GREEN CLAIMS, HARD LAW, BROAD SCOPE: THE EU'S 'EMPOWERING CONSUMERS' DIRECTIVE

On 27 September 2026, the EU's Empowering Consumers for the Green Transition Directive ("**EmpCo**") takes effect, with the stated goal of improving the reliability and transparency of green claims and sustainability-related consumer information. EU Member States were required to transpose EmpCo by 27 March 2026, though many did not, resulting in a regulatory patchwork. EU traders and other non-EU traders selling into the EU should check and monitor national implementing measures and ensure that their existing consumer-facing practices are aligned with EmpCo's core requirements.

1. SCOPE

EmpCo amends specific provisions of the EU Unfair Commercial Practices Directive ("**UCPD**") and the EU Consumer Rights Directive ("**CRD**"):

- The UCPD amendments are focused on regulating "environmental claims", which EmpCo defines to include any voluntary statement, image, colour, label or name stating or implying positive (or zero) environmental impact, less damage than alternatives, or improvement over time. EmpCo provides that certain practices will be banned outright and others subject to specific misleading tests (see paragraph 2 below). The regime will also protect against so-called "social washing" by providing that ethical-sourcing or fair-labour claims must not be presented in a way which is misleading to consumers.
- Under the original CRD, traders must provide certain pre-contractual information to consumers before a contract is concluded, depending on the method of sale (for example, online or in-store). EmpCo adds to these information requirements with new obligations related to sustainable consumer choices. Traders must provide consumers with additional information on various matters, including the existence of any commercial guarantee of durability, repairability score, software updates, and environmentally friendly delivery options.

The requirements have a particularly broad reach, purporting to apply to all sectors including financial services, and covering goods, services, digital content and digital services sold to EU consumers. They may also affect non-EU traders that pursue or direct their activities to EU consumers (see paragraph 7 below). While EmpCo applies to business to consumer commercial practices, Member States may extend it to business to business practices as part of their own implementation and several have done so (which means cross-checking national transposition detail for relevant markets is critical).

2. BLACKLISTED VS "MISLEADING" CLAIMS

The original UCPD regime sets out a general list of commercial practices that are banned outright with no need to prove any effect on consumer decision-making (for example, displaying a trust or quality mark without authorisation). EmpCo has added 12 new sustainability-related practices to the list, a number of which are summarised below. Other practices will be assessed case-by-case and could be considered misleading if they cause or are likely to cause a consumer to take a transactional decision that they would not have otherwise taken.

Practices banned outright (blacklisted under Annex I, UCPD) include:

- **Sustainability labels** (which might relate to environmental or social characteristics) not based on a certification scheme or established by public authorities.
- **Generic environmental claims** (e.g., "green" or "eco-friendly") without recognised excellent environmental performance.
- **Whole-product/whole-business environmental claims** which only concern one aspect of the product / business.
- **Offset-based environmental claims** (e.g., "climate neutral" or "carbon positive", or marketing a reduced environment impact), based solely on emissions offsetting.
- **Mandatory legal requirements** imposed on all products, of a certain type or category, marketed as distinctive environmental benefits.

Practices banned outright (blacklisted under Annex I, UCPD) include: (cont.)

- **False durability claims** overstating a product's lifespan or durability.
- **False repairability claims** overstating a product's repairability.
- **Misleading software update claims** encouraging unnecessary updates.
- **Withholding information that non-original consumables, spare parts or accessories** not supplied by the original producer, will impair the good's functionality, or falsely claiming that they will.

Potentially "misleading" practices (case-by-case assessment under UCPD) include:

- **Future performance claims** (e.g., "net zero by 2040") lacking a substantiated implementation plan.
- **Advertising irrelevant benefits** unrelated to the features of the product or service that purport to be more beneficial to consumers, the environment or society than other products/services of the same type (e.g., gluten-free bottled water or plastic-free paper sheets).
- **Environmental or social comparisons services** that omit "material information", such as the method of comparison or how comparison information is maintained and updated.

