 of September 22<sup>nd</sup>, 2003 rules the labeling and traceability of GMOs and of food and feed produced from them.

In terms of the general regulation of GMOs in agriculture, Italy has implemented EU Directives no. 98/95/EC (genetically modified plant varieties and plant genetic resources ... and marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species) and no. 98/96/EC (unofficial field inspections) of December 14<sup>th</sup>, 1998 through the provisions contained in Legislative Decree no. 212 of April 24<sup>th</sup>, 2001. These require the use of GMOs in agriculture to have special advance authorization issued jointly by the State Departments of Agriculture, Environment and Public Health. Noncompliance is sanctioned by imprisonment (from 6 months up to three years) and a fine (maximum amount approx. Euro 51.652).

Additional provisions were introduced through Legislative Decree no. 224 of July 8<sup>th</sup>, 2003, implementing Directive no. 2001/18/EC of March 12<sup>th</sup>, 2001 (on the deliberate release into the environment of GMOs).

#### ***Detail:***

As a matter of fact, Italy – even though formally adhering to the EU's provisions allowing GMOs under certain conditions - has always strongly opposed the import and use in agriculture of GMOs for reasons both of local nutritional traditions as well as public health concerns. According to a Ministerial memorandum (no. 269 of 2006, issued by the Department for Agriculture), the use of GMOs in farming is not allowed.

Such position has been repeatedly challenged by multinational companies in the production and distribution of GMOs. In 2008, the Ministry of Agricultural, Food and Forestry Policies and the Department of Economic and Rural Development Policies denied one of these international player's application for authorization to cultivate hybrids of genetically modified maize already listed in the common catalogue. The denial was grounded on the argument that such authorization could not be issued while "*... the adoption by the regions*" (i. e. local geographic districts having – sometimes primary, in other cases secondary – additional legislative competence) "*of rules to ensure the coexistence of conventional, organic and genetically modified crops ...*" was still pending. The applicant questioned such denial before an Italian Administrative court, which found it necessary to seek guidance from the Court of Justice of the European Union on the preliminary issue whether (and when) it was correct to refuse authorization during the "*... period preceding adoption of the general measures*". The Fourth Chamber of the ECJ decided the case in a judgment dated September 6<sup>th</sup>, 2012, stating that:

- (a) the cultivation of GMOs cannot be made subject to a national authorization procedure when the use and marketing of those varieties are authorized pursuant to Article 20 EU Regulation (EC) No 1829/2003 and those varieties have been accepted for inclusion in the common catalogue provided for in Council Directive 2002/53/EC

of 13 June 2002,

- (b) Article 26a of Directive 2001/18/EC does not entitle a Member State to prohibit in a general manner the cultivation on its territory of such GMOs pending the adoption of coexistence measures to avoid the unintended presence of GMOs in other crops.

Italy will have to comply with such principles and multinational companies may now attempt to introduce and cultivate GMOs.

Nevertheless, it does not take much to predict that GMOs and their derivative products will face strict and comprehensive labeling and consumer information requirements.

## ORGANIC PRODUCTS

### QUESTION 11:

***Do you have a legislative regime to certify organic products?***

YES

#### ***Detail:***

As a member of the EU, Italy is bound\* by:

- Council Regulation (EC) No. 834/2007 of 28 June 2007 (on organic production and labeling of organic products),
- Commission Regulation (EC) No 1235/2008 of 8 December 2008 (rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries),
- Commission Regulation (EC) No. 889/2008 of 5 September 2008 (rules for the implementation of Council Regulation (EC) No 834/2007 regarding organic production, labeling and control).

*(\* N.B.: Differently from the Directives, the EU Regulations are immediately effective in member states and allow no flexibility in national implementation)*

The EU Regulations mentioned above set new standards for organic farming and call for 'sustainable cultivation systems' where particular emphasis is assigned to environmental protection, biodiversity and high standards of animal protection.

Organic production may not make use of genetically modified organisms. Products containing GMOs as ingredients / components may not be labeled as 'organic'.

The distribution of organic products originating from third countries is allowed provided they're produced and controlled under identical or equivalent conditions. Import will be governed by a new regime where the EU institutions will work directly with control bodies located in third countries.

All Member States of the EU are represented in the Standing Committee on Organic Farming and make use of the Organic Farming Information System (OFIS), aimed both at exchanging agricultural data relating to organic products as well as offering information to the general public (through a website to be found at: [http://ec.europa.eu/agriculture/ofis\\_public/index.cfm](http://ec.europa.eu/agriculture/ofis_public/index.cfm)).

In addition, Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 sets provisions for awarding the EU 'Ecolabel' to products and services which have a lower environmental impact than other products in the same group. The label criteria are based on scientific data relating to the whole of a product's life cycle, from product development to disposal.

According to the Regulation (Section 2/1) its provisions "shall apply to any goods or services which are supplied for distribution, consumption or use on the Community market whether in return for payment or free of charge"; nevertheless (per Section 6/5) "before developing EU Ecolabel criteria for food and feed products, as defined in Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, the Commission shall undertake a study, by 31 December 2011 at the latest, exploring the feasibility of establishing reliable criteria covering environmental performance during the whole life cycle of such products, including the products of fishing and aquaculture. The study should pay particular attention to the impact of any EU Ecolabel criteria on food and feed products, as well as unprocessed agricultural products that lie within the scope of Regulation (EC) No 834/2007. The study should consider the option that only those products certified as organic would be eligible for award of the EU Ecolabel, to avoid confusion for consumers".

Until now this procedure (study and evaluation) has not yet been concluded.

Currently organic food and feed would therefore not automatically qualify for (to be exact would be precluded from obtaining) assignment of the Ecolabel. In the future 'organic certification' may become a pre-requisite for obtaining the Ecolable.

At the following URL: <http://ec.europa.eu/ecat/> a searchable catalog of products that have obtained the Ecolabel is available.

***Does it cover?***

Commission Regulation (EC) No. 889/2008 covers all levels of plant and animal production in all their phases (i. e. cultivation of land, keeping of animals, processing, distribution of organic foods and their control).

***i. Food & Beverages:*** Food products may be labeled /marked as 'organic' only when at least 95% of their agricultural ingredients are organic. As of July 1<sup>st</sup>, 2010 all packaging organic food must use the EU organic logo.

Commission Regulation no. 203/2012 of March 8<sup>th</sup>, 2012 has amended and integrated previous Regulation no. 889/2008 with respect to organic wine.

***ii. Textiles:*** In general terms, a textile product may be certified as "organic/biological" if it:

- is obtained from natural fibre, produced and certified in compliance with EU Regulation no. 834 of 2007,
- is manufactured in accordance with the criteria set by the global Organic Textile Standard – GOTS

On May 11<sup>th</sup>, 2012 - in a Report to the Parliament and Council - the EU Commission explained its position in favor of excluding – for the moment - textiles and cosmetics from the EU organic legal framework. The EU Commission is concerned that inclusion could undermine “..the credibility of the term ‘organic’, as applied to foodstuffs”.

**iii. Fertilizer or lawn products:** Annex I of Council Regulation no. 889/2008 contains a detailed indication of authorized organic fertilizers and soil conditioners.

**iv. Other products?** Living or unprocessed products, animal feed, seeds and propagating material



# LUXEMBOURG



## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### ***Detail:***

In addition to the Luxembourg Law of 30 July 2002 on misleading advertising, as amended and the provisions of the Luxembourg Consumer Code on misleading advertising, the following laws, regulations and self-regulations specifically concern Green Claims:

#### 1) Laws and Regulations:

(i) Luxembourg Regulation of 14 December 2000 on the labeling, presentation and advertising of foodstuffs, as amended, regulates the use of specific information such as health indications or organic farming indications.

In this respect, it is not allowed to use the adjectives “organic” or “ecological” or any synonyms of these words if the foodstuff contains any pesticides or any additive or any chemical product and if the foodstuff has not been produced in accordance with the rules set forth in the Community regulation No 2029/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs, as amended.

Besides, the words “nature” or “pure” or any synonym or similar words minding the natural character of a product cannot be used if the foodstuff contains any pesticides or any additive or any chemical product or if the foodstuff is sophisticated.

Finally, the Luxembourg Regulation of 14 December 2000 states that the labeling, presentation and advertising of foodstuffs must not be likely to mislead consumers as regards their characteristics (nature, identity, quality, composition, durability, origin, etc.) and/or their effects (especially on the health).

(ii) The Community Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the Eco-label (replacing EC No 1980/2000) rules eco-label award scheme, which applies to any kind of goods and services, in order to promote products with a reduced environmental impact during their entire life cycle. This Community eco-label may be awarded to products available in the Community which comply with the essential environmental requirements specified by a specific Committee, named EUEB.

According to the Luxembourg Law dated 26 December 2012 implementing certain provisions of the above-mentioned regulation, the Community eco-label is delivered in Luxembourg by the Minister in charge of environmental matters.



(iii) Community regulations No 1169/2011 of 25 October 2011 on the provision of food information to consumers, which will be in force on 13 December 2014, and Regulation No 432/2012, dated 16 May 2012, establish a list of permitted health claims made on food together with their respective conditions of use. These regulations are directly applicable in Luxembourg.

## 2) Self-Regulation:

(i) Several labels designed to identify goods and services which are “environment friendly” are in use in Luxembourg.

Some of them have been created by the Luxembourg government (such as the “eco label” whose purpose is to promote the hotels which respect the environment) whereas the others are of private initiative (such as the “Green Dot” symbol for instance, which means that the packaging producer has paid a financial contribution to a local organization whose aim is to promote, coordinate and financially support selective collective, sorting and recycling of household packaging waste and similar waste, namely Varolux for Luxembourg).

(ii) The CLEP (“*Commission Luxembourgeoise pour l’Étiquette en Publicité*”), which is an emanation of the Luxembourg Council for Advertising (“*Conseil luxembourgeois de la publicité*”), a non-profit association of private law formed by the major players active in the fields of marketing and commercial communication in the country, plays the role of a self-regulatory body in Luxembourg.

It has enacted a code of ethics in advertising. This code sets out non-compulsory general guidelines relating to advertising (i.e. loyalty, honesty, veracity, decency, protection of privacy, etc.), but also specific guidelines regarding environmental responsibility of advertisers.

According to these guidelines, advertising must not encourage consumers to be irresponsible vis-à-vis the environment. It must therefore refrain from suggesting behaviour or to refer to human activities or industrial that would be considered contrary to the protection of the environment and sustainable development.

Besides, the code of ethics states that advertising using environmental assertions must not mislead the consumer and must not have as main objective to attract his attention or to increase his expectations in this respect.

## QUESTION 2:

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**Detail:**

i. See question 4 below

v. Several Luxembourg laws regulate the placing on the market and the use of dangerous substances, and regulate the marketing of such products.

vi. According to regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council Text with EEA relevance, only textile products exclusively composed of the same fibre may be labelled or marked as "100 %", "pure" or "all" (article 7).

viii. See question 10. below

ix. There is no specific legislation on this point, but Luxembourg Consumer Code (article L. 122-4) expressly forbid to professionals to display a label, seal or logo without having priory obtained the agreement to do so.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

**Detail:**

Such information is not available in Luxembourg. However, from our experience, advertising related to cars are those which uses the more green claims and therefore which cause the most questions.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

YES

***What product(s)?*** Car ads

***What are the required disclosures?***

The Luxembourg regulation of 6 April 2001, on the availability of consumer information on fuel economy and CO2 emissions in respect of the marketing of new passenger cars, as amended, states that all printed matter used in the marketing, advertising and promotion of vehicles to the general public (such as technical manuals, brochures, advertisements in newspapers, magazines and trade press and posters) must contain the official fuel consumption and official specific CO2 emissions data of the vehicles to which it refers.

This information should, as a minimum, meet the following requirements:

1. be easy to read and no less prominent than the main part of the information provided in the promotional document;
2. be easy to understand even on superficial contact.

The above Regulation additionally sets out that any poster must contain the following text: *"In addition to the fuel efficiency of a car, driving behaviour as well as other non-technical factors play a role in determining a car's fuel consumption and CO2 emissions. CO2 is the main greenhouse gas responsible for global warming"*.

**Media in which disclosures required?**

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**Detail:**

See above

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

YES

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

Such information is not available in Luxembourg

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

**LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

**What product(s)?**

Residential buildings – news cars for individuals

**What are the required disclosures?**

According to Luxembourg Regulation of 6 April 2001, as amended, professionals are required to affix on new cars intended to individuals, or in their shops, labels indicating the car fuel consumption and CO2 emissions (article 4).

Luxembourg Regulation dated 14 December 2007 on energetic performance for residential buildings requires that each planning permission for a new residence or renovations shall be accompanied with an energy pass certificate.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

See question 10 below.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### **Detail:**

Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (GMO), as modified, applies to three types of product:

- genetically modified organisms for food and feed use,
- food and feed containing GMOs
- food and feed produced from or containing ingredients produced from GMOs.

It states that food and feed products containing GMOs must be labeled as such. The words “genetically modified” or “produced from genetically modified (name of the organism)” must be clearly visible on the labeling of these products.

However, these requirements shall not apply to:

- feed containing material which contains, consists of or is produced from GMOs in a proportion no higher than 0,9 per cent of the feed and of each feed of which it is composed, provided that this presence is adventitious or technically unavoidable,
- and to foods containing material which contains, consists of or is produced from GMOs in a proportion no higher than 0,9 per cent of the food ingredients considered individually or food consisting of a single ingredient, provided that this presence is adventitious or technically unavoidable.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

**Detail:**

(i) Council regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 establishes the legal framework for all levels of production, distribution, control and labeling of organic products which may be offered and traded in the EU.

The regulation shall apply to the following products:

- live or unprocessed agricultural products;
- processed agricultural products for use as food;
- feed;
- vegetative propagating material and seeds for cultivation,
- yeasts used as food or feed.

Products may only be marked as "organic" if at least 95% of their agricultural ingredients are organic. The use of GMO and of products manufactured from GMOs is prohibited in organic production. Products containing GMOs may not be labelled as organic unless the ingredients containing GMOs entered the products unintentionally and the GMO proportion in the ingredient is less than 0.9%.

Labelling, advertising or commercial documents may use terms such as "eco" and "bio" to describe an organic product, its ingredients, or raw materials. The labelling of an organic product must be clearly visible on the packaging and contain a reference to the control body that certifies the product concerned. The use of the European Union Logo on organic food products is mandatory, as well as an indication of the provenance of raw materials used in the product. This indication must be shown in the same field of vision as the Community logo.

According to Luxembourg regulation dated 1st December 1992, completing the provisions of the regulation No 834/0007, the ASTA ("Administration des services techniques de l'agriculture") is in charge, in Luxembourg, of the control of the conformity of the products labeled as organic with the European regulation.

(ii) Two national labels (i.e. Biolabel and Demeter) are coexisting with European labels. Besides, the labels "Bio vum Séi" and "Bio vun der Our" emphasizes the origin of the products from a certain region of Luxembourg.

**Does it cover?**

- i. Food & Beverages
- ii. Textiles:
- iii. Fertilizer or lawn products:
- iv. Other products?





