

REGULATORY FRAMEWORKS

TO COMBAT
GREENWASHING



One planet
inform with care



INTERNATIONAL
CLIMATE
INITIATIVE



Federal Ministry
for the Environment, Nature Conservation,
Nuclear Safety and Consumer Protection

About the One Planet Network Consumer Information Programme (CI-SCP)

This document is an output of the Consumer Information Programme (CI-SCP) of the 10-Year Framework of Programmes on Sustainable Consumption and Production Patterns (known as the One Planet Network). CI-SCP, which aims to engage and assist consumers in sustainable consumption, is a global platform supporting the provision of quality information on goods and services. It implements and supports projects, undertakes research, shares good practice and policies and provides opportunities for collaboration. CI-SCP is led by the German Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV), the Ministry of Environment and Forestry of Indonesia and Consumers International; it brings together a network of public, private and third sector players. More information and ways to participate can be found by visiting <https://www.oneplanetnetwork.org/programmes/consumer-information-scp> or by contacting the Coordination Desk at ciscp@un.org.

Acknowledgements

The development of this policy brief was managed by Laetitia Montero of the United Nations Environment Programme (UNEP), with the support of Camila Cosse Braslavsky and Maëlys Nizan. The policy brief was authored by Béatrice Parance and Elise Groulx. The development of the report was financed by the Advancing and Measuring Sustainable Consumption and Production (SCP) for a Low-Carbon Economy in Middle-Income and Newly Industrialized Countries (Advance SCP) project, which is part of the International Climate Initiative. The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV) supports this initiative on the basis of a decision adopted by the German Bundestag.

We would like to also acknowledge the invaluable insights received by all the members of Working Group 1 on the Guidelines for Providing Product Sustainability Information, led by UNEP and the International Trade Centre (ITC) as well as the UNEP Law Division, in particular Andy Raine and Aphrodite Smagadi.

Disclaimer:

Mention of a commercial company or product in this document does not imply endorsement by the United Nations Environment Programme, the One Planet Network or the authors. The use of information from this document for publicity or advertising is not permitted. Trademark names and symbols are used in an editorial fashion with no intention on infringement of trademark or copyright laws. The views expressed in this publication are those of the authors and do not necessarily reflect the views of the One Planet Network or its members, including UNEP. We regret any errors or omissions that may have been unwittingly made.

Suggested citation: Parance, Groulx, Montero, 2023. Policy Brief on regulations to combat greenwashing. One Planet Network.

Cover:

Original Artworks: Jemastock/Shutterstock.com, LadadikArt/Shutterstock.com

REGULATORY FRAMEWORKS

**TO COMBAT
GREENWASHING**

CONTENTS

I.	INTRODUCTION	5
II.	LEGISLATION ON CONSUMER PROTECTION AND ENVIRONMENTAL CLAIMS	8
III.	WHAT ARE THE FIRST STEPS IN ESTABLISHING A FRAMEWORK TO COMBAT GREENWASHING?	12
	1. A structured law framing misleading or false commercial practices	14
	2. Available guidelines as interpretative resources	15
	3. Enhanced legislation to include environmental claims	16
	4. Banning the use of vague environmental claims	17
	5. Banning advertising of certain products of which consumption is harmful to health and/or bad for the environment	17
IV.	WHAT ARE THE DRIVERS OF ACTION IN IMPLEMENTING EFFECTIVE LEGISLATION?	18
	1. Develop and adopt a structured, proportionate and diversified sanction regime	19
	2. Create a national authority with the power to enforce administrative sanctions, impose fines and/or prohibit certain types of advertising	21
	3. Encourage the empowerment of consumers and environmental protection associations, facilitate a widely accessible right of action and create a dedicated type of class action	22
	4. Foster cooperation between all actors to develop and implement proper and effective legislation and regulations	22
V.	FORWARD-LOOKING LEGISLATION THAT FAVOURS AND TAKES INTO ACCOUNT PRODUCT SUSTAINABILITY	23
	CONCLUSION	26
	ANNEX: SUMMARY OF REGULATORY AND LEGISLATIVE TEXTS BY LEVELS	27



Billion Photos/Shutterstock.com

I. INTRODUCTION

Current consumption and production patterns are a major risk factor for irreversible global crises related to climate change, biodiversity loss and all forms of pollution. All societies must move towards more responsible consumption and production patterns, as reflected in Sustainable Development Goal (SDG) 12 of the United Nations 2030 Agenda for Sustainable Development. The [United Nations guidelines for consumer protection](#), adopted by the General Assembly in 1985 and revised in 2015, reassert the need to promote sustainable consumption and the importance of consumer access to accurate information about the environmental impact of products and services, which is one of the essential conditions for an improved and thorough decision-making process. Access to reliable information on the sustainability of products will enable consumers to take sustainability aspects into account when making purchasing decisions.

However, market growth for sustainable products is often impaired by the quality of information available to consumers to guide their choices; this information can be imprecise, unclear, noncomparable, unsubstantiated, misleading or irrelevant. Greenwashing and misinformation on product sustainability undermine the transition to greater sustainability and must be curtailed and combated if we are to achieve the SDGs. As United Nations Secretary-General António Guterres has clearly stated, “The world is in a race against time. We cannot afford slow movers, fake movers or any form of greenwashing”.

Governments have a key role to play in providing clear guidance on the proper communication of environmental claims. Indeed, the lack of a coherent policy framework and harmonized standards and criteria in regulations discourages the provision of reliable information and the establishment of incentives. It is therefore essential to combat the proliferation of unclear or unregulated information on product sustainability by establishing regulatory frameworks that enable consumers to trust environmental claims. A coherent regulatory

framework on greenwashing will represent a positive step forward, not only for consumers, but also for companies, who will receive clear guidance on how to better manage environmental advertising on their products.

In 2017, the United Nations Environment Programme (UNEP) published the [principles of the Guidelines for Providing Product Sustainability information](#). These guidelines were developed in response to calls, via expert consultation and in relevant literature, for international agreement and guidance on how to provide consumers with information on the sustainability attributes and performance of products. Based on the lessons learned while implementing the guidelines globally and by connecting with key stakeholders through [the Consumer Information Programme \(CI-SCP\)](#)¹ of the [One Planet Network](#), this brief seeks to support governments in adopting or improving a regulatory framework that will contribute to the fight against greenwashing.

Based on the analysis of 11 legislations² on advertising and marketing practices from a sample of countries belonging to different legal systems (common law and civil law jurisdictions) and different continents (South and North America, Western and Eastern Europe, North and sub-Saharan Africa, as well as Asia), this brief identifies discussion points on the regulatory framework against greenwashing. The number of countries studied does not allow the sample to be representative of all practices.

The document also provides recommendations on how these instruments can be formulated to align with the UNEP Guidelines for Providing Product Sustainability Information. Mindful of ISO 14020 and the classification it introduces, it should be noted that this brief focuses on ISO 14021, self-declared environmental claims (Type II environmental labelling).

¹ CI-SCP is a multi-stakeholder group that implements and supports projects, undertakes research, identifies and encourages policies and provides collaboration opportunities for anyone looking to engage and assist consumers in sustainable consumption.

² Canada, Colombia, the European