3. EU COMMISSION'S Q&A

The Commission's non-binding Q&A (first published in November 2025 and updated in June 2026) is likely to influence how national authorities and courts apply EmpCo. Key guidance from the Q&A includes:

- **EmpCo does not provide for any transition period for existing products and packaging:** Existing stock, labels and packaging must comply from 27 September 2026. However, pursuant to a non-binding set of enforcement principles developed by the Consumer Protection Cooperation ("**CPC**") Network of national consumer-protection authorities in June 2026 – old stock *may* benefit from phased enforcement where businesses face genuine and specific transitional difficulties and are taking reasonable steps towards compliance.
- **EmpCo extends to company names and brands as well as products:** The Q&A notes that company and brand names may themselves constitute environmental claims. However, terms such as "green" or "eco" are not automatically environmental claims and the assessment depends on whether the average consumer would understand them as conveying an environmental benefit in the relevant context.
- **The meaning of "generic":** A claim will generally not be treated as "generic" where its environmental meaning is specified in clear and prominent terms on the same medium.
- **"Average consumer" standard:** Consistent with the original UCPD, claims will continue to be assessed from the perspective of the average consumer (reasonably well-informed, observant and circumspect). Regulators and national courts can make this assessment based on their analysis of presumed consumer expectations in their jurisdictions.
- **Colours, imagery and symbols:** Environmental claims may be express or implied. Images, symbols and colour schemes may constitute environmental claims where they convey an environmental benefit to consumers.
- **Carbon neutrality claims:** The new blacklisted prohibition on offset-based claims applies to product-level claims only; equivalent misleading claims at company-level may be prohibited, subject to the case-by-case assessment referred to in paragraph 2 above.

4. FINANCIAL SERVICES SPOTLIGHT

Financial services firms are expected to be in scope of EmpCo where they engage in business to consumer marketing and make environmental claims, because "products" are broadly defined to include services, digital content, and rights and obligations. Exposure may therefore sit across retail mortgages and consumer credit, cards and payments, deposits, retail investment and fund distribution. In practice, this means that Articles 8 and 9 funds under the EU Sustainable Finance Disclosure Regulation (SFDR) and firms that publish sustainability-related information in marketing materials may be captured within EmpCo's scope.

5. PENALTIES, DISPUTES AND ENFORCEMENT ACTION

- **Penalties.** EmpCo does not introduce a standalone sanctions regime and penalties will depend on the national implementation frameworks for the UCPD and CRD. Businesses should therefore consider both the substantive requirements and the applicable sanctions framework in the jurisdictions in which they operate. Under UCPD, Member States must provide for fines for non-compliance with a maximum of at least 4% of the trader's annual turnover in the Member State(s) concerned (or at least €2m where turnover information is unavailable).

- **Enforcement.** Claims can be pursued by regulators or through private enforcement. Prior to EmpCo, regulators and courts were already using the UCPD as a legal basis for addressing "greenwashing"-type allegations. EmpCo gives them sharper tools, which may bolster the efforts of the already established, and increasingly active, climate litigation claimant base (consumer bodies, NGOs, competitors, litigation funders).
- **Cross-border coordination.** Businesses should be mindful of coordination between national authorities who are linked together under the CPC Regulation. One labelling decision can trigger a multi-jurisdiction regulatory dialogue and copycat private claims. For example, in 2023, a BEUC (the European Consumer Organisation) coordinated "external alert" joined by consumer groups from thirteen countries challenged certain beverage companies' recyclability claims on their water bottles. The ensuing CPC/regulatory authorities' dialogue secured public commitments from two of the companies detailing remediation steps, while another faced a copycat suit by an NGO in a domestic court. EmpCo's blacklist is expected to make such coordinated cases more attractive.

