

Ref.: Sustainability-Green Claims-ECTAA views on the Green Claims proposal

## ECTAA views on the Green Claims proposal, COM(2003) 166 final

ECTAA is the voice of European travel agents and tour operators in Europe, representing more than 100.000 enterprises in Europe, 99% of which are SMEs according to 2020 Eurostat data<sup>1</sup>.

ECTAA welcomes the Commission's proposal for a Directive on substantiation and communication of explicit environmental claims (Green Claims Directive). We agree that reliable and accurate claims will protect consumers and ensure fair competition in the Single Market.

Our sector is committed to the green transition and is already engaging in various sustainability initiatives. Among other, we have contributed to the elaboration of sustainability management and certification schemes in our sector, notably Travelife for Tour Operators<sup>2</sup> and Travelife for Accommodation<sup>3</sup>. The schemes operate on the basis of standards that are recognised by the Global Sustainable Tourism Council<sup>4</sup> and include third-party verification of the traders. There are also many sustainability initiatives by private operators, including comparison tools to help customers make more informed decisions.

While ECTAA supports the general principles of the Green Claims proposal, we have a number of concerns about the application of this legislative proposal. We also have a lot of questions, which we believe merit clarification.

### **Driving behavioural change**

At ECTAA we believe that travel agents and tour operators are an important catalyst for sustainable travel and tourism. As intermediates between tourists and tourism businesses they can influence the choices of consumers, practices of suppliers and the development in destinations. They can make an important contribution in the fight against climate change by providing customers information and choice of more sustainable travel options. This goes hand in hand with the legislative proposal on Count Emission EU adopted in July and the upcoming proposal on Multimodal Digital Mobility Services, both of which aim to provide transparency on and comparison of GHG emissions of transport services and thus support the EU's sustainability objectives.

However, the new substantiation requirements for environmental claims, which are based on life-cycle assessment and recognised scientific evidence, will make it quasi-impossible for travel companies, especially SMEs, to make any communication around the environmental performance of the services they offer. One, it will be too burdensome and costly to get pre-clearance of any environmental claims and secondly there is too much of a risk that a court or enforcement body would re-assess the quality

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<sup>1</sup> [https://ec.europa.eu/eurostat/databrowser/view/SBS\\_SC\\_SCA\\_R2\\_custom\\_6174768/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/SBS_SC_SCA_R2_custom_6174768/default/table?lang=en)

<sup>2</sup> [https://www.travelife.info/index\\_new.php?menu=home&lang=en](https://www.travelife.info/index_new.php?menu=home&lang=en)

<sup>3</sup> <https://travelifestaybetter.com/>

<sup>4</sup> <https://www.gstcouncil.org/gstc-criteria/gstc-recognized-standards/>

of the environmental claim. We would have to wait a few years, when there are recognised scientific methods to fully assess the environmental impact of all travel services, in order to communicate about sustainability in travel. The Green Claims proposal runs the risk of companies abandoning both environmental communication and voluntary environmental measures and thus achieving the opposite of the Commission's objective of enabling consumers to make informed purchasing decisions about the most sustainable option. The Green Claim proposal could therefore potentially hamper the environmental efforts undertaken by travel companies.

### **Life-cycle assessment approach**

In accordance with Article 3, the assessment made to substantiate explicit environmental claims needs to consider the life-cycle of the product/service or of the overall activities of the trader and should not omit any relevant environmental aspects or environmental impacts. ECTAA is concerned that a life-cycle assessment is easier to perform for products than for services, especially in the travel sector. First of all, the supply chain can be very long and traders have limited (or no) control over the elements in the whole supply chain. Moreover, the trader will not necessarily know how the consumer is going to use the services. Example: a travel company advertises small group travel in a city which includes accommodation and activities but without providing travel to the destination. If the whole life-cycle that would need to be considered for advertising the environmental claim about the tour is said to include the means of transport, would the trader need to make assumptions on which type of transport the customer is taking to reach the destination? If there are multiple ways of arriving in the destination, all with a different environmental impact, it is difficult to understand how the trader could present this information in a way which is both simple and helpful to the customer.

### **Obligations and liability of intermediaries**

'Trader' refers to the definition contained in Article 2, point (b), of Directive 2005/29/EC and includes anyone acting in the name of or on behalf of a trader. It thus also includes travel agents / intermediaries acting in the name and on behalf of service suppliers. To us it is unclear what the obligations are of intermediaries when advertising or communicating on the environmental performance of their suppliers and their services. Is it sufficient to check that the service suppliers have a certificate of conformity? What if the service supplier or the certification scheme from which the supplier obtained a label are established outside the EU and do not have a certificate of conformity? What would the intermediaries be able to communicate on the environmental performance of these non-EU services and what would their liability be for misleading or inaccurate claims of their suppliers?

### **Ex-ante verification and authorisation**

As mentioned above, we support the prohibition of inaccurate and misleading environmental claims, which is damaging for consumers, traders and the planet. However, we are concerned that the ex-ante verification and authorisation system laid out in the proposal is very time-consuming and cost-intensive for both businesses and authorities. Especially for SMEs, the cost of verification would be prohibitive and could lead to a situation where they would make no claims and thus no improvements. ECTAA believes that this part of the proposal needs further consideration to make it more workable for SMEs.

### **Certification schemes**

According to Article 2(2), displaying an environmental label is considered to be an 'explicit environmental claim'. So if a trader wants to display a label indicating that it has been certified by an 'authorised' certification scheme, i.e. scheme that has obtained a certificate of conformity in accordance with Article 10 of the proposal, does that trader still need to obtain a certificate of

conformity before displaying the label? In our view, this would be a duplication of verification, since the certification scheme will have already done a third-party audit of the trader's green claim.

The proposal only covers 'environmental labels', which are labels covering only or predominantly environmental aspects. What about 'sustainability labels', which include other criteria, such as social and governance? Will these certification schemes be able to obtain a certificate of conformity? If not, traders will be subject to double verification, once by the broader sustainability scheme and another time for the environmental claim part of the broader sustainability claim.

### **Competence of conformity assessment**

According to Article 10§7, a certificate of conformity is recognised by the competent authorities responsible for the application and enforcement of this Directive. However, the proposal does not specify which Member State is competent to verify the green claims. Can it be inferred from this that traders and certification schemes (especially those working in multiple countries) can choose from which Member State to obtain a certificate of conformity?