MEXICO

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

##### **I. Laws**

1. Federal Consumer Protection Law  
(<http://www.profeco.gob.mx/juridico/pdf/ley%20ingles.pdf>)
2. Law on Biosafety of Genetically Modified Organisms  
([http://www.cibiogem.gob.mx/eng/Documents/Ing\\_LBOGM\\_P.pdf](http://www.cibiogem.gob.mx/eng/Documents/Ing_LBOGM_P.pdf))
3. Regulation to the Genetically Modified Organism Biosafety Law  
([http://www.cibiogem.gob.mx/eng/Documents/Ing\\_RLBOGMs\\_P.pdf](http://www.cibiogem.gob.mx/eng/Documents/Ing_RLBOGMs_P.pdf))
4. Law of Organic Products ([www.diputados.gob.mx/LeyesBiblio/pdf/LPO.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LPO.pdf))
5. Regulation for the Law of Organic Products  
([www.diputados.gob.mx/LeyesBiblio/regley/Reg\\_LPO.doc](http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LPO.doc))

##### **II. Self-regulation**

Norms of CERTIMEX (Mexican Certification Products and Ecological Processes)  
(<http://www.certimexsc.com/docs/Normas%20CERTIMEX%20actualizadas%202009.pdf>)

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

Genetically engineered foods are dealt with in the Law of Biosafety Genetically Modified Organisms, and its regulation.

Natural for non-food products like cosmetics are dealt with in [NOM-141-SSA1/SCFI-2012](#).

Seals and certification are dealt with in several law, it will depend on the product the party wishes to certificate. Mostly the certifications are held by SAGARPA, SEMARNAT and COFEPRIS.



**QUESTION 3:**

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

Biodegradable, natural, environmental friendly and Free of GMOs claims.

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**

N/A

**QUESTION 4:**

**Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?**

NO

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

NO

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- a. *by Regulators –*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

On our country, it is not known yet of any Green claim.

However, it is know that the Federal Consumer Protection Agency began an action against a corporation dedicated to the production of rice for misleading advertising due to the use of the legend “free of OMG” in its products.

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

N/A

**LABELS**

**QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

N/A

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### **Detail:**

According to the Law on Biosafety of genetically modified organisms, all GMO's or products containing genetically modified organisms, authorized by the Secretary of Health (SSA) and to be used directly for humans, must guarantee the explicit reference of genetically modified organisms and indicate on the label information regarding their food composition or their nutritious properties, in those cases where these characteristics are significantly different from the respective conventional products.

Regarding the labeling of GMO's in the form of seeds or vegetative material for sowing, cultivation and agricultural production it is compulsory to inscribe on the label that it is a genetically modified organism, as well as the characteristics of the acquired genetic combination and its implications relative to special crop conditions and culture requirements. The changes in reproductive and productive characteristics must also be included.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### **Detail:**

The certification of the production process may be handled directly through the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Foods (SAGARPA) or an authorized Organism.

The organic certification perform by SAGARPA will be through SENASICA. Each application for certification should file a detailed organic plan. To initiate the organic certification procedure, the organic operator should confirm that the product that seeks to certify comply with the conversion period. Then SAGARPA or the authorized Organism will practice an inspection to verify the organic operation.

In case of products derived from forest resources timber and no timber or from the wildlife,

whose exploitation is regulated by The Sustainable Forestry and Wildlife Law, that apply for a certification for human use and consumption, the Administrative Authorities should require to the Organic Operators their authorizations, licenses, permits or certification issued by the Secretariat of Environment and Natural Resources.

***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?

According to the Law of Organic Products, organic production means: “production and processing system for food, animal, vegetable and others products and sub products, with a regulated use of external inputs and prohibition of the use of synthetic chemicals”.

As you are able to see, the definition in Mexico is very broad and does not specify what kind of products are organic.





NEW ZEALAND

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

#### **Guidelines from Regulator:**

**I) Guidelines for Green Marketing** – released by Commerce Commission, New Zealand's competition and regulatory enforcement agency in December 2008. It provides for some guidance on green marketing and the Fair Trading Act 1986 ("FTA"). It includes general advice on how to comply with the general provisions of the FTA not to mislead or deceive or to make false or misleading representations.

<http://www.comcom.govt.nz/assets/Fair-Trading/Guidelines-for-Green-Marketing-December-2008.pdf>

**II) Guidelines for Carbon Claims** – released by the Commerce Commission in July 2009. It provides some guidance on issues surrounding carbon offset and neutrality claims and how they are affected by the FTA.

<http://www.comcom.govt.nz/assets/Imported-from-old-site/FairTrading/DraftGuidelinesonCarbonClaims/ContentFiles/Documents/comcom-guidelinesforcarbonclaims.pdf>

#### **Self-Regulation**

The Advertising Standards Authority, New Zealand's advertising self-regulatory body, released a revised Code for Environmental Claims in January 2013. The Code aims to ensure that advertisers develop and maintain high standards when making environmental claims in advertising.

[http://www.asa.co.nz/code\\_environmental.php](http://www.asa.co.nz/code_environmental.php)

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

Claims relating to the matters listed above are to a certain extent covered in a general way by the Commerce Commission guidelines and ASA Code referred to in question 1.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

***Detail:***

The use of absolute environmental claims has received an increased amount of attention. The ASA Code for Environmental Claims specifically states that absolute claims must be assessed on the complete life-cycle of the product and its packaging. The previous ASA Code for Environmental Claims had specifically stated that absolute claims were not appropriate.

With the increase of “green” consumer product brands, including cleaning products for example, these have recently been subject to increased review by the Commerce Commission and the ASA.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

YES

***What product(s)?***

Vehicles

Water-using products (such as washing machines)

Certain electronic products, including washing machines, heat pumps, dishwashers.

**What are the required disclosures?**

Registered vehicle traders are required by the Energy Efficiency (Vehicle Fuel Economy Labeling) Regulations 2007, to display fuel economy information on cars, utility vehicles, or vans weighing less than 3.5 tons, as long as the information is available.

Consumer Information Standards (Water Efficiency) Regulations 2010 require that prescribed water-using items display their water efficiency.

Energy Efficiency (Energy Using Products) Regulations 2002 requires manufacturers in New Zealand and importers into New Zealand of products covered by the regulations to provide a label with the energy using characteristics of the product.

**Media in which disclosures required?**

TV	Print	Internet	Radio	Point of Sale	Other
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**Detail:**

In relation to vehicles, information must be displayed on the car and on the trader's website.

In relation to prescribed water-using products, water efficiency data must be displayed on the product, if packaged on the packaging, if not packed the regulations specify where on each product the label should be displayed. If the products are offered for sale on the internet the required information must also be clearly provided.

Energy performance labels must be attached to the item.

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

**Detail:**

The Commerce Commission commented at the time of issuing the guidelines that "Green claims are a new area of focus for the Commerce Commission because we see it as an emerging area of concern."

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. *by Regulators -*
- b. *in Self-Regulatory Forum - 9 (Proceedings under the previous Code for Environmental Claims, published on the ASA website).*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

Not all decisions in New Zealand are reported. It is therefore difficult to ascertain figures. The Commerce Commission will sometimes provide a warning in the first instance before proceedings are commenced, these warnings are not generally published.



**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:*** Masport Fires

***Complainant:*** Member of the public

***Date:*** 10 July 2012

***Forum (court, other tribunal, self-regulatory):*** ASA (self-regulatory)

***Claims at Issue:***

Whether the claim “environmentally friendly” in the particular advertisement breached the Code for Environmental Claims which requires that any generalized claims for environmental benefit be assessed on the complete lifecycle of the product and its packaging taking into account any effects on the environment of its manufacture, distribution, use, and disposal, it also states that absolute claims are inappropriate.

***Product or entity about which claim was made:***

Wood burning fire

***Facts:***

A television advertisement for Masport wood fires included the presenter stating: “Masport wood fires heating your home more efficiently. New Zealand made Masport wood burning fires are an affordable and environmentally friendly way to keep your family warm.”

***Arguments on each side:***

The Complainant claimed that the advertisement was misleading because burning fossil fuels was not good for the environment. The advertiser claimed that coal was not referred to in the advertisement. Further that the environmentally friendly statement was referenced to “using wood from a sustainable source “(note that this qualifying statement had been left off the shortened advertisement the complainant had seen). They also raised arguments to support that wood burning was better for the environment compared with other heating sources such as electricity reliant on other less environmentally friendly sources.

***Were claims found misleading or otherwise objectionable?***

The ASA held that the advertisement breached the Code for Environmental Claims.

***Reasons:***

The Code states that absolute claims for environmental benefit are not appropriate. The use of “environmentally friendly” in the advertisement breached this principle of the Code.

Note this decision was made under the previous version of the Code for Environmental Claims, which was replaced at the beginning of 2013. The new Code requires that absolute environmental claims are assessed over the whole of the products life-cycle. The Code however, no longer explicitly states that the use of absolute terms are not appropriate.

***Can you hyperlink to a copy of the decision and/or ad?***

[http://www.asa.co.nz/display.php?ascb\\_number=12289](http://www.asa.co.nz/display.php?ascb_number=12289)

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?* Vehicles, certain electronic and white ware products

*What are the required disclosures?* As set out in question 4, above.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

Genetically modified foods are regulated by Standard 1.5.2 of the Australia New Zealand Food Standards Code. This provides for mandatory pre-market approval and mandatory labeling which must include the words “genetically modified”.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

NO



# NICARAGUA



## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. **Nothing specific – general false advertising laws only**

#### **Detail:**

At present there are no specific rules for Green Claims. Therefore, green claims would be subject to the general provisions regarding advertising. Furthermore, we do not foresee any changes in the near future.

### QUESTION 2:

**Do the above address claims relating to:**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

At present there are no specific rules for Green Claims. Therefore, green claims would be subject to the general provisions regarding advertising.

### QUESTION 3:

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**

At present there are no specific rules for Green Claims. Therefore, green claims would be subject to the general provisions regarding advertising.

### QUESTION 4:

**Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?**

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. by Regulators –
- b. in Self-Regulatory Forum -
- c. Civil litigation by competitor or consumers against advertiser –

At present there have not been any actions.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

At present there have not been any actions.

## **LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

## **BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

At present there are no specific rules for Green Claims. Therefore, green claims would be subject to the general provisions regarding advertising.

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

NO

## **ORGANIC PRODUCTS**

**QUESTION 11:**

*Do you have a legislative regime to certify organic products?*

NO





NORWAY

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### *Detail:*

##### **Guidelines from Regulator:**

(i) The Consumer Ombudsman's Guidelines for use of environmental claims in the marketing of vehicles [http://www.forbrukerombudet.no/asset/2857/1/2857\\_1.pdf](http://www.forbrukerombudet.no/asset/2857/1/2857_1.pdf) - In Effect since September 2007.

(ii) The Consumer Ombudsman's Guidelines for the use of environmental and ethical claims in marketing [http://forbrukerombudet.no/asset/3645/1/3645\\_1.pdf](http://forbrukerombudet.no/asset/3645/1/3645_1.pdf) - In effect since September 2009.

(iii) The Consumer Ombudsman's Guidelines on the use of "climate neutral" etc. in marketing [http://forbrukerombudet.no/asset/3603/1/3603\\_1.pdf](http://forbrukerombudet.no/asset/3603/1/3603_1.pdf) - In effect since December 2009.

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### *Detail:*

##### **(i) Environmental claims on "carbon neutral" and similar**

Claims in marketing shall be documentable. The documentation shall be available from the advertiser when the marketing occurs.

For the documentation to have sufficient weight as evidence, it is usually a requirement that the claims on "carbon neutral" or similar can be substantiated by statements or research carried out in a professional manner by neutral authorities with recognised professional competence.



Traders that use claims such as “carbon neutral” etc. in marketing must fulfil specific criterias set out in the Guidelines.

Insufficient information on what is implied by claims such as “carbon neutral” etc. may in the view of the Consumer Ombudsman be a misleading omission

**(ii) Environmental claims on “Sustainable” and similar**

According to the Consumer Ombudsman’s assessment, it must be documentable that the product is among the best 1/3 of all equivalent products on the market in terms of environmental effect, in order for the advertiser to use the environmental claims together with an explanation in marketing.

According to the Consumer Ombudsman’s assessment, there is a lower threshold for use of environmental claims in marketing to be judged as misleading if either of the following applies:

- the product or company is particularly harmful to the environment, seen from a “cradle-to-grave” perspective, or
- the product is so complex that it is difficult to compare its environmental properties to that of other products in the same product category.

In practice, it will be quite difficult to present documentation showing that such products are significantly better than equivalent products or belong to the best 1/3 in terms of environmental effect. It is therefore recommended that traders highlight specific environmental properties in the form of product information when marketing such products.

**(iii) Seals and Certifications**

If traders use labelling systems or symbols in their marketing, then information shall be provided concerning how to obtain more detailed or supplementary information about the labelling system or symbol, e.g. on the company’s website.

The criteria for use of labelling systems or symbols must be able to be checked and controlled. This applies to both official and private labelling systems.

The trader must be able to document that the criteria are fulfilled.

Even if a company fulfils the criteria for use of labelling systems or symbols, its use of these in marketing must be in compliance with the regulations stated in the Marketing Control Act and the Guidelines. The use of labelling systems and symbols must not be misleading.

The Consumer Ombudsman encourages traders to use official labelling systems.

Private labeling systems are allowed, but the Consumer Ombudsman is of the opinion that it should be avoided.

If a company or industry decides to use its own label in its marketing, this must mean that the product or company is qualitatively superior to other equivalent products or companies. Also, there shall be clear criteria for bearing the label and an authority that controls the use of the label. Furthermore, the label must not be easily confused with other labels, including official ones.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

“environmentally friendly”, “green”, “climate neutral”

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

*Detail:*

Cars and Fuels

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. by Regulators – 1*
- b. in Self-Regulatory Forum –*
- c. Civil litigation by competitor or consumers against advertiser –*

*Detail:*

The Consumer Ombudsman - The electricity company For Better Days

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

*Advertiser:* For Better Days

*Complainant:* The Consumer Ombudsman

*Date:* 27 October 2011

*Forum (court, other tribunal, self-regulatory):* Administrative order

*Claims at Issue:* Stop the television commercial

*Product or entity about which claim was made:* Electricity

**Facts:**

The company claimed, among other things, that "we can offer you only the cleanest electricity from renewable energy sources." The fact is that all electricity customers in Norway have the same kind of power delivered to their homes, no matter who they buy from, since all electricity goes into the same electricity net.

**LABELS****QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

**BIOBASED PRODUCTS****QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

**GENETICALLY MODIFIED ORGANISMS (GMO)****QUESTION 10:**

*Does your country require labeling of GMO products?*

YES

**Detail:**

Regulations are in accordance with EU regulations on GMO products  
<http://www.lovdato.no/cgi-wift/ldles?doc=/sf/sf/sf-19931221-1385.html>

**ORGANIC PRODUCTS****QUESTION 11:**


*Do you have a legislative regime to certify organic products?*

YES

**Detail:**

All providers of organic products in Norway are certified by Debio. Debio ensures that farms and fish farms, processing and marketing enterprises, importers and others follow the regulations for organic production, and meet the requirements for marketing organic products under Debio's Ø-label.

Most of Debio's services deal with the inspection of organic production in accordance with the Norwegian "Regulations on the Production and Labelling of Organic Agricultural

Products". The inspection services are based on an agreement with the Norwegian Food Safety Authority, and the regulation is based on the EU Council Regulation 2092/91 . It covers farming, processing, import and marketing of organic agricultural products.

***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?



# PANAMA

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator (ISO 14021)
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

### QUESTION 3:

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

#### *Detail:*

Although there are no specific rules for green marketing, Panama’s Consumer Protection Authority punishes violations of false advertising generally, which involves an administrative process typically resulting in a monetary fine. These administrative processes are not public. In certain circumstances the case may end up in court, which makes the case public, but we know of no such case involving a challenge to a green claim.