6. RELATED EU REGIMES TO WATCH

As highlighted in this briefing, EmpCo forms part of the EU's wider consumer protection framework and its Circular Economy Action Plan. It is complemented by several related EU regimes:

- **Collective redress.** The Representative Actions Directive puts EmpCo claims within reach of qualified consumer entities across the EU. Examples include Germany's opt-in route (already producing class actions) and the Netherlands' opt-out WAMCA regime – a favoured first-filing venue for claimant groups. As EmpCo's blacklist purports to remove any need to prove effect on consumers, it may make collective redress easier to scale.
- **Product liability.** The revised Product Liability Directive (from 9 December 2026) treats a product's presentation – including its sustainability claims – as part of the safety expectations against which defectiveness is judged. It also lengthens the roster of potential defendants across the supply chain (importers, distributors, fulfilment providers and online platforms), and its tools are open to collective as well as individual claimants – a potential mass-multiplier for the claims EmpCo regulates. Claims risk and product liability should be stress-tested together across both regimes.
- **Green Claims.** The Commission's proposal for a "Green Claims Directive" (including mandatory ex-ante verification of environmental claims) was shelved in summer 2025. The file is dormant but not formally withdrawn – so certain elements could yet be revived in a narrower form.

7. IMPACT ON NON-EU BUSINESSES

Non-EU traders that pursue or direct their activities to EU countries (or EU traders that pursue or direct their activities to EU countries other than their own) could be subject to consumer claims and regulatory action in those EU countries alleging breach of local laws. It would be prudent for them to check the local laws in the EU countries they are operating in, and design their sales and marketing processes accordingly.

Key practice points:

- Global marketing assets warrant EU-specific sign-off – governance arrangements including claims libraries and campaign toolkits developed outside the EU should be evaluated against the new rules, and in particular the Annex I blacklist, before the deadline.
- Liability can travel down the distribution chain – EU subsidiaries, importers and distributors may face direct enforcement exposure for deploying non-compliant group materials, creating indemnification issues that should be addressed in distribution agreements.
- Enforcement may reach outside the EU – authorities can order content removal, take measures against online interfaces, and proceed against EU entities in the chain, while consumers can generally sue any trader directing activities to their Member State in their home courts.

8. WHAT TO DO NOW

Businesses marketing their sustainability credentials to EU consumers should ensure relevant teams receive training on the key requirements of EmpCo and track implementation progress through relevant Member States. They may also consider, where appropriate:

- auditing (or reauditing) their consumer-facing claims (packaging, labels, hash-tags, e-commerce, advertising, social media, point-of-sale material), including any claims based on carbon offsets;
- reviewing brand and product names that could be construed as sustainability claims under EmpCo;

- validating any sustainability label or certification relied on;
- building claim-by-claim substantiation files to litigation standard;
- embedding legal sign-off between marketing and go-to-market; and
- allocating re-labelling cost and non-compliant stock where possible and appropriate.

Global businesses with complex supply chains or hard-to-evidence footprints may opt for a more reserved approach to sustainable advertising, with a particular focus on cross-border legal review. Importantly, and as noted in paragraph 4 above, corporate reporting is not generally in direct scope of EmpCo but if a company repurposes information from its sustainability reporting or disclosures (for example, under the EU Corporate Sustainability Reporting Directive (CSRD)) for the purposes of consumer marketing, that information could be subject to EmpCo. In general, the key is not necessarily fewer sustainability messages, but the right ones: targeted, substantiated and capable of withstanding scrutiny.

Key Resources

EU Empowering Consumers for the Green Transition Directive ((EU) 2024/825) (linked **here**).

European Commission's Q&A on EmpCo (as revised June 2026) (linked **here**).

EU Unfair Commercial Practices Directive (2005/29/EC) (linked **here**).

EU Consumer Rights Directive (2011/83/EU) (linked **here**).

Proposal for a EU Green Claims Directive (March 2023) (linked **here**).

EU CPC Regulation ((EU) 2017/2394) (linked **here**).

European Commission's overview of the CPC Network (linked **here**).

EU Representative Actions Directive ((EU) 2020/1828) (linked **here**).

EU Product Liability Directive ((EU) 2024/2853) (linked **here**).

CPC authorities' "Common understanding on 'old stock' situations [under EmpCo]" (June 2026) (linked **here**).

EU Commission's Notice, "Guidance on the interpretation and application of [the UCPD]" (December 2021) (linked **here**).

EU Modernisation Directive ((EU) 2019/2161) which introduced higher maximum penalties for UCPD infringements (linked **here**).

For More Information

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