

## Legislative proposal on substantiating green claims EUROPEN's feedback on the Inception Impact Assessment

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### **Objective**

EUROPEN supports the general objective of this initiative, which is to unlock opportunities for the circular and green economy, including by fostering the growth of green markets through value chain thinking and ensuring a more efficient use of resources. We also specifically support the objective of moving towards a harmonised EU approach to measure and communicate accurate and reliable and meaningful information on the environmental performance of (packaged) products.

As general principle, this must be carried out in line with the policy objectives of the European Green Deal and the new Circular Economy Action Plan, which set the basis for an innovation-driven policy agenda to pursue sustainable growth and encourage both ambitious and economically viable solutions to scale-up circularity and contribute to climate neutrality.

With regard to the parallel initiative on “Empowering the consumer for the green transition”, EUROPEN welcomes the inclusion of consumers in the scope of the new Circular Economy Action Plan. By recognising them as enabling stakeholders, it sets the basis to effectively empower citizens and businesses to directly engage in the transition to a more circular economy.

EUROPEN has constructively collaborated in the joint effort, by industry and the European Commission, to develop the Product Environmental Footprint (PEF) methodology as a robust and credible method to measure and communicate the environmental footprint of products. Several of our members have also directly participated in the PEF pilot phase. The Commission is now assessing possible ways forward to introduce the PEF methodology as the method for companies to substantiate their environmental claims and to avoid “greenwashing”. In light of our long-standing involvement and the expertise accumulated in the technical process of developing the PEF methodology, we wish to put forward a set of fundamental principles which should underpin a harmonised EU approach to the substantiation of environmental claims using product and organisation environmental footprint methodologies.

### **Key principles:**

1) EUROPEN supports a **holistic life-cycle approach** integrating both product and waste policies and reflecting packaging's valuable role and functionalities across the value chain. In the context of PEF, it is **crucial that packaging be considered to be intrinsically linked to the (packaged) product**.

- In order to communicate accurate and reliable information about the environmental performance of a (packaged) product, packaging cannot be considered in isolation from the product it protects as this would risk overlooking its functionality and undermining its intended use, thus resulting in negative trade-offs from an overall environmental sustainability perspective.
- Packaging functionality needs to be fully appreciated and protected, as any policy measures intending to promote circular and green economy cannot jeopardize product safety and integrity and must avoid product waste.

2) An **EU harmonised approach to the use of the PEF methodology** for measuring environmental footprint is needed to guarantee the free movement of packaging and packaged goods, thereby safeguarding the Internal Market while ensuring that continuous investments are supported to boost EU competitiveness.

- We welcome the recognition, in the Inception Impact Assessment, that such an EU-wide harmonised approach is necessary to prevent Member States' unilateral and uncoordinated actions in this area, which would risk to lead to *“many competing different systems, based on different methods and approaches, leading to a fragmented internal market, increasing the risk of having uneven awareness and information levels on the environmental performance of products and organisations across EU, and additional costs for companies trading cross-border.”*

- To this end, any legislative initiative to substantiate green claims should be solely based on article 114 of TFEU (Internal Market), in line with the legal basis of the upcoming legislative initiative on “Empowering the consumer for the green transition”.
- We believe the Internal Market legal basis to be better suited to serve the intended policy goals compared to Article 192 TFEU (general environmental competence), which would not adequately prevent the risks of fragmentation of the Single Market due to uncoordinated Member States’ actions that could impact the free movement of goods and services within the EU.

3) EUROPEN supports the establishment of a **voluntary EU legal framework** enabling companies to make green claims in accordance with the Environmental Footprint methods, as a complement to existing methods. The choice of making green claims should thus remain voluntary but based on harmonised EU methodology. We also support the Commission’s intention to establish, at the same time, an appropriate framework for the certification/verification of Environmental Footprint profiles and monitoring and enforcement tools.

- We support a voluntary and flexible approach to the application of PEF in light of the methodology’s current state of play and maturity. The PEF methodology and databases still need further development to be reliably used for comparing one product against another for all product categories.
- There are, however, certain product categories for which the PEF methodology developed might be already sufficiently robust and mature to be used for comparison. A voluntary approach and flexible approach to the use of PEF may thus help to further develop application cases and serve as blueprint for other product categories.
- At the moment, an overly prescriptive approach, such as the mandatory use of PEF as a comparative tool for any product category, may risk hindering innovation and a level playing field amongst (packaged) products.

4) Any initiative to foster the growth of circular and green markets through the provision of information on the environmental performance of products must ensure **coherence of policy objectives** to avoid the risk of undermining the EU sustainability goals and to support investments in innovation. Policy coherence will be especially crucial with regard to the other parallel initiatives that have been announced as part of the new Circular Economy Action Plan, i.e. the initiative on EU consumer law and the sustainable product policy initiative.

- A coherent EU policy framework is essential to provide industry with a clear direction and the necessary legal certainty and economic predictability to continue investing in sustainable and circular economy solutions.
- Any policy framework to substantiate green claims must be designed to allow for and promote **innovation** to improve the overall environmental impact of (packaged) products, along their whole life-cycle.

5) To support the empowerment of consumers in the green transition we call for a flexible, simple and **transparent application of PEF** and for extensive related **awareness raising campaigns** which would ensure consumer acceptance of PEF-based label.

- The EU policy framework for the application of the PEF should be developed with the support of interested industry stakeholders.
- The PEF itself should be simple to establish, follow and implement in order to reach as many interested parties as possible. It should be administered in a way that is flexible and responsive to new scientific evidences, allowing companies to use the latest data and being rewarded timely for virtuous behaviours and improvements in their environmental performances.
- Environmental footprint methodology needs to be founded on Life-Cycle Assessment and it must ensure that the data used is verifiable, credible, scientifically sound and comprehensive. The results shall be communicated to consumers in a readily understood, meaningful, transparent and not misleading way.