### QUESTION 4:

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. by Regulators -*
- b. in Self-Regulatory Forum -*
- c. Civil litigation by competitor or consumers against advertiser -*

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

**LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

**BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

**GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

NO

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? Agricultural products. The local authorities are not yet certifying products as organic, but they have to approve the private companies that issue such certifications.





# PARAGUAY

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. **Nothing specific – general false advertising laws only**

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

### QUESTION 3:

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

N/A

### QUESTION 4:

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

### QUESTION 5:

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

### QUESTION 6:

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators –*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

**LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

**BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

N/A

**GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

NO

**ORGANIC PRODUCTS**

**QUESTION 11:**

*Do you have a legislative regime to certify organic products?*

YES

**Detail:**

Regulations to implement labeling of organic products are being developed.

**Does it cover?**

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? It covers organic products generally.





PERU

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

##### **Law**

**Consumer Protection Code** - in force since October 2010. Establishes the duty of providers to indicate on the labeling of food products which are their genetically modified components. However, these rules are not in force yet, until the GMO labeling rules of application are issued. The Code also states that providers who offer organic foods must be properly certified and that they should be clearly identified on the label or packaging of their products.

##### **Guidelines from Regulator**

- i. **Technical Regulation for Organic Products** - released by the Department of Agriculture, January 2003, it states the use of claims such as 'organic, ecological, biological', in order to ensure its use is only for 'organic products'.
- ii. **Peruvian Technical Standard (NTP ISO 14024:1999). ENVIRONMENTAL LABELS AND DECLARATIONS. Type I Environmental Labeling. Principles and Procedures** - released by the National Institution of Defense of Competition and Protection of Intellectual Property (INDECOPI), December 1999. Sets out the principles and procedures for developing environmental labeling programs Type I; which means a voluntary program by a third party (eco-labeling entity) who grants a license authorizing the use of eco-labeling which indicates an environmental global preference of a product on a particular category, taking into account the environmental criteria and the product functional characteristics.
- iii. **Peruvian Technical Standard (NTP ISO 14021:2001). ENVIRONMENTAL LABELS AND DECLARATIONS. Self-declared environmental claims (type II environmental labeling)** - released by the INDECOPI, May 2001. States the specific requirements for developing environmental declarations, including statements, symbols and graphics related to the product. Also, it describes the commonly used expressions, such as 'biodegradable', 'recovered energy', 'Long Term product', 'recyclable', 'recycled material', 'recovered material', 'reduce consumption of energy', 'reduce consumption of water' reusable', 'rechargeable'. This standard also describes the general and specific methods of assessment to verify the declarations (voluntary).

- iv. **Peruvian Technical Standard (NTP ISO 14020:2008). ENVIRONMENTAL LABELS AND DECLARATIONS – General Principles**. Released by INDECOPI, December 2008. States guidelines on the development and use of environmental labeling and declarations (voluntary).

**QUESTION 2:**

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**Detail:**

Claims similar to “renewal energy or materials” are dealt with in ENVIRONMENTAL LABELS AND DECLARATIONS. Self-declared environmental claims (type II environmental labeling). The duty to inform about a component genetically modified (GMOs) containing in food is stated in Consumer Protection Code.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

“Natural”, “green” or “environmentally friendly”, due to their subjective nature.

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

Energy saving devices.

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?*

Industrial Boilers

*What are the required disclosures?'*

Emission of tons of CO2' followed by a space to specify the emission of tons of CO2.

*Media in which disclosures required?*

TV	Print	Internet	Radio	Point of Sale	Other (LABELING)
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**Detail:**

**Peruvian Technical Standard. INDUSTRIAL BOILERS (NTP350.301:2009). Standards of thermal efficiency and labeling** – released by the National Institution of Defense of Competition and Protection of Intellectual Property (INDECOPI), February 2004, states the standards of thermal efficiency (fuel / steam) to be met by industrial boilers without heat recovery equipment and labeling features. The compliance of this standard is voluntary.

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators - 1*
- b. *in Self-Regulatory Forum - 0*
- c. *Civil litigation by competitor or consumers against advertiser - 0*

**Detail:****Regulator: INDECOPI**

August 2008 – April 2010. The Regional Commission Office of INDECOPI – Piura filed an infringement investigation proceeding against Corporación de Industrias y Servicios Lima S.A.C (COINSERLIMA), accusing them for deceptive practices, since the defendant announced a product as "natural" without evidence to prove it.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

**LABELS****QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES (voluntary)

***What product(s)?***

Electric motors, solar systems, lighting, industrial boilers, water heaters.

***What are the required disclosures?***

Depending of the Peruvian Technical Standard for each product, the providers can put on the label of product the 'range of energy efficiency' which is classified by letters and colors.



## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

**Consumer Protection Code** - states that foods containing genetically modified ingredients (GMOs) should inform this aspect on their labels. However, currently, this requirement is not enforceable due to the fact that the GMO labeling rule has not been issued yet.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Detail:*

According to the **Technical Regulation for Organic Products**, processes of production or processing must be certified by a duly authorized certification entity, in order to verify the accomplishment of the requirements establishes in the regulation.

#### *Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? Agricultural crops, gathering of wild organic products, animal husbandry, apiculture production.





POLAND

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### Detail:

**Law:** The Polish Law on Environment Protection (April 21, 2001) provides that the promotion of goods or services shall not include any content promoting the pattern of consumption contrary to the principles of environmental protection and sustainable development, in particular the image of wild nature shall not be used to promote products and services having adverse impact on environment.

Moreover, the Law on Environment Protection requires that advertisements of new vehicles contain information on consumption of fuel and CO<sub>2</sub> emission.

**Self-Regulation:** Council for Advertising (Rada Reklamy) is the organization responsible for self-regulation in the field of advertising in Poland. The self-regulation system is based on the Code of Ethical Advertising (the “Code”), a document drawn up jointly by representatives of three groups making up the advertising market in Poland: advertisers, advertising agencies and media. The Ethical Advertising Commission ensures that the Code is observed. The Commission gathers experts in the field of media and advertising. The Code provides specific requirements for ads that, inter alia, contain ecological information. The Council for Advertising protects consumers against unfair or unethical advertising.

### QUESTION 2:

**Do the above address claims relating to: N/A**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

**Detail:**

We are not aware of any such challenges.

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

**What product(s)?**

New cars

**What are the required disclosures?**

Consumption of fuel and CO<sub>2</sub> emissions

**Media in which disclosures required?**

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**Detail:**

Any promotional materials

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators –*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

We are not aware of any such actions.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

#### **What product(s)?**

Products consuming energy or having impact on energy consumption, introduced to the market in member states of the EU; new vehicles; new houses.

#### **What are the required disclosures?**

Energy efficiency class and other information on resources used by the product consuming energy;

Energy performance certificates are required for all the new buildings and apartments;  
Label with information of fuel consumption and CO<sub>2</sub> emission for new vehicles.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

There are requirements as to labeling of petrol pumps containing biofuels, which should contain the label “BIO” and percentage of biocomponents in the biofuel.

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues) Polish law provides for certification of biocomponents.*

There are certificates issued for biocomponents, which are obligatory for entities introducing such biocomponents to the market or using them in production of biofuels.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### **Detail:**

Requirements on labeling of GMOs are set forth in EU Regulation, there are no specific Polish provisions.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

***Detail:***

There are UE-wide provisions regarding organic food.

***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?







PORTUGAL

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

There are no specific rules for Green Claims. In spite of environmental concerns there is no exhaustive regulation on the topic. However there are some rules about environmental protection regarding electronic equipments efficiency (Decree-Law No. 319/2009, of November 3<sup>rd</sup>), waste recycling (Decree-Law No. 178/2006 of September 5<sup>th</sup>) and houses energetic certificate (Decree-Law No. 78/2006 of April 4<sup>th</sup>).

The Code of Conduct from the Civil Institute of Advertising Self Regulation has a single rule which determines that advertising must comply with the standards of environmental performance generally accepted, and the principles of the Code of Advertising's Environmental of International Chamber of Commerce.

Whenever an advertiser claims that the product has some characteristics or that they are environmentally friendly, safe or green general rules shall apply. These cases are regulated by Advertising Code (Decree-law 330/90 of October 23<sup>rd</sup> and its subsequent amendments) and all general principles applicable to advertising. It has to be legal, true and transparent, not misleading and its claims to be substantiated as they may be used to assess validity of claim.

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

As said there are not specific rules on green claims in advertising. Nevertheless, on this matters it shall be consider: (i) Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000, on a revised Community eco-label award scheme, (ii) the Code of Conduct from the Civil Institute of Advertising Self Regulation, based on the

International Chamber of Commerce Code of Conduct and specifically on the international standard ISO 14021.

Labels for refrigerators and freezers, washers, dryers, dishwashers, incandescent and CFL lamps, electric furnaces and boilers - information must be disclosed on energy or water use, efficiency and level of noise, it should also include the eco-label. Ads for cars require fuel consumption and CO2 emission disclosures, as stated at Decree-law No. 346/2007, of October 17<sup>th</sup>.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

N/A

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

N/A

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?* Cars

*What are the required disclosures?*

Information on the official fuel consumption and official specific emissions of CO2.

*Media in which disclosures required?*

TV	Print	Internet	Radio	Point of Sale	Other
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**Detail:**

The obligation shall apply to all forms used in the marketing and promotion of cars to the public, including technical manuals, brochures, publication of newspapers, magazines, specialist press, outdoors and posters in the sector.

In general, all information regarding environmental is disclosure as a consequence of the duty to inform the consumer about all characteristics of the goods and services available to them.

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

YES

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

As far as we are aware of, there has been no recent case or decision in environmental/green marketing in Portugal.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

## **LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

NO

## **BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

YES

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

YES

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

YES

**Detail:**

The labeling should include information that the food consists of, contains, or is produced from GMOs. The labeling should be clear and independent of the detection of DNA or protein resulting from genetic modification in the final product so that the consumer can choose, considering the method of manufacture or production of food.

The labeling should also inform about any characteristic or property which renders the food different from its conventional counterpart with respect to composition, nutritional value, intended use, health implications to population, as well as any characteristic or property which raise any ethical or religious concerns.

## **ORGANIC PRODUCTS**

### **QUESTION 11:**

*Do you have a legislative regime to certify organic products?*

YES

#### ***Detail:***

Portuguese law establishes that organic products are certified in accordance with EU Regulation (Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labeling of organic products and its subsequent amendments), and that the management of such certification shall be in accordance to the rules set of at the Community regulations applicable on this matter.

#### ***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?



ROMANIA

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### ***Detail:***

In Romania, no significant changes or developments have occurred recently in terms of legislation. Also, Romania does not have yet any normative acts and/or Self Regulation codes that set out specific rules in the field of Green Claims.

From the point of view of general advertising regulations, the green claims can be classified and sanctioned according to the provisions of Law No. 148/2000 regarding Advertising and the Advertising Code of Practice issued by the Romanian Advertising Council.

The above mentioned provisions also apply to all types of unlawful publicity, including advertising that may allege, without grounds, that, for example, a product is “ozone friendly”, “environmentally friendly”, “recyclable”, etc.

As regards future developments, at the end of 2012, the president of the National Authority for Consumer Protection suggested that it would be advisable to prepare a Best Practices Guide in the field of ecological products and services and, at the same time, to increase the level of audit exercised by the authorities.

Also, in November 2012, the Ministry of Agriculture and Rural Development prepared a draft resolution to lay down the measures and sanctions necessary for the observance of Regulation (EC) 834/2007 on organic production and labeling of organic products.

### QUESTION 2:

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications



**Detail:**

Romania does not have specific rules for Green Claims, and the general advertising regulations do not contain specific reference to the subjects mentioned above.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

**Detail:**

An audit conducted in March 2012 by the National Authority for Consumer Protection revealed that over 60% of the inspected organic products were non-compliant or had label inconsistencies in particular with regard to foodstuff. The audit bodies found products labeled as “ecological/biological product” which did not meet the legal provisions or products whose labels included potentially misleading specifications. Also, the audit bodies identified products whose actual content was inconsistent with the information specified on the container.

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**Detail:**

Romanian regulators do not deem such claims to be a major concern.

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators –*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

The number of actions having as their object green claims is difficult to estimate. However, during 2012 the audit identified many cases in which the actual content of some products was inconsistent with the information specified on the container.

For example, they found “ecological cherry jam” that in fact was made out of sour cherries or “organic butter and lemon biscuits” that did not contain any lemon.

Also, in November 2011, the National Authority for Consumer Protection conducted a campaign for preventing and sanctioning the illegal practice of certain companies providing cleaning or washing services. Such companies advertised that their cleaning methods were “ecological”, “ecologically safe”, “nature friendly”, “non-pollutant”. The audit bodies established that such claims are misleading because, at the time, there was no legal provision stipulating the EU ecological labeling criteria in Romania applicable to cleaning and washing services for clothes, carpets and cars. Thus, the use of labels, logos or slogans suggesting a connection with the EU ecological label represented a form of misleading or false advertising prohibited by law.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

In Romania, legal actions, including sanctions applied by the authorities, related especially to products that unlawfully claim to be ecological are frequent. However, they do not entail significant legal aspects or represent interesting case law for the purpose of the current survey.

## **LABELS**

**QUESTION 8:**

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

YES

***What product(s)?***

Products with impact on energy

***What are the required disclosures?***

According to Resolution No. 217/2012 of 20 March 2012 regarding the establishment of the requirements to indicate, by means of labeling and standard information on the product, the consumption of energy and of other resources of products that have an impact on energy, products offered to final users for sale, lease, purchase by installments or directly or indirectly displayed by remote sale, including the Internet, have to be accompanied by a description and a label containing information on the consumption of electric energy, of other forms of energy and, when applicable, of other essential resources used during usage.

Also, the type of organic certification has to be specified on the label of food and non-food products.

## **BIOBASED PRODUCTS**

**QUESTION 9:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

NO

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

NO

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

### **QUESTION 10:**

***Does your country require labeling of GMO products?***

NO

#### ***Detail:***

In Romania, there is no normative act requiring the labeling of products that contain genetically modified elements.

However, according to Government Emergency Ordinance 43/2007 regarding the deliberate release in the environment of genetically modified organisms, genetically modified organisms, as such or as part of a product, cannot be used and/or marketed without obtaining the necessary authorizations from the competent authorities and if the labeling and packaging does not observe the requirements from (i) the authorization, (ii) the national and (iii) Community legislation in the field.

## **ORGANIC PRODUCTS**

### **QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

YES

#### ***Detail:***

Order No. 181/2012 regarding the approval of the rules for the organization of the inspection and certification system in organic agriculture

#### ***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





RUSSIA

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### ***Detail:***

**Law:** There is no specific law on Green Claims in Russia. However the issue is partly regulated by a number of laws related to the sphere. The main regulative acts are: the Law No. 2300-1 “On Consumer Protection” dated February 07, 1992 (last revision date July 28, 2012), the Federal Law No.38-FZ “On Advertising” dated 13 March 2006 (last revision date January 01, 2013) and the Federal law No. 184-FZ “On Technical Regulation” dated December 07, 2002 (last revision date December 03, 2012).

According to the effective legislation, certain types of goods and services are subject to mandatory compliance certification and compliance declaration. This is to certify that the state standards were observed during production of respective goods or services, including ecological requirements. Once a manufacturer has obtained such certificate/declaration, the manufactured goods shall be marked with respective compliance marks.

