ISEAL statement

Strengthening the effectiveness of the EU proposal for a Green Claims Directive:
Going further in establishing robust credibility criteria, promoting multistakeholder participation, and supporting clear pre-approval and verification processes for sustainability schemes

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ISEAL is a global leader in defining and communicating what good practice looks like for voluntary market-based approaches like sustainability standards and certification schemes. We support ambitious sustainability systems and their partners to tackle the world’s most pressing sustainability challenges, and we promote alignment on good practices through global multistakeholder consultation.

We would like to reiterate our longstanding support for the Commission’s efforts to introduce more stringent regulations to tackle greenwashing, enabling consumers to make informed purchasing decisions.

In the analysis underpinning the proposal for Empowering Consumers for the Green Transition and the recently proposed Green Claims Directive, the problem of greenwashing has been divided into two sub-problems:

• the presence of misleading or confusing claims, and
• the presence of sustainability labels that are not meeting a minimum bar of transparency and may not be credible

We share this analysis of the problem. In our work to build consensus on good practices for sustainability claims and communications, we have identified core principles that underpin credible claims. Credible claims are clear, accurate and relevant. They are substantiated by evidence and backed up by transparent and robust systems.
As such, we support stricter rules for sustainability claims-making as well as the establishment of criteria that define a minimum set of expectations for credible and transparent labelling schemes. We consider that this two-pronged approach is necessary for tackling the two sub-problems of greenwashing that the proposed legislation seeks to address.

We have also previously highlighted our concerns with an approach to regulating claims that would prescribe a single standard methodology for substantiating environmental claims, such as the use of the Product Environmental Footprint (PEF) or Life Cycle Analysis (LCA). We are pleased to see that the proposed Green Claims Directive acknowledges the limitations of such an approach and provides for greater flexibility. This flexibility is critical to ensuring that substantiation methods address the wide array of significant issues, the different strategies in place for improving environmental and sustainability performance, and the variability in operating contexts found across sectors and materials. Flexibility will also better allow for innovation and improvement in methods.

At the same time, flexibility when it comes to acceptable methodologies should be counterbalanced by efforts to enable consistent evaluation of labels and by establishing strong criteria for the credibility and transparency of the systems that underpin claims and labels.

On this point, we would like to share some related observations that we hope can strengthen the effectiveness of the proposal for a Green Claims Directive:

• While the criteria set out in article 8.2 are a strong and useful foundation to ensure schemes operate in a credible way, we believe these criteria can go further in raising the bar. The ISEAL Credibility Principles and the ISEAL Codes of Good Practice offer a rigorous definition of a transparent and effective labelling scheme and could inspire a more robust set of credibility criteria to be included in this article. For example, while 8.2.b requires that information on procedures to monitor compliance are transparent and accessible, the criteria could be strengthened by including requirements around the consistent and impartial implementation of the compliance process. Similarly, in 8.2.d, the requirements are to be submitted for consultation to a heterogeneous group of stakeholders. While this is important, it is equally important that a cross-section of stakeholders have a role in the decision making on those requirements to ensure the societal relevance that is aspired to.

• We believe that the criteria set out in article 8.2 generally apply to all sustainability and environmental labelling schemes. We note that prohibiting sustainability labels not meeting minimum transparency and credibility requirements is also the preferred policy option outlined in section 3.2.1 of the explanatory note. As such, we remain concerned that the goals of providing legal certainty and ensuring a level playing field will be affected by the fact that these criteria are defined only in the proposed Green Claims Directive rather than as part of the lex generalis set out in the proposal for Empowering Consumers for the Green Transition, and as such do not address social sustainability issues. Our concerns about the relationship between the objectives and the scope of the lex generalis and the lex specialis are also heightened by the potential breadth of exemptions from the scope of the proposed Green Claims Directive. At a minimum, we would call for the criteria in Article 8.2 of the lex specialis be included in the lex generalis in order to ensure it be required of sustainability and environmental schemes operating in domains that are now or have become exempt from the scope of application of the Green Claims Directive but remain under scope of the lex generalis.

• We continue supporting a pre-approval process for labelling schemes in the EU marketplace. However, to ensure a fair and consistent approach to verifying schemes, we call for the centralisation of such a process, or at a minimum clear process for pre-approval outlined in the directive to ensure clear and consistent interpretation at member state level. A variety of procedures implemented by a wide
variety of authorities across the EU marketplace, whereby interpretations and processes are not aligned, would create significant inconsistency within the marketplace. There is also the possibility of unintended consequences, such as undue burdens being placed on less capacitated national authorities, or a risk of shopping around for most favorable interpretations. Given many schemes act across member states clearly stating the process in which member states pre-approval should be sought is key. In addition, further clarity on pre-approval is desired, clarity on what constitutes a new labeling scheme or added value as stated in article 8.5 is needed.

• Similarly, at the level of verification, a mechanism such as interpretive guidance will be necessary to provide sufficient detail on the interpretation and application of the requirements of articles 3-7 to ensure that verifiers are consistently interpreting and applying these requirements. Verifiers should also be held to a high standard of transparency and competence, and we recommend that further consideration be given to defining the scope of compliance requirements (article 11.3) against which verifiers will be accredited. Additional clarification is needed on who the verifier can be and the procedures they must follow. In particular, additional guidance is needed to consistently interpret the requisite technical competence required of verifiers in 11.3.c and the expertise required to perform the verification activities as in 11.3.d.

• Finally, we believe it is imperative that consideration is given to the need for continuous improvement for schemes and how this is acknowledged and recognized in the directive. Continuous improvement is a core principle underscoring credible claims and as such processes to enable the directive should incentivize rather than disincentivize this. For example, when schemes go through revisions what impact does this have on existing pre-approval status.

We welcome the EU Commission’s proposal for a Green Claims Directive as it is essential that consumers can trust green claims and logos to ensure a shift towards truly more sustainable consumption. Proven and reputable international standards and certification systems that have adopted credible practices have an important role to play in this transition, and we are happy to see the EU building on these market systems. Finally, we have at heart a market where not only consumers are protected and empowered but also where companies that are making significant investments and progress towards leveraging the positive impacts of their products and supply chains are rewarded.