Russian law also sets forth some specific State Standards (“GOST”), which are bylaws, and Technical regulations, which were enacted as federal laws. Each of GOSTs and Technical regulations relate to particular type of goods and specify minimum standard requirements a product/one’s activity should comply with.

There are also GOST’s (state standards) which enact voluntary certification of the goods, namely the GOST R ISO 14020-2011 – “Ecological labels and declarations. General principles”, which was elaborated in compliance with ISO standards 14000.

There are also several bylaws related to specific questions in the field of Green marketing, for example the Decree of the Ministry for natural resources and ecology dated December 30, 2009 “On voluntary ecological certification of real estate objects, based on international experience of using Green Claims”.

### **Self-Regulation:**

Voluntary certification is carried out by non-governmental organizations (e.g. International Ecological Fund, Moscow voluntary certification system “Ecofriendly Product”, “Life Leaf” granted by Ecological Union of St. Petersburg, etc.), including in accordance with the GOST R ISO 14020-2011.

**Voluntary Guide:** A compliance certificate or a compliance declaration could be obtained voluntarily for any product not included in the list of products subjected to mandatory certification at the discretion of the manufacturer as an additional confirmation of products quality.

**QUESTION 2:**

**Do the above address claims relating to:**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**Detail:**

There is a set of legal acts aimed at voluntary certification of real estate. As regards the building materials as such, the law does not provide for specific requirements to them.

As regards carbon, only general terms are provided with respect to the maximum CO emission allowed.

**QUESTION 3:**

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

**Detail:**

Though more and more products/services are claimed green, the Russian legislation does not contain precise definitions of the terms “carbon neutral” or similar, “biodegradable”, “natural”, etc. Only general rule which requires any statement to be truthful applies to such claims.

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**

Food products.

**QUESTION 4:**

**Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?**

YES

**What product(s)?** Products, containing dangerous substances, food.

**Media in which disclosures required?**

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**Detail:**

Under the Federal Law №38-FZ “On Advertising” dated March 13, 2006 it is prohibited to omit essential information about the advertised product which may mislead consumers. Labeling and advertising of any product which contains dangerous substances must contain advice on prevention and ways of using such product (related symbols may be used).

According to the Law "On Consumer Protection" the information about food products containing more than 0,9% of genetically modified elements (GMO) must be disclosed to the consumer on products' packages. In case the food was produced with use of GMO it is obligatory to indicate the information as follows: "genetically modified products", "products manufactured from genetically modified organisms" or "products contain components of genetically modified organisms".

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

***Detail:***

Russian Regulators are very active in the field of consumer protection and advertising regulations.

There is also an initiative to include ecological requirements to the documentation when placing orders for state and municipal necessities and provision of advantages to the goods and services if their quality is confirmed by the voluntary ecological certification, recognized at international level. However this proposal is under discussion and is not currently drafted as a bill.

The regional authorities are also active as regards elaboration of regulations for environmentally clear products.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators -***
- b. in Self-Regulatory Forum -***
- c. Civil litigation by competitor or consumers against advertiser -***

***Detail:***

Such statistics are not available in Russia. As far as there are only few strict ecological requirements to the products, the claims are still rare.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:*** OJSC Mariinsky distillery

***Complainant:*** Head of the Consumer Union of the Russian Federation

***Date:*** February 01, 2012

***Forum (court, other tribunal, self-regulatory):***

Federal antimonopoly services (FAS Russia)



**Claims at Issue:**

Vodka "Beluga" was manufactured at ecologically clean place in Siberia that is free of industry with a 300 km area surrounding it.

**Product or entity about which claim was made:** Vodka "Beluga"

**Facts:**

The advertisement accompanied with the above mentioned claim was placed in certain mass-media (basically in newspapers/magazines). It was found out that vodka was manufactured in Mariinsk, the Kemerovo Region.

**Arguments on each side:**

Not disclosed in the decision.

**Were claims found misleading or otherwise objectionable?**

The claim was found untruthful.

**Reasons:**

It was proved that in the city of Mariinsk (where the factory is located) there were several industrial entities, and more than 40 different manufactories, including chemical and metallurgical manufactories, were located less than 300km of the factory of the advertiser.

**Can you hyperlink to a copy of the decision and/or ad?**  
[http://www.fas.gov.ru/solutions/solutions\\_34053.html](http://www.fas.gov.ru/solutions/solutions_34053.html)

## LABELS

**QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

Refrigerators, electric washing machines, room air-conditioners, TV-sets, lifts, etc.

**What are the required disclosures?**

According to Federal Law "On energy saving and improvement of energy efficiency and on Amendments to Certain Legislative Acts of Russia" energy efficiency labels should be printed on refrigerators, electric washing machines, room air-conditioners etc. (starting from 01.01.2011), TV-sets, lifts, etc. (starting from 01.01.2014). The other types of products which should be labeled with respect to their class of energy efficiency will be defined additionally by the Decree of the Government of the Russian Federation.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

#### **Detail:**

Yes, biobased products, especially agricultural, are quite extensively advertised in Russia, however the Russian laws do not provide for any specific certification procedures for such product.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### **Detail:**

As mentioned above according to the Law “On Consumer Protection” the information about food products containing more than 0,9% of genetically modified elements (GMO) must be disclosed to the consumer on products’ packages. It is also legally recommended to label the GMO products, except for GMO products which do not contain DNA or protein, as well as products which contain less than 5% of GMO components.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

NO

#### **Detail:**

It falls under general prohibition for misleading and deceptive advertising.



SINGAPORE

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

#### **Appendix 'L' of the Singapore Code of Advertising Practice ("SCAP"):**

- The basis of any claim should be explained clearly and should be qualified.
- Claims such as “environmentally friendly” or “wholly biodegradable” should not be used without qualification unless advertisers can provide convincing evidence that their product will cause no environmental damage.
- Qualified claims and comparisons such as “greener” or “friendly” may be acceptable if advertisers can substantiate that their product provides an overall improvement in environmental terms either against their competitors’ or their own previous products.

#### **Appendix 'N' of SCAP:**

- When making environmental claims for their products, advertisers should conform with the Appendix on Environmental Claims.(Appendix L)

### QUESTION 2:

*Do the above address claims relating to:*

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

- Energy Conservation Act 2012 read with the Energy Conservation (Fuel Economy Labeling) Regulations 2012;
- Health Products Act 2007 read together with the Health Products (Medical Devices) Regulations;
- Medicines Act [Cap. 176];
- Medicines (Advertisement and Sale) Act [Cap. 177];
- The Building Control Act [Cap. 29] read together with the Building Control

- (Advertisement) Regulations and the Building Control (Outdoor Advertising) Regulations;
- Penal Code [Cap. 224];
- National Emblems (Control of Display) Act [Cap. 196];
- Singapore Arms and Flag and National Anthem Act [Cap. 296];
- Trade Marks Act [Cap. 332];
- Traditional Chinese Medicine Practitioners Act [Cap. 333A].

**QUESTION 3:**

*Which claims provoke the most challenges - e.g. “carbon neutral”, “wholly biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:* The requirements pertaining to the claims highlighted hereinabove are set out in the SCAP.

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

N/A

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?* Motor vehicles

*What are the required disclosures?*

Any printed promotional material or advertisement relating to the class, description or type of motor vehicle must contain the prescribed information relating to the fuel economy of the motor vehicle in such form and manner prescribed.

*Media in which disclosures required?*

<i>TV</i>	<i>Print</i>	<i>Internet</i>	<i>Radio</i>	<i>Point of Sale</i>	<i>Other</i>
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*Detail:*

Applies to all forms of media.

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators* - none at the moment
- b. *in Self-Regulatory Forum* - none at the moment
- c. *Civil litigation by competitor or consumers against advertiser* - none at the moment.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

No recent cases

**LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?* All products except food, drink and pharmaceuticals.

*What are the required disclosures?*

The Singapore Green Labeling Scheme ('SGLS') administered by the Singapore Environment Council ('SEC') is arguably the leading environmental standard and certification mark in Singapore. The SGLS is applicable to a wide range of products with the exception of food, drink and pharmaceuticals.

**BIOBASED PRODUCTS**

**QUESTION 9:**

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?*

N/A

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

**GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

*Does your country require labeling of GMO products?*

YES

*Detail:*

The Singapore Guidelines on the Release of Agriculture-related Genetically Modified Organisms (GMOs) issued by the Genetic Modification Advisory Committee of Singapore.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

NO

#### ***Detail:***

Although there is no overarching legislative regime governing the certification of organic products in Singapore, the general guidelines provided for in the general laws regulating food including but not limited to the 'Food Regulations' will need to be adhered to.







## SOUTH AFRICA

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

##### **A. Law:**

###### (i) Genetically modified organisms

The **Consumer Protection Act** 68 of 2008, which came into operation on 1 April 2011, contains specific provisions and regulations governing the presence of genetically modified organisms (“GMOs”) in products. Specifically, it provides that a disclosure notice should be displayed on the packaging of a product containing GMOs, advising the consumer that the product contains GMOs or was produced using GMOs.

The **Consumer Protection Act** can be downloaded from:  
<http://www.info.gov.za/view/DownloadFileAction?id=99961>

###### (ii) Free range

The **Regulations Relating to the Grading, Packing and Marking of Eggs Destined for Sale in the Republic of South Africa (GN R725)** were promulgated under the **Agricultural Products Standards Act** 119 of 1990 and came into operation on 22 February 2008. These Regulations contain provisions relating to the use of the term “free range” in relation to poultry, eggs and the labeling of egg cartons.

However, there is currently no similar legislation in South Africa that governs the use of the term “free range” in relation to other meat, milk and dairy products.

###### (iii) Labelling and advertising of foodstuffs

On 1 March 2012, the new **Labelling and Advertising of Foodstuffs Regulations (GN R146)** (“the **Labelling Regulations**”) came into operation. The **Labelling Regulations** were promulgated under the **Foodstuffs, Cosmetics and Disinfectants Act** 54 of 1972. The **Labelling Regulations** contain specific provisions relating to the conditions for use of environmental claims, for example the words “fresh”, “natural”, “pure”, “real”, “home made” and “farmhouse”, on the labelling of foodstuffs.

The **Labelling Regulations** can be downloaded from  
<http://www.doh.gov.za/docs/foodcontrol/advertising/2012/reg0146.pdf>

##### **B. Self-Regulation**

(i) Advertising containing environmental claims

**Appendix G** of the **Code of Practice of the Advertising Standards Authority of South Africa (“ASA Code”)** contains provisions relating to advertising containing environmental claims, for example “ozone friendly”, “environmentally friendly” and “green”. Furthermore, it deals with recyclable and degradable claims in relation to the advertising of products. The **ASA Code** was last updated in October 2012. **Appendix G** of the **ASA Code** can be downloaded from the website [www.asasa.org.za/Default.aspx?mnu\\_id=11](http://www.asasa.org.za/Default.aspx?mnu_id=11).

(ii) Advertising of cosmetics

**Appendix B** of the **ASA Code** relates to the advertising of cosmetics. It provides that the use of the words “natural”, “organic” or “pure” in relation to the advertising of cosmetics may not be misleading and should have appropriate scientific substantiation.

**Appendix B** of the **ASA Code** can be downloaded from the website [www.asasa.org.za/Default.aspx?mnu\\_id=11](http://www.asasa.org.za/Default.aspx?mnu_id=11).

**C. Voluntary**

(i) The Carbon Protocol of South Africa

The Carbon Protocol of South Africa is a non-profit organisation that sets transparent standards to calculate, verify and publicly report greenhouse gas emissions and to provide accurate data aimed at reducing greenhouse gas emissions in South Africa.

The Carbon Protocol of South Africa has created a carbon neutral logo that may be awarded to and used by organizations or businesses that achieve carbon neutrality in South Africa. To be eligible to use the carbon neutral logo, organizations and businesses must comply with The **Protocol of the Carbon Protocol of South Africa** and must be assessed and verified by an independent assessor of the Carbon Protocol of South Africa. The **Protocol of the Carbon Protocol of South Africa** can be downloaded from the website [www.carbonprotocol.org](http://www.carbonprotocol.org).

(ii) Bio-Dynamic & Organic Certification Authority

The Bio-Dynamic & Organic Certification Authority is an independent body set up by the Bio-Dynamic Agricultural Association of South Africa. It focuses on assessment and certification of bio-dynamic and organic farming in South Africa.

To read more about the Bio-Dynamic & Organic Certification Authority, visit its website at: [www.bdo.ca.za/about.html](http://www.bdo.ca.za/about.html).

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**Detail:**

See my comments in Question 1 above.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

It appears that the term “free range” in relation to meat, milk and dairy products and “organic” claims in relation to foodstuffs are most problematic to consumers and competitors, because there are no specific laws or regulations governing the use of these claims in South Africa.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Foodstuffs

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

**Detail:**

It appears that the South African government is increasingly focused on green claims.

For example:

- the National Cleaner Production Centre of South Africa, which is a public entity that is endorsed by the Department of Trade and Industry, has been undertaking a eco-labelling project relating to the textile and clothing industry;
- in 2011, the Minister of Public Works launched the South African National Eco-Labelling Scheme for the Built Industry, which is aimed at sustainable and green building;
- in October 2012, the Department of Trade and Industry published draft amendments to regulations under the GMO legislation contained in the **Consumer Protection Act** 68 of 2008. However, these draft amendments have not yet entered into force; and
- the **Labelling and Advertising of Foodstuffs Regulations** (GN R 146), mentioned in Question 1 above, that deal with various green claims, came into force on 1 March 2012.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators -***
- b. in Self-Regulatory Forum -17 matters, specifically relating to green claims, have been heard before the Directorate of the Advertising Standards Authority of South Africa.***
- c. Civil litigation by competitor or consumers against advertiser -***

***Detail:***

Examples of the green claims that the ASA Directorate has ruled on include:

- a complaint against a television advertisement by Checkers, one of South Africa’s largest supermarket chain stores, in which it promotes its “ Free Range Certified Lamb” products (Checkers Free Range Lamb / NSPCA / 18344 , dated 6 February 2012);
- a consumer complaint against Albany Bread, one of the largest bread manufacturers in South Africa, relating to the claims on its website and bread packaging that the packaging of its bread is a “biodegradable bag” (Albany Bread / A Buldeo / 16508 , dated 15 April 2011);
- a consumer complaint against 2 advertisements by Nedbank, in which the bank claimed that it is the first African bank to officially be carbon neutral (Nedbank / A Froneman/ 16191, dated 10 December 2010); and
- a competitor complaint by Tuffy-Brands against Woolworths, relating to Woolworths’ claim that it’s refuse bags sold were “Made with 100% recycled plastic” (Woolworths / Tuffy Brands / 20585, dated 16 July 2012).

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***Advertiser:*** Total South Africa (Pty) Ltd

***Complainant:*** Miss Tracy Frayne

***Date:*** 31 October 2011

***Forum (court, other tribunal, self-regulatory):***

Advertising Standards Authority Directorate

***Claims at Issue:***

- GREENER PRODUCTS REFINED BY TOTAL; and
- FILL UP WITH TOTAL EVOLUTION TO IMPROVE ENGINE PROTECTION, REDUCE FUEL CONSUMPTION AND LOWER YOUR CO2 EMISSIONS

***Product or entity about which claim was made:***

Total Evolution Fuel

**Facts:**

The House & Leisure Magazine contained an advertisement for Total Evolution Fuel with the heading “GREENER PRODUCTS REFINED BY TOTAL” and stating “FILL UP WITH TOTAL EVOLUTION TO IMPROVE ENGINE PROTECTION, REDUCE FUEL CONSUMPTION AND LOWER YOUR CO2 EMISSIONS”. Below the statement was a reference to Total’s website and an image of a fuel pump made of leaves, twigs and branches.

**Arguments on each side:**

The complainant alleged that Total’s advertisement was an example of “greenwashing” and was misleading, because:

- i) the image of the fuel pump made of complete natural elements implied that Total Evolution Fuel is “green”, which was not true;
- ii) on its website, Total claimed that its fuel lowers CO2 emissions by up to 5%, but this claim was not substantiated on Total’s website; and
- iii) the fact that Total’s product lowers CO2 emissions by up to 5% did not justify the reference to “greener”.

Total submitted the following counter-arguments:

- i) the image of the fuel pump was hedge art (which is an art form where foliage is used to represent objects or people) and has become common in art and sculpture, which creatively linked the environmentally friendly nature of Total Evolution Fuel;
- ii) the claim relating to lower CO2 emissions was substantiated as the increased fuel efficiency of Total Evolution Fuel lowers CO2 emissions and contributes to environmental improvement; and
- iii) Total Evolution Fuel is more environmentally friendly than similar products in that class, and is accordingly “greener”.

**Were claims found misleading or otherwise objectionable?**

YES

**Reasons:**

The first question before the ASA Directorate (“the Directorate”) was whether or not Total complied with **Clause 4.2 of Appendix J** (currently Appendix G) of the **ASA Code**. **Clause 4.2** provides that advertisements containing general statements such as “environmentally friendly”, “ozone friendly” or “green”, or graphics or symbols designed to convey a similar environmental message, will not be permitted unless qualified by a description of the benefit conferred, for example “ozone friendly- free from CFCs”.

The Total advertisement stated that Total Evolution Fuel is “greener”, as it reduces fuel consumption and lowers CO2 emissions. The “greener” claim was, accordingly, qualified by a description of the benefit conferred. The Directorate held that this was sufficient to satisfy the requirements of **Clause 4.2 of Appendix J**.

The second question that the Directorate had to decide was whether or not Total's claim that its Total Evolution Fuel reduces fuel consumption and lowers CO2 emissions was true within the meaning of **clause 4.1 of Section II of the ASA Code**. **Clause 4.1 of Section II** deals with truthful presentation and stipulates that an advertiser must have documentary evidence to support all claims made in relation to advertising a product that are capable of objective substantiation.

The main consideration for the Directorate was whether or not Total had substantiated its claim that its Total Evolution Fuel reduces fuel consumption, leading to lower CO2 emissions.

In substantiation of its claim, Total submitted a report from Total France and a report from the United Test and Assembly Centre Ltd (UTAC). The Directorate held that the Total France report could not serve as substantiation of Total's claim, as the report was not independent as required by **Clause 4 of Section II of the ASA Code**.

When considering the UTAC Report, the Directorate held that, although this report qualified as independent and credible evidence, it did not unequivocally confirm Total's claim that Total Evolution Fuel reduces fuel consumption. Accordingly, the UTAC report could not be accepted as evidence in substantiation of Total's claim.

Total's claim that Total Evolution Fuel improves fuel consumption, resulting in lower CO2 emissions was, accordingly, unsubstantiated and in contravention of **Clause 4.2 of Section II of the ASA Code**. The Directorate held that Total had to withdraw this claim.

As Total had to withdraw the claim that Total Evolution Fuel reduces fuel consumption and lowers CO2 emissions, the claim that Total Evolution Fuel is "greener" was not substantiated and also had to be withdrawn.

***Can you hyperlink to a copy of the decision and/or ad?***

[www.asasa.org.za/ResultDetail.aspx?Ruling=5818&Keyword=Frayne](http://www.asasa.org.za/ResultDetail.aspx?Ruling=5818&Keyword=Frayne)

## **LABELS**

### **QUESTION 8:**

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

**YES**

***What product(s)?*** Foodstuffs that contain GMOs.

***What are the required disclosures?***

Section 24(6) of the Consumer Protection Act provides that the producer, supplier, importer or packager of goods that contain at least 5% GMOs, must display a notice on the label of such goods that discloses that the goods contain GMOs or were produced using genetic modification.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

NO

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.?)*

There is currently no certification label for bio-based products in South Africa.

However, bio-based products are advertised for sale in South Africa. See, for example, the website of Green Home (<http://www.greenhome.co.za/>), which is a biodegradable food packaging supplier. Also see the websites of Green Life Store (<http://greenlifestore.co.za/>) and Natural Connection (<http://www.naturalconnection.co.za/>) which advertise a variety of household bio-based products for sale.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

Section 24(6) of the Consumer Protection Act provides that the producer, supplier, importer or packager of goods that contain at least 5% GMOs, must display a notice on the label of such goods that discloses that the goods contain GMOs or were produced using genetic modification.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

NO





SPAIN

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation : Código de Autorregulación sobre argumentos ambientales en comunicaciones comerciales, 1 September 2009 ([http://www.autocontrol.es/pdfs/pdfs\\_codigos/CODMEDIOAMBIENTE.pdf](http://www.autocontrol.es/pdfs/pdfs_codigos/CODMEDIOAMBIENTE.pdf))
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### **Detail:**

Self-regulation Code on environmental arguments in commercial communications. The Code applies to all types of advertising of goods and services in Spain which contains environmental claims.

### QUESTION 2:

**Do the above address claims relating to (please highlight in red those that apply):**

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### **Detail:**

“green”, “ecologic”, “not harmful to the environment”

### QUESTION 3:

**Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:**

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**

### QUESTION 4:

**Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?**

YES

**What product(s)?** Cars

**What are the required disclosures?**

Information on fuel consumption and CO2 emissions

**Media in which disclosures required?**

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**Detail:**

According to the Royal Decree 837/2002 the information on fuel consumption and CO2 emissions refers to the set of printed materials for marketing, advertising and promotions of vehicles. This includes at least technical manuals, brochures, advertising in newspapers, magazines, specialized press and posters.

**QUESTION 5:**

**Have your regulators indicated that Green Claims are currently an issue of concern for them?**

NO

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- a. by Regulators -
- b. in Self-Regulatory Forum - 9
- c. Civil litigation by competitor or consumers against advertiser -

**Detail:**

To our knowledge, all of the complaints were presented before Autocontrol by the environmental association "Amigos de la Tierra" against car advertising of the companies Peugeot, Ford, VW-Audi, Hyundai, Toyota, Seat, Kia, Honda.

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

**Advertiser:** Honda Automóviles España, S.A.

**Complainant:** Asociación Amigos de la Tierra

**Date:** 26-06-2011

**Forum (court, other tribunal, self-regulatory):** self-regulatory

**Claims at Issue:** The company claims to have an ecological engine

**Product or entity about which claim was made:** "Honda Accord"

**Facts:**

Print ad released in newspaper claiming that the Honda Accord had an ecological and environment respectful engine

**Arguments on each side:**

Honda claimed that the word “ecological” along with the description of the engine could not mislead the consumers because the ad communicates that the engine pollutes less than those of the competitors.

Amigos de la Tierra claimed that the ad contradicts the Self- regulation Code on the environmental claims in commercial communications.

**Were claims found misleading or otherwise objectionable?**

NO

**Reasons:**

According to the self-regulation body, when claiming that an engine --or any other thing- is eco, green or harmless to the environment, this must be followed by the reason why. In the present case, Honda did not explain why the engine was respectful to the environment.

**Can you hyperlink to a copy of the decision and/or ad?**

<http://www.autocontrol.es/panelcontrol/web/paghtml/download.asp?file=rest1335.pdf&type=rest&year=2011>

**LABELS****QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

The types of domestic appliances with obligatory energy labeling are: refrigerators and freezers, washing machines, dishwashers, dryers, washing machines-dryers, household light sources, electric oven, air conditioning.

**What are the required disclosures?**

The labels have a common part that refers to the brand name of the appliance and the energy efficiency class (there are 7 efficiency classes identified by color codes and letters). The other part of the label varies among the appliances according to their functionality, and refers to features, e.g. the freezing capacity for freezers or water consumption for washing machines.

**BIOBASED PRODUCTS****QUESTION 9:**

**Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?**

YES, the Royal Decree 1852/1993

**Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)**

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

Labeling of GMO products is regulated by Law 9/2003 of 25 April, establishing the legal framework for the contained use, deliberate release and marketing of genetically modified organisms, and the Royal Decree 178/2004 of 30 January. According to the RD the labeling or the document accompanying the product must provide clear information on the presence of GMO's. Those shall include the words "This product contains genetically modified organisms".

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Detail:*

European Regulation 834/2007

#### *Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? Farming, production





SWEDEN

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### **Detail:**

#### **Guidelines from Regulator:**

The main governmental body that ensures that companies follow the marketing laws are the Swedish Consumer Agency (Sw. Konsumentverket) and the Swedish Consumer Ombudsman (the “KO”), who heads the Swedish Consumer Agency. The Swedish Consumer Agency also issues regulations and guidelines for relevant advertising.

The regulations are legally binding, but the guidelines are formally not legally binding. However, since the Consumer Agency enjoys great confidence among the businesses and citizens their guidelines and reports have impact on the producers and consumers. Moreover, the guidelines take their starting point in customs meaning that they also have an impact on the outcome in courts and are used in legal argumentation in regard to green claims. The KO has the competence to take legal action against companies that violate market laws.

The Nordic Consumer Ombudsmen have jointly released guidelines about the use of green claims in marketing, “Ethical and Environmental Marketing Claims: a Nordic Guideline 2005” (“Användningen av etiska och miljörelaterade påståenden i marknadsföring”). These guidelines are foremost based on the provisions set out in the marketing laws but the “International Code of Environmental Advertising” by ICC and ISO 14021 are important sources. To give further guidance in green marketing the Swedish Consumer Agency together with an environmental consultant from one of the largest Swedish environmental NOG’s commissioned a report, “The Green Marketing Report”, as a complement to the “Ethical and Environmental Marketing Claims: a Nordic Guideline 2005”. The intention was to interpret specific terms used in green marketing to advice advertisers and producing companies on how to avoid mistakes in green marketing.

#### **Self-Regulation:**

The Advertising Ombudsman (the “RO”), which is a self-regulation organization founded by the industry, main task is to interpret and comment what good marketing practice is. Anyone can lodge complaints with the RO if it is considered that, e.g., a green claim is unethical or inconsistent with good marketing practices. The RO then makes statements in relation to the consumer’s claim. The RO does not impose sanctions but its comments and statements are public and are brought to the knowledge by e.g. media. The comments are based foremost on the ICC codex and on the Swedish Marketing Practices Act.



**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

The claims above are not specifically regulated in any Swedish law or regulations referred to above.

According to the Swedish Marketing Practices Act however, marketing of a product cannot contain claims or other statements which are misleading about a product’s effect on the environment. Like all claims in marketing the asserted claim must be able to be upheld by proof. General concepts such as “environmentally friendly”, “ecological” and “green” can only be used if there is proof for such claim. A very strict view is laid upon green claims. Misleading or otherwise unacceptable advertisement can be subject to injunctions or in severe cases market disruption fees.

If the veracity of certain information is difficult for a consumer to confirm, then the requirements for correct green marketing are higher. It will be up to the advertiser to prove that its advertising is not misleading or unfair in any other aspect.

According to case law, in strict terms the wording “environmentally friendly” may only be used if a product improves or at least does not harm the environment. You cannot claim that a specific feature is “green” if the remaining properties of a product have clearly negative effects on the environment. For example, a car-company cannot generally claim that a car has air-cleaning properties since the car will nevertheless produce emissions which are worse for the environment than any positive air-cleaning effects. Generally, the claim must also be true with regard to the entire production line, i.e. from the “cradle to the grave”.

Moreover, case law shows that if claims like “recyclable” are used, then the claim must not only be true in theory, but there must exist a functioning system with facilities for most consumers as well as for the producer to take care of the material/waste.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

General claims such as “environmentally friendly” are probably the claim that has provoked the most challenges historically; often related to cars or energy.

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What product(s)?*

New cars

*What are the required disclosures?*

Fuel consumption, CO2 emissions and environmental category according to a classification system.

*Media in which disclosures required?*

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

*Detail:*

Disclosure must be made in all advertising and at the point of sale (see KOVFS 2010:3).

All cars in Sweden, old and new, are classified into different environmental categories. The environmental category depends on the degree of emissions. This system helps the consumers to take responsible and informed decisions when choosing what car to buy. The consumers are further induced to choose cars classified in a better environmental category by tax deductions, parking subsidies, etc.

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators* - 1
- b. *in Self-Regulatory Forum* - 4
- c. *Civil litigation by competitor or consumers against advertiser* - 0

*Detail:*

Actions regarding green claims have not been that common during the last years. This can probably be explained by the fact that most cases are resolved prior to reaching the courts, i.e. usually by the breaching party committing under an order from the Consumer Ombudsman to cease using the challenged claim. Such orders are usually subject to conditional fines.

There are a few more cases involving green claims before the RO, but these cases often have minor interest from a more principal legal perspective.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

*Advertiser:* Mercedes-Benz Sverige AB ("Mercedes")

**Complainant:** The KO

**Date:** 31 May, 2011

**Forum (court, other tribunal, self-regulatory):** The Market Court

**Claims at Issue:** Use of the words “environmentally friendly” and similar.

**Product or entity about which claim was made:** Cars

**Facts:**

The advertiser had used the term "environmentally friendly" in a newspaper advertisement and in a brochure which was made available at the advertiser's website.

**Arguments on each side:**

The KO held that the claims were false and that the challenged claims had been made without reservations.

Mercedes essentially argued that the claims were true and that the average consumer was informed enough not be misled by the advertising, but considered it to be a relative statement in relation to certain other cars.

**Were claims found misleading or otherwise objectionable?**

Given that the advertiser was not able to prove the claims the claims were misleading.

**Reasons:**

The Market Court stated that an advertiser has a heavy burden in order to prove that green claims are true. It also found that it may be possible for a car-company to terms such as 'environmentally friendly' and the like if the advertiser specifies and qualifies the claimed positive effects from an environmental point of view.

In the case the Market court found that Mercedes' claims were too general in order to be acceptable. In this case use of the claims gave the consumers the general impression that the advertised products had benefits from an environmental point of view, which Mercedes could not prove.

**Can you hyperlink to a copy of the decision and/or ad?**

<http://www.marknadsdomstolen.se/Filer/Avgöranden/Dom2011-12.pdf>

## LABELS

**QUESTION 8:**

**Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)**

YES

**What product(s)?**

Products with hazardous ingredients or components, such as batteries and chemical products.

***What are the required disclosures?***

Batteries need to be labeled with a specific sign which discloses environmentally damaging chemical components.

Chemical products must be labeled with specific warning labels, depending on the contents of the chemical product. The labels also need to disclose relevant information concerning health protection and environmental protection.

**BIOBASED PRODUCTS****QUESTION 9:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

There is an on-going process at EU level with the aim to establish appropriate standards for biobased products.

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.?***

NO

**GENETICALLY MODIFIED ORGANISMS (GMO)****QUESTION 10:**

***Does your country require labeling of GMO products?***

YES

***Detail:***

In Sweden all contents of food products must be labeled, including the existence of GMOs.

Approval and labeling of GMO products are subject to fierce regulation by EU regulations (regulations (EC) No. 1829/2003 and No. (EC) 1830/2003) etc.

**ORGANIC PRODUCTS****QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

YES

***Detail:***

EU has adopted several regulations concerning organic products and organic farming (e.g. regulation (EC) No. 834/2007 of 28 June 2007 on organic production and labelling of organic products). These regulations are in the form of minimum-rules, which need to be fulfilled in order for a product to be marketed as organic within the EU.

***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?





TURKEY

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### Detail:

The above cited laws and regulations may be laid down as follows:

- a) *Environmental Law numbered 2872 (Effective date: 11/8/1983, link)*
- b) *Water Pollution Control Regulation (Effective date: 31/12/2004, link)*
- c) *Hazardous Wastes Control Regulation (Effective date: 14/03/2005, link)*
- d) *Noise Control Regulation (Effective date: 04/06/2010, link)*
- e) *Air Quality Assessment and Control Regulation (Effective date: 06/06/2008, link)*
- f) *Constructional Wastes Control Regulation (Effective date: 18/03/2004, link)*
- g) *Solid Wastes Control Regulation (Effective date: 14/03/1991, link)*
- h) *Waste Oil Control Regulation (Effective date: 30/07/2008, link)*
- i) *Environmental Control Regulation (Effective date: 21/11/2008, link)*
- j) *Environmental Effect Assessment Regulation (Effective date: 17/07/2008, link)*
- k) *The Regulation for Controlling the Packaging (Effective date: 24/08/2011, link)*
- l) *Communiqué on the Statutory Symbols to be Put on the Food Contacting Materials (Effective date: 29/12/2011, link)*
- m) *Biosafety Law numbered 5977 (Effective date: 18.03.2010, link)*

As you may see above, the Turkish environmental legislation as captioned in green comprises of a fundamental law and the related regulations.

To a brief glance, the environment related provisions have been scattered through the Law numbered 2822 and the said regulations. Namely, in line with 9/1 of the Law numbered 2872, there shall be programs broadcasted on radios and TVs in order to develop the environmental consciousness in the society. As a general principle of the referred law, every real and legal person is under the obligation of protecting the environment and taking the necessary precautions to prevent environmental pollution to be caused by its own activities. Otherwise, the Ministry of Environment and Urban Planning (the “Ministry”) is entitled to fine the real or legal persons whoever contribute to the environmental pollution by breaching of any of the provisions under Law numbered 2822. In case the enterprises do not comply with the Law numbered 2872 and the relevant regulations, the Ministry or the public authorities assigned by the Ministry is entitled to grant a certain period of time, not exceeding 1 year, to the said enterprise to provide the compliance with the applicable environmental legislation. Otherwise, the Ministry or the public authorities assigned by the Ministry are entitled to stop the activities of the enterprise which is in breach of the applicable legislation for a certain or indefinite period of time depending on the nature and external effects of the environmental breach. In case the breaches are repeated, the referred administrative fines may be applied by increasing the amounts one or two times more. The administrative sanction decisions may be appealed before the authorized Administrative Court within 30 days following the notification date of the decision to the concerned parties.



The Regulation for Controlling the Packaging Wastes dated on August 24, 2011 and numbered 28035 aims to provide a legal basis for the production of environmentally safe packaging. The Regulation also sets forth standards for collecting and removing the packaging wastes in an organized way. The regulation includes a compulsory plan for collecting, separating and recycling the packaging wastes. According to the mentioned regulation, the packaging wastes that cannot be recycled will be used for energy generation. The Ministry is the competent authority who leads the recycling process. Administrative sanctions are envisaged for those who violate the provisions of the Regulation.

Some outstanding environmental provisions in the applicable legislation are as follows:

In line with **the Regulation on Commercial Advertisements and Announcements - Article 19**, “The advertisements cannot be abusing the environmental sensitivity of the consumers or lack of knowledge in this respect. Only the scientific findings and their technical demonstrations depending on the scientific works in respect of environmental effects that are accepted by the academic institutions.”

In line with **the Regulation on Commercial Advertisements and Announcements – Article 6/h**, “Any kind of advertorial or tele – marketing broadcasts shall not be supporting the behaviours damaging the image of environmental protection.”

**As per the Package Waste Control Regulation – Article 9**; “.... the packages shall be as eco-compatible as they can so that they harm to the environment minimally and that they constitute as less wastes as they may.....The packages shall be recyclable and should bear the symbol indicating its quality abbreviation and number... (such as PAP 21)”.

Consequently, it should be mentioned that in line with **Article 56 of the Turkish Constitution**; “the development of the environment, protection of the environmental health and prevention of the environmental pollution is the obligation of both the state and individuals” which summarizes our foregoing explanations.

In light of the above, the criteria to be accepted under the environmental legislation are to be “environmental friendly” and “recyclable”. Specifically, the waste water should definitely be dischargeable; the hazardous wastes should be combustible in full or recyclable anyhow and lastly the air polluting materials which are exposed to air anyhow should not exceed the emission limits as specified in the above captioned regulations.

#### **QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

**Detail:**

Specifically, the regulations listed under question 1 set forth the general principles for water, air, soil and noise pollution by laying down separate provisions such as carbon, noise, waste and air/ water quality controls as well as the principle measures to be taken thereon.

Additionally, regulations relating to non-food products such as cosmetics provide that misleading statements cannot be made in the context of advertisements; especially re. before-after and neutrality claims. Such provisions are contained in the Cosmetics Law and in the Article 10 of the subsequently passed Cosmetics Regulation.

The Law on Energy Efficiency Numbered 5267 and the related regulations contain provisions relating to sustainability of the energy resources. The authorized authority in Turkey - General Directorate of Electrical Power Resources Survey and Development Administration under the Ministry of Energy and Natural Resources- which is in charge of regulating the electric energy related matters is tasked with promoting the sustainable energy according to the Law on Energy Efficiency Numbered 5267.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Liquefied petroleum, gas, foods and food supplements, domestic appliances, heater and coolers, cosmetics are the most popular product groups where green claims are mostly being used in the advertisements.

The most common slogan is “energy-saving” and “environment friendly” for the electrical appliances and “100% natural” for the human-related goods.

The Advertisement Board working under the authority of Ministry of Customs and Trade is very strictly monitoring such claims and carries out important amounts of administrative monetary fines.

As a very recent example, in its meeting dated 15.10.2012 the Advertisement Board imposed a monetary fine of TRY 81,554 (EUR 33,300) on D Shopping TV due to the misleading claims in the advertisement of Bright Use X-5, electricity metering equipment. The main claim in the advertisement was “energy saving”, but the Board held that such claims are misleading due to the inability of these devices to reduce the amount of the energy consumed.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

***Detail:***

The Ministry and the public authorities assigned by the Ministry are entitled to accept and assess complaints raised by the individuals and hold for the administrative fines in case need be as regulated in the Law numbered 2872. The administrative sanction decisions may be appealed before the authorized Administrative Court within 30 days following the notification date of the decision to the concerned parties.

In addition to this, the Ministry and the non-governmental environmental organizations usually conduct environmental campaigns launched within the society such as “not using plastic bags” or “not throw litter around and save your environment”. For instance, the Environment Protection Foundation namely “ÇEV-KO” in Turkey conducts environmental campaigns and pioneers some actions to be supported either by real persons or legal persons such as prestigious firms. One of the most outstanding implementation of the said foundation is the “green point” (der grüne punkt) implementation whereby the firms voluntarily become the members of this foundation in return for a certain membership fee - which is collected for the sake of environmental protection- and put the mark of “green point” on each and every package of their products. This implementation became widespread lately in Turkey which shows that the environmental concern makes rise in the country.

The Ministry also publishes “action plans” regarding soil, water, air and noise pollution issues which also show that are the issues of concern for them.

The Ministry and the environmental organizations also continue to support green marketing in Turkey. For instance, there are environmental friendly bags widely sold and promoted in the famous stores. In 2011, the first hybrid bus namely Hybrid Avenue was produced and used in Turkey which also promoted green developments and green marketing. In addition to these, Turkey joined the supporting project for the preparations of United Nation’s Sustainable Development Conference (Rio + 20) covering the period between October 2011 – October 2012. This project will support the green development action in Turkey which also covers the green marketing issue.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators - around 10-12***
- b. in Self-Regulatory Forum -***
- c. Civil litigation by competitor or consumers against advertiser -***

***Detail:***

There are no significant judicial cases on this matter; however you will find some outstanding Advertisement Board decisions from 2011 and 2012 re. environmental (green) claims.

- The subject of the complaint was the misleading and unsustained green claims in an ad broadcast both during 2011 and 2012 regarding a product named “Nanomatik”, a detergentless cleaning washing ball. The claim was that the product was anti-

bacterial, chlorine neutral and environment friendly. However, as the submitted test results could not prove these claims, the Advertisement Board decided that the ads of the referred product are misleading; so they should be stopped and the owner company was imposed an administrative monetary fine of TRY 81,500 (approximately 35,000 Euros).

- The subject of the complaint was the misleading green claims in an ad broadcast in 2011 regarding an energy saving devices for lighting systems. The claim was that the product enables the light systems to save energy and they have no harmful effects; therefore environmental friendly. However, the Advertisement Board found that such claims could not be sustained with scientific results so they were misleading to the consumer and should be stopped.

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

**Advertiser:** A nano-technology based research and development company

**Complainant:** A rival in the market

**Date:** 11.12.2012

**Forum (court, other tribunal, self-regulatory):** Advertisement Board

**Claims at Issue:**

The advertiser was claiming in their ads that the nanotechnology they use helps saving fuel at a rate between 5%-20%, increases the power for 10% and decreases the CO2 emission for 25%-30%.

**Product or entity about which claim was made:**

Bor Force, Nano boron coating technology

**Facts:**

On the label of the product label, it was written that "NANO BORON COATING IS AN ECO-FRIENDLY AND PATENTED TECHNOLOGY"

**Arguments on each side:**

Advertiser said that this is true and not misleading by trying to prove this with evidence while the rival claimed that these ad claims were misleading.

**Were claims found misleading or otherwise objectionable?**

YES

**Reasons:**

The Board stated that the patent number was not noted on the label whereas it was being stated that the product was patented. In addition to this, the claims in the ad were found misleading according to Articles 5/a,b e, 7/a,c,g and 13 of the Regulation on Procedures and Principles of Commercial Advertisements and Announcements, and Article 16 of the Law numbered 4077 on Consumers Protection.

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?* Organic Products & Recyclability of Packages

#### *What are the required disclosures?*

According to Article 8 of Organic Agriculture Law, organic products' labels and inputs should be only used for organic products and inputs. Those labels and inputs, as well as the advertisements and promotions of organic products cannot be misleading and cannot contain any writing, shapes, pictures, etc. that are likely to mislead the consumers on the quality, ingredients, properties, origin or the production techniques of the product.

In addition, under the Package Waste Control Regulation, any kind of products that are sold in a package require the compulsory "recyclable" figure and the appropriate abbreviation and numbering compatible with the nature of the packaging material. The packages should be recyclable and should bear the recyclability symbol and the abbreviation and number indicating the quality of the packaging material.

Recently, the Ministry has announced that they are working on adapting the Regulation (EC) No 1980/2000 of the European Parliament and of the Council on a Community eco-label award scheme. We expect that Turkey will have a regulation on eco-labelling soon.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?*

N/A

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

N/A

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labelling of GMO products?*

NO

#### *Detail:*

GMO-related issues are regulated by the Ministry of Agriculture in the framework of Bio-safety Law numbered 5977 and the Regulation on GMOs and GMO Products.

Under the referred regulation, the products including a level of GMO above the determined threshold values (set out by the Ministry of Agriculture both for food and feed) should be

shown on the labels as specified in the regulation. We should also note that the GMOs referred here are the types which are only approved by the Ministry of Agriculture.

Greenpeace Turkey is conducting a campaign in order to establish a stricter labelling procedure for GMOs and a more efficient control of fundamental food products (milk, egg, cheese, meat etc.) which have a risk to include GMOs. The Ministry of Agriculture also supports this idea and becoming stricter on GMO issue.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

YES

#### *Detail:*

The Law on Organic Agriculture and the Regulation on the Principles and Implementation of Organic Agriculture ([link](#)) sets forth that Organic Certification Agencies authorized by the Ministry of Agriculture are in charge of issuing Organic Product Certificates. The certification process ends with the approval process of Ministry of Agriculture's authorized controller and approval staff.

#### *Does it cover?*

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products?- Seeds, fertilizers, organic bee breeds and organic water products which have been laid down within the scope of the Regulation on the Principles and Implementation of Organic Agriculture.

UKRAINE

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### ***Detail:***

Except for the requirement to indicate GMOs in products ("with GMOs" / "without GMO's"), no specific rules for Green Claims apply. Generally, Green Claims are voluntary, subject to compliance with advertising rules.

Any claim should be in compliance with the criteria of legality, accuracy, and trustworthiness. Unless the aforesaid criteria are met, the claim may be challenged as unlawful comparative, unfair and/or misleading advertising based on certain provisions of Ukrainian laws "On Protection Against Unfair Competition" (June 7, 1996), "On Advertising" (July 3, 1996), "On Consumer Rights Protection" (May 12, 1991) and "On Safety of Food Products" (December 23, 1997).

Furthermore, though being voluntary, Green Claims on eco-labels must comply with the applicable ISO Standards (e.g., ISO14020, ISO14021, ISO14024, ISO14025) and Resolution of the Cabinet of Ministry of Ukraine "On Technical Specification on Eco-Labeling" (May 18, 2011).

### QUESTION 2:

***Do the above address claims relating to:***

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

#### ***Detail:***

Most of the above mentioned regulations and requirements apply to GMOs.



**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

Basically, as there are no statutory requirements to Green Labels (except for that related to GMOs), no such statistics is available. However, challengeability of the foregoing claims can be significantly reduced, if at all possible, given that the relevant claim is sustainable in term of the advertising law (i.e., it is legal, accurate, and trustworthy). Thus all claims on a label or in advertising should not mislead the costumers.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

***Detail:***

Again, absent the statutory Green Claims requirements, we have no relevant ad challenges statistics. However, taking into account the ad content in Ukrainian media, it appears that the most sensitive categories may be food products and household chemical goods.

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

***Detail:***

Competent Ukrainian authorities and local NGOs are currently active in educating consumers on the types and meanings of eco-labels.

Furthermore, the above trend has been supported by the legislative initiatives and the three relevant draft laws (on GMOs, organic products certification, and biofuel labeling) are currently heard in the Parliament.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

- a. by Regulators-***
- b. in Self-Regulatory Forum -***
- c. Civil litigation by competitor or consumers against advertiser -***

***Detail:***

We are not aware of any such actions. All available cases relate to general (not green) labeling requirements.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

N/A

## LABELS

### QUESTION 8:

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?*

Food products.

*What are the required disclosures?*

Food products label should contain information on GMOs in the relevant product.

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

Currently, no such requirements apply.

However, under Draft Law No.2273 of February 11, 2013 "On Amendments to the Law of Ukraine "On Alternative Types of Fuels"" (regarding biofuel and gasoline labeling) the fuel retailers will be obliged to indicate special eco-marks ("Ec") in biofuels POS.

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues).*

No. Still, some market players voluntarily mark their products with eco-labels provided by applicable ISO standards.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

*Detail:*

According to the Law of Ukraine "On Consumer Rights Protection" and the Law of Ukraine "On Safety and Quality of Food Products", a food products label must contain information on GMOs in product.

Noteworthy, Draft Law No.11299 "On Amendments to Some Laws of Ukraine On Notifying the Public on the Availability of GMOs in Food Products" was registered on October 5, 2012. The Draft Law, if adopted, will cancel the “without GMO” labeling and will oblige producers and importers to indicate GMOs on labels only if it exceeds 0.9%; the Draft law also requires the state registration GMOs prior to marketing the relevant GMO-bearing products.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

NO

### *Detail:*

Though the issue has got into the focus of law making authorities, the evidence being Draft Law No.0979 "On Organic Agricultural Raw Materials" registered on December 12, 2012. The Draft Law deals with various issues of certification and labeling of organic products.





UNITED KINGDOM

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### ***Detail***

- Department of Environment, Food and Rural Affairs (DEFRA) Green Claims Guidance, February 2011
- Committee of Advertising Practice (CAP) Code of Broadcast Advertising (BCAP Code)
- CAP Code of Non-Broadcast Advertising
- International Chamber of Commerce Framework for Responsible Environmental Marketing Communications, July 2011
- Clearcast notes on CAP broadcast advertising code

### QUESTION 2:

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

CAP codes and Clearcast notes set out general principles for green advertising claims, for example, “the basis of environmental claims must be clear. Unqualified claims could mislead if they omit significant information”.

DEFRA and ICC guidelines give more specific best practice examples of use of phrases such as “carbon neutral”, “eco products”, “green energy” and “free-of”/“does not contain”. They also deal with substantiation of claims relating to food source, fuel efficiency, green house gas emissions, energy efficiency and recycling.

**QUESTION 3:**

*Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:*

*Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?*

**Detail:**

Typical claims relate to:

- ‘Low’ or ‘Zero’ Carbon emissions
- 100% recycled
- Wholly sustainable

Example: Renault UK 2010

- 17 complaints re substantiation for zero emission claims because electricity used to charge the electric cars would produce emissions.
- Also because did not take into account entire life cycle of cars.
- Renault says that if the electricity used to charge the car was from a renewable source it would not produce emissions and that references to ‘emissions’ were not about life cycle
- Complaints upheld

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

YES

*What are the required disclosures?*

Disclosures will vary based on subject matter of advertising. Examples would include disclosure of CO2 emissions in respect of environmental claims relating to Cars.

*Media in which disclosures required?*

TV                      Print                      Internet                      Radio                      Point of Sale                      Other

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

YES

**Detail:**

Particular care needs to be taken with making environmental claims in advertising in the UK. Environmental claims have been singled out as an area of concern for the Advertising Standards Authority, who have conducted special sectorial investigations into green claims.

**QUESTION 6:**

**Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:**

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

**Detail:**

Data not available

**QUESTION 7:**

**Can you describe an interesting recent Green Claim case in your country?**

**Advertiser:** General Motors UK Ltd t/a Vauxhall

**Date:** 22 August 2012

**Claims at Issue:**

Ad stated that electric powered car had up to 360 mile range. Three complainants challenged whether the ad was misleading because it suggested the vehicle was capable of travelling 360 miles using electricity alone.

**Product or entity about which claim was made:** Car

**Arguments on each side:**

General Motors UK Ltd t/a Vauxhall (Vauxhall) responded that car was capable of travelling up to 50 miles on a fully charged battery, and that beyond that point the Car's "range extender" mode took over. In this mode the internal combustion engine acted as an on-board generator for the electric motor and would take the car the remaining distance using electricity generated from the petrol in its fuel tank.

Vauxhall said they went to great lengths in all their advertising to communicate the unique selling point of the Car, the petrol engine which worked as a generator, which gave drivers the confidence to travel distances normally only associated with traditional or hybrid cars. They stated that they had explained how the Car worked in the on-screen text "Comparison based on electric vehicles and extended range electric vehicles driven electrically at all times, even when an additional power source is generating electricity".

Clearcast did not believe that the ad was misleading.

**Were claims found misleading or otherwise objectionable?**

ASA upheld complaint

Held that ad breached clause 9.8 of the BCAP code - advertisements must not mislead consumers about the environmental benefit that a product or service offers

**Reasons:**

ASA considered that throughout the ad the emphasis was on the fact that the car was being driven electrically, and that most viewers would not understand that the car was in some circumstances being powered by electricity generated with a petrol engine. The ad promoted an innovative product which many viewers would not immediately understand



and ASA therefore considered that it would need to explicitly state that the car had a petrol engine. Because it did not clearly explain how the vehicle worked in extended-range mode, ASA concluded that the ad was misleading.

**Can you hyperlink to a copy of the decision and/or ad?**

[http://www.asa.org.uk/Rulings/Adjudications/2012/8/General-Motors-UK-Ltd/SHP\\_ADJ\\_195501.aspx](http://www.asa.org.uk/Rulings/Adjudications/2012/8/General-Motors-UK-Ltd/SHP_ADJ_195501.aspx)

## **LABELS**

**QUESTION 8:**

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

This is a complex issue in the UK and details can be supplied on request.

## **BIOBASED PRODUCTS**

**QUESTION 9:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

This is a complex issue in the UK and details can be supplied on request.

## **GENETICALLY MODIFIED ORGANISMS (GMO)**

**QUESTION 10:**

***Does your country require labeling of GMO products?***

This is a complex issue in the UK and details can be supplied on request.

## **ORGANIC PRODUCTS**

**QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

This is a complex issue in the UK and details can be supplied on request.



UNITED STATES

## ADVERTISING

### QUESTION 1:

***Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:***

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

#### ***Detail:***

**(i) Law:** A number of states have enacted laws that specifically govern the use of environmental claims (e.g., California, Indiana, Massachusetts, Michigan, Pennsylvania, Rhode Island, Florida, and New Mexico).

#### **(ii) Guidelines from Regulator:**

(a) The Federal Trade Commission (“FTC”) has set forth general standards for promoting environmental benefits of products in advertising. On October 1, 2012, the FTC released its revised Guides for the Use of Environmental Marketing Claims (“Green Guides”), which are designed to help marketers ensure that the claims they make about the environmental attributes of their products are truthful and non-deceptive. The original Green Guides were introduced in 1992. The revised Green Guides can be found here: <http://www.ftc.gov/os/2012/10/greenguides.pdf>.

(b) In 1991, a multi-state task force of attorneys general issued “The Green Report II: Recommendations for Responsible Environmental Advertising.”

**(iii) Self-Regulation:** The National Advertising Division (“NAD”) is the nation’s main self-regulatory body for advertising disputes, including those related to green/environmental claims. The NAD has decided a number of cases addressing whether environmental claims have been properly substantiated, often using the Green Guides to settle investigations and disputes. It is important to note that the Green Guides themselves are not laws or regulations, and so the FTC cannot directly enforce them. However, the Green Guides are more than mere suggestions and green marketing claims that are deemed deceptive or unfair may be prosecuted under Section 5 of the FTC Act.

**(iv) Industry Specific Guidelines:** The Food and Drug Administration (“FDA”) has a definition of “natural flavors” and an informal policy for natural claims. Additionally, the United States Department of Agriculture (“USDA”) has detailed standards on the use of “natural” (including on types of processing that are allowed in natural food products), in connection with meat and poultry products

**QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. “carbon neutral”, carbon offsets, etc.)
- ii. “sustainable”
- iii. “natural” for non-food products (e.g. cosmetics)
- iv. “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

**(i) Carbon; Renewable Energy or Materials; Seals and Certifications:** The FTC’s revised Green Guides provides guidance on the use of seals and certifications, and carbon offset, renewable energy and renewable materials claims, among others.

**(ii) Natural (food and non-food products):** The Department of Agriculture (“USDA”) has detailed standards on the proper labeling of “natural” products (as well as the types of processing that are allowed in natural food products) in connection with meat and poultry products.

The USDA’s National Organic Program details requirements for organic claims for agricultural products, including products made from agricultural products, like cosmetics.

The FDA has a definition of “natural flavors” and an informal policy for natural claims for food and drug products.

Additionally, although the Green Guides do not include specific guidance on organic or natural food claims, the Green Guide’s general principles apply to such claims.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

In recent years, the FTC has brought challenges related to environmental marketing claims in the following areas: Unqualified biodegradable claims, misrepresentations regarding environmental certifications, exaggerated and unsupported energy savings claims, misleading free-of claims.

Special attention should also be paid to recyclable and general environmental benefit claims.

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

Complaints and challenges are most often filed concerning consumer products marketed as “green” or “environmentally friendly,” as well as energy saving devices (e.g., windows) and paint.

There are also numerous challenges in the following product categories: food products, household products, and cosmetics

**QUESTION 4:**

***Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?***

NO

***Detail:***

While U.S. laws and regulations do not require specific environmentally-related disclosures, advertisers must be able to substantiate any environmental claims they make. Additionally, if an environmental claim is found to be deceptive or misleading, the advertiser may be prosecuted under Section 5 of the FTC Act.

**QUESTION 5:**

***Have your regulators indicated that Green Claims are currently an issue of concern for them?***

YES

***Detail:***

The FTC may monitor a company if it has reason to believe that the company is making deceptive claims. The FTC has said that it will mainly investigate green claims when customers or competitors complain.

**QUESTION 6:**

***Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:***

See below.

***Detail:***

There have been numerous actions in connection with green claims, including investigations by the FTC and state regulators, actions in the National Advertising Division (NAD), and civil litigation by competitors.

**QUESTION 7:**

***Can you describe an interesting recent Green Claim case in your country?***

***CASE 1***

***Advertiser:*** Gorell Enterprises, Inc.

***Complainant:*** Federal Trade Commission

***Date:*** February 2012

***Forum (court, other tribunal, self-regulatory):*** The Federal Trade Commission (“FTC”)

***Claims at Issue:***

FTC alleged that Gorell engaged in deceptive practices by making false and unsupported energy efficiency and money-savings claims in connection with its replacement windows.

**Product or entity about which claim was made:**

Windows

**Facts:**

The FTC conducted an investigation of Gorell, a company that sells replacement windows, alleging that Gorell made false claims about how much money consumers could save on their heating and cooling bills by having particular windows installed. According to the FTC, Gorell, in addition to other replacement window companies, engaged in deceptive practices by making unsupported energy efficiency and money-savings claims, including that consumers could save 40% on their home fuel consumption by using replacement windows alone.

**Were claims found misleading or otherwise objectionable?**

The FTC announced that it reached a settlement and consent order with Gorell on May 16, 2012. The settlement did not constitute an admission by Gorell that the law was violated as alleged in the complaint. However, the settlement order, among other things, prohibits Gorell from falsely claiming that:

- consumers who replace their current windows with Gorell's windows will achieve up to, or a specified amount or percentage of energy savings, or a reduction in their heating or cooling costs; or
- that a specific number or percentage of consumers who replace their windows with Gorell's windows will achieve energy savings or reduced heating or cooling costs.

**Can you hyperlink to a copy of the decision and/or ad?**

<http://www.ftc.gov/os/caselist/1123053/120518gorelldo.pdf>

<http://www.ftc.gov/os/caselist/1123053/120518gorellcmpt.pdf>

**CASE 2**

**Advertiser:** The Sherwin-Williams Company

**Complainant:** FTC

**Date:** October 25, 2012

**Forum (court, other tribunal, self-regulatory):** FTC

**Claims at Issue:**

False or misleading representation and unsubstantiated representation of a product that was marketed as containing zero volatile organic compounds (VOCs).

**Product or entity about which claim was made:** Dutch Boy Refresh Paint

**Facts:**

Sherwin-Williams sold and advertised its line of Dutch Boy Refresh paint as environmentally friendly and asserted that the paint contained zero VOCs. Customers often preferred to add color to the base Dutch Boy Refresh paint, which can cause an increase the levels of VOCs in the paint.

***Were claims found misleading or otherwise objectionable?***

The advertiser admitted no wrongdoing. A settlement agreement with a consent order was issued in which Sherwin-Williams agreed not to market any paint as containing zero VOCs, unless it prominently disclosed that the claim applied only to the base paint and that tinting may significantly increase the levels of VOCs. Sherwin-Williams also agreed not to market any paint as containing zero VOCs unless the company possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

***Can you hyperlink to a copy of the decision and/or ad?***

<http://ftc.gov/os/caselist/1123198/index.shtm>

**LABELS****QUESTION 8:**

***Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)***

YES

***What product(s)?*** See below summary

***What are the required disclosures?***

For a summary of environmental labeling requirements in the U.S. (required and voluntary), see the Environmental Protection Agency's ("EPA") Environmental Labeling Issues, Policies and Practices Worldwide report here: <http://www.epa.gov/epp/pubs/wwlabel3.pdf>

- a) The Mercury-Containing and Rechargeable Battery Management Act requires that regulated batteries bear a label that includes, among other details, recyclable information.  
<http://www.epa.gov/osw/laws-regs/state/policy/p1104.pdf>
- b) The Energy Policy and Conservation Act (amended by the National Appliance Energy Conservation Act of 1987) requires that Energy Guide labels be placed on certain new home appliances. The FTC issued specific labeling guidelines:  
<http://www.ftc.gov/opa/reporter/shopping/energyguides.shtml>
- c) The Energy Policy and Conservation Act requires that fuel economy and environment label information be prominently and legibly incorporated into the label placed on new automobiles with the manufacturer's suggested retail price and other consumer information label. Details on the necessary disclosures can be found here:  
<http://federal.eregulations.us/cfr/section/title49/chapterV/part575/sect575.401?selectdate=12/9/2011>
- d) The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires pesticides and pesticide producers be registered with the EPA. As part of registration, the labeling of each product is reviewed and approved by the EPA.  
<http://www.epa.gov/agriculture/lfra.html>
- e) The Clean Air Act (Title VI, Section 611) requires a warning label for products that contain or were manufactured with ozone depleting substances. Details here:  
<http://www.epa.gov/air/caa/title6.html>
- f) The Toxic Substances Control Act requires the identification and control of toxic chemical hazards to human health and the environment and grants EPA the authority to require hazard-warning labels. EPA requires labels for chemicals that "may present



- an unreasonable risk of injury to health or the environment,” including PCBs, asbestos, hexavalent chromium and acrylamide grout. <http://epw.senate.gov/tsca.pdf>
- g) The National Volatile Organic Compound Emission Standards for Architectural Coatings regulates the content of volatile organic compounds in architectural coatings sold or distributed in the United States. Among other requirements, the Clean Air Act mandates labeling specifications for architectural coatings produced after September 13, 1999. <http://www.gpo.gov/fdsys/pkg/FR-1998-09-11/html/98-22659.htm>
  - h) Several states have issued their own labeling requirements for products that may have health or environmental impacts (e.g., California’s Proposition 65 and Vermont’s Household Hazardous Product Shelf Labeling Program).

## BIOBASED PRODUCTS

### QUESTION 9:

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?***

See USDA Certified BioPreferred Program

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopREFERRED.gov/Labeling.aspx> - note current funding issues)***

USDA Certified Biobased Product label: Because of funding issues, the USDA has suspended the processing of applications for voluntary certification of biobased products.

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

***Does your country require labeling of GMO products?***

NO

## ORGANIC PRODUCTS

### QUESTION 11:

***Do you have a legislative regime to certify organic products?***

YES

#### ***Detail:***

The USDA certifies agricultural products to carry the USDA Organic Seal through the USDA National Organic Program (NOP) regulation, 7 CFR Part 205.

#### ***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? If so, which?



URUGUAY

## ADVERTISING

### QUESTION 1:

**Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:**

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### Detail:

#### Act 17,250 on Consumers' Rights:

The aforementioned Act forbids all type of misleading (false) advertising. It defines "misleading advertising" as any type of information or communication contained in advertisements which is entirely or partially false, or that in any other way, even for the omission of essential information, is capable to induce consumers to an error concerning the nature, quantity, origin or price of the products or services offered.

When misleading advertising is proven, notwithstanding the penalties established by the Act, the suspension of the advertisement in question, as well as doing a counter advertising with the same frequency than the infringing ad at the expense of the infringer may be judicially requested by the competent body.

### QUESTION 2:

**Do the above address claims relating to: N/A**

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

### QUESTION 3:

**Which claims provoke the most challenges – e.g. "carbon neutral", "biodegradable", "natural", "green", "environmentally friendly", "sustainable", energy savings/efficiency, money savings, etc.:**

N/A

**Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?**

N/A

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

We are not aware of any claims related to Green Claims since January 1<sup>st</sup> 2010 to this date.

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

**LABELS**

**QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?*

- Energy efficiency labeling:  
Electrical household washing machines  
Three phase induction electric motors.  
Gas wall boilers for heating and hot water generation  
Gas cooking appliances  
Gas accumulation water heaters  
Air conditioners and heat pump.  
Domestic Gas cooking appliances  
Circular and tubular compact fluorescent lamps  
Incandescent lamps for domestic use and similar  
Water heaters for accumulation.  
Drum type dryers electrical household.  
Household electric refrigerators  
Gas accumulation water heaters
- Paints and varnishes containing lead
- Chemical agents, products and/or substances
- Phytosanitary products

**What are the required disclosures?****- Energy efficiency labeling:**

Decree 329/010, Decree 131/011, Decree 161/011, Decree 359/011: The aforementioned decrees are engaged within the scope of the application of the policy for the efficient use of energy introduced by Act 18,597 (September 2009), and subsequently developed by Decrees 428/010, 429/010 and 430/010. The mentioned Act establishes the obligation to add to the products reached by the regulation a label or efficiency seal that includes standardized information applicable nationally regarding the products' energy consumption and performance.

**- Labeling of paints and varnishes containing lead:**

Decree 69/010: Within the framework provided by Act 17,775 (May 2004) on the Prevention of lead contamination, this decree establishes, among others, the requirement for all paint and varnishes products containing lead to apply a label including the instructions in Spanish, the amount of lead content and the indications concerning the precautionary use of the product, in order for the same to be commercialized within the Uruguayan territory.

**- Chemical agents, products and/or substances labeling:**

Decree 307/009 establishes the obligation to attach to the reached products a label that includes among other information hazard pictograms, warning words, indication of dangerousness, precautionary statements and precautionary pictograms.

**- Phytosanitary products labeling**

Decree 294/004 establishes the obligation to include to all phytosanitary products a label containing, among other, the following statements: "Do not wash the equipment in lakes, rivers, or other sources of water", "Agricultural use", "Do not transport or store with food".

**BIOBASED PRODUCTS****QUESTION 9:**

***Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like "plant bottles", biobased cleaning products and biofuels)?***

NO

***Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)***

NO

**GENETICALLY MODIFIED ORGANISMS (GMO)****QUESTION 10:**

***Does your country require labeling of GMO products?***

NO

**Detail:**

Notwithstanding this, Decree 353/008 concerning the introduction, use, and manipulation of vegetables and their genetically modified parts establishes that the National Biosafety Cabinet shall promote actions aimed to the implementation of a volunteer “GM” or “no GM” labeling applicable to those food products in which it can be proven through an analysis of the final product the presence of DNA or genetically modified proteins.

**ORGANIC PRODUCTS****QUESTION 11:**

***Do you have a legislative regime to certify organic products?***

YES

**Detail:**

Act 17,296 (dated February 21<sup>st</sup> 2001) provided that the Executive Branch shall regulate the certification of organic agricultural products and/or those coming from integrated agricultural production systems. Decree 557/008 regulatory of the aforementioned Act (dated November 17<sup>th</sup> 2008) provided that all products which complied with the certification process and other requirements established by the regulation shall be identified with the certification brand and the logo of the certifying entity. Organic products shall be identified as such in the product’s packaging or in labels adhered to visible places.

The certifying procedure implies that a certifying entity (national or international legal entity, public or private, which is registered and authorized before the Competent Authority for the purpose) certifies in writing that the products have been obtained through the application of systems of Organic Production.

***Does it cover?***

- i. Food & Beverages
- ii. Textiles
- iii. Fertilizer or lawn products
- iv. Other products? All organic agricultural products that comply with the certification process and other requirements provided by the regulation.





ZIMBABWE

## ADVERTISING

### QUESTION 1:

*Does your country have SPECIFIC rules for Green Claims, as opposed to just general advertising laws that would cover Green Claims, in the form of:*

- i. Law
- ii. Guidelines from Regulator
- iii. Self-Regulation
- iv. Industry Specific Guidelines (e.g. cars)
- v. Voluntary
- vi. Nothing specific – general false advertising laws only

### **Detail:**

#### **i. Law**

a. The Food and Food Standards Act compels local producers to comply with the labeling requirements which give consumers enough information to make decisions. Food and Food Standards (Food Labeling) Regulations, 2002(S.I. 265/2002) particularly specify the labeling requirements such as 'Best Before', preservatives, date of manufacturing, etc.

#### b. False Advertising Laws

The Competition Act Chapter 14:28 depicts false advertising as an 'unfair trade practice'. Section 2(1) of the First Schedule provides :

(1) For the purposes or in the course of any trade or business, publishing an advertisement—

(a) containing a representation which the publisher knows or ought to know is false or misleading in a material respect ;or

(b) containing a statement, warranty or guarantee as to the performance, efficacy or length of life of any commodity, which statement, warranty or guarantee the publisher knows or ought to know is not based on an adequate or proper test thereof ;or

(c) containing a statement, warranty or guarantee that any service is or will be of a particular kind, standard, quality or quantity, or that it is supplied by any particular person or by a person of a particular trade, qualification or skill, which statement, warranty or guarantee the publisher knows or ought to know is untrue.

(2) For the purposes of subparagraph (1), a representation, statement, warranty or guarantee expressed on or attached to an article offered or displayed for sale, or expressed on the wrapper or container of such an article, shall be deemed to have been made in an advertisement.'

#### **iii. Self-Regulation**

The Standards Association of Zimbabwe, affiliated to the ISO, is the registered owner of the Environmental Management System (EMS) certification mark. The SAZ EMS mark indicates that the organization EMS complies with SAZ's ISO 14001. This mark may be shown on letterheads, advertising material etc., but not on products.

Zimbabwe Organic Producers and Promoters Association (ZOPPA) has registered a trademark 'zim organic' with ARIPO for use by producers that satisfy minimum standards required by SAZ. ZOPPA however indicates that the Agricultural Policy is silent on organic products and is currently being reviewed to incorporate the same.

Local farmers have initiated organic farming with help from non-governmental organizations. [http://www.ifoam.org/about\\_ifoam/around\\_world/aosc\\_pages/Org-Africa-Countries/Zimbabwe.html](http://www.ifoam.org/about_ifoam/around_world/aosc_pages/Org-Africa-Countries/Zimbabwe.html)

#### **v. Voluntary**

The Consumer Council of Zimbabwe protects and empowers consumers by monitoring product quality and service to ensure adherence to reasonably accepted standards. This year it's celebrating World Consumer Day under the theme Unethical Drug Promotion. The campaign aims to hold corporations and governments accountable in protecting consumers from unethical drug promotion, particularly for prescription-only medication and for Zimbabwe we are also focusing on putting an end to the sale of counterfeit, expired and unregistered drugs.

Examples of unethical drug promotion are:

- Promoting misleading or false claims about a drug.
- Deliberately suppressing risks and side effects of a drug.
- Providing financial incentives to doctors for prescribing a drug to consumers.
- Using disease awareness campaigns for drug promotion rather than health promotion.

#### **QUESTION 2:**

***Do the above address claims relating to:***

- i. carbon (e.g. "carbon neutral", carbon offsets, etc.)
- ii. "sustainable"
- iii. "natural" for non-food products (e.g. cosmetics)
- iv. "natural", "naturally raised", "free range" or related claims for or animal, poultry, eggs or fish
- v. building materials
- vi. textiles
- vii. renewable energy or materials
- viii. genetically modified organisms (GMOs)
- ix. Seals and Certifications

***Detail:***

#### **ii. Sustainable**

##### Hazardous Substances, Pesticides and Toxic Substances Regulations

The Hazardous Substances, Pesticides and Toxic Substances Regulations provide for the labeling, packaging, repackaging and sale of hazardous substances or articles containing hazardous substances in Zimbabwe. The regulations prescribe conditions which have to be observed by employers over the handling of hazardous substances at the workplace, conditions for transporting hazardous substances and procedures to be followed when there is an accidental spillage of hazardous substances in Zimbabwe.

The Agency is empowered to issue spot fines to any person who violates the law. In addition, any person whose substances affect the environment is liable to pay for the cost of restoring the environment i.e. the polluter pays principle. The offender is also liable to pay compensation for any damage caused by the offence to any person.

**(iv) “natural”, “naturally raised”, “free range” or related claims for or animal, poultry, eggs or fish**

S.I. 265/2002 First Schedule Section 5(D) requires that refined oils and oils other than olive be referred to as “Vegetable” or “animal”, qualified by the term “hydrogenated”, as appropriate.

Refined fats should be labeled “Fat” together with either, the term “vegetable” or “animal”, as appropriate and be specific.

All species of fish where the fish constitutes an ingredient of another food and provided that the labeling and presentation of such food does refer to a specific species of fish must be labeled “Fish”.

All types of poultry meat when such meat constitutes ingredient of another food and provided that the labeling and presentation of such a food does not refer to a specific type of poultry meat should read “Poultry meat”.

All types of cheeses where the cheese or mixture of cheeses constitutes an ingredient of another food and provided that the labeling and presentation of such food does not refer to a specific type of cheese should read “Cheese”.

**(viii). genetically modified organisms (GMOs)**

Zimbabwe banned the import of GMO produce, except for food aid, provided it has been milled. Source: [http://www.unep.org/dewa/africa/docs/en/aeo-2/chapters/aeo-2\\_ch09\\_GENETICALLY\\_MODIFIED\\_CROPS.pdf](http://www.unep.org/dewa/africa/docs/en/aeo-2/chapters/aeo-2_ch09_GENETICALLY_MODIFIED_CROPS.pdf) 13 February 2013.

Section 5. (1)(i) of S.I. 265/2002 provides that the package of every food offered for sale shall bear a label stating the following particulars:

‘(1)where a food or any of its ingredients has been genetically modified it shall be declared in writing in close proximity to the produce or ingredient name;’

**(ix.) Seals and Certifications**

Environmental Management System (ISO 14001) Certification Scheme

The Standards Association of Zimbabwe is the registered owner of the Environmental Management System (EMS) certification mark. The SAZ EMS mark indicates that the organization EMS complies with SAZ's ISO 14001. This mark may be shown on letterheads, advertising material etc., but not on products. SAZ Quality Assurance Department is internationally recognized as competent and impartial to certify organizations to these two schemes.

Zimbabwe currently has 19 companies certified under EMS.

**QUESTION 3:**

***Which claims provoke the most challenges – e.g. “carbon neutral”, “biodegradable”, “natural”, “green”, “environmentally friendly”, “sustainable”, energy savings/efficiency, money savings, etc.:***

***Which product categories see the most ad challenges (e.g. cars, fuel, emission, water or energy-saving devices, wind developments, solar panel systems, etc.)?***

N/A

**QUESTION 4:**

*Does your country require ads for particular products to include environmentally-related disclosures? (e.g., car ads requiring CO2 emissions, etc.)?*

NO

**QUESTION 5:**

*Have your regulators indicated that Green Claims are currently an issue of concern for them?*

NO

**QUESTION 6:**

*Approximately how many actions have been brought against Green Claims in your country since Jan. 1, 2010:*

- a. *by Regulators -*
- b. *in Self-Regulatory Forum -*
- c. *Civil litigation by competitor or consumers against advertiser -*

N/A

**QUESTION 7:**

*Can you describe an interesting recent Green Claim case in your country?*

N/A

**LABELS****QUESTION 8:**

*Are specific disclosures required on the LABEL of particular products that relate to environmental issues (e.g. re energy or water use efficiency)*

YES

*What product(s)?*

'every food'(in terms of the Food and Food Standards (Food Labeling) Regulations, 2002 Section 5 ) and plastic water bottles/ plastic bags - (self-regulatory)

*What are the required disclosures?*

**FOOD**

Food and Food Standards (Food Labeling) Regulations, 2002 Section 5 Provides:

'The package of every food offered for sale shall bear a label stating the following particulars—

- (a) the name and business address of the manufacturer, packer or distributor indicating the actual site of production;
- (b) an accurate statement of the contents in terms of mass, measure or numerical count;
- (c) the common or usual name of the food, or if it purports or is represented to be a food for which a standard had been established, the name prescribed in that standard or where no common or standard names exists, the appropriate descriptive name;
- (d) if the food is made from two or more ingredients, the common or usual name of each such ingredient in descending order of proportion by mass provided that
  - (i) pork fat, lard and beef fat shall always be declared by their specific names;
  - (ii) class names as indicated in the First Schedule may be used;

- (e) where the food contains any artificial flavouring or artificial colouring the name of the artificial flavouring or artificial colouring;
- (f) where the food contains a chemical preservative, immediately preceding or following the time of the preservative ingredient, the words “added as a preservative” or words to that effect;
- (g) date of minimum durability in the form of “Best before . . .” followed by day, month, year of produce with a minimum durability of not more than 3 months, months and year for products with a minimum durability of 3 months and more or “use by . . .” followed by day and month for products with a shelf life not exceeding 30 days provided that products listed in the Second Schedule are exempted from this declaration;
- (h) where a food or any of its ingredients has been treated with ionizing radiation a written statement indicating that treatment in close proximity to the name of the food or ingredient. The use of the international radura sign (as shown in Schedule III) is optional but where it is used it should be in close proximity to the name of the food;
- (i) where a food or any of its ingredients has been genetically modified it shall be declared in writing in close proximity to the produce or ingredient name;
- (j) a packing number and/or date on which the goods were packed or code number which signifies such date provided that an inspector shall on request be informed by the manufacturer or producer of the date which such code number signifies.’ Precious Sibiya

## BIOBASED PRODUCTS

### QUESTION 9:

*Does your country have specific guidelines relating to the labeling or advertising of biobased products (i.e., made with agricultural, forestry or marine materials like “plant bottles”, biobased cleaning products and biofuels)?*

*Is there a certification label for them, such as the USDA Certified Biobased Product label in the U.S.? (<http://www.biopreferred.gov/Labeling.aspx> - note current funding issues)*

NO

## GENETICALLY MODIFIED ORGANISMS (GMO)

### QUESTION 10:

*Does your country require labeling of GMO products?*

YES

#### *Detail:*

S.I. 265/2002 SECTION 5 (1)(i) which provides ‘where a food or any of its ingredients has been genetically modified it shall be declared in writing in close proximity to the produce or ingredient name’.

## ORGANIC PRODUCTS

### QUESTION 11:

*Do you have a legislative regime to certify organic products?*

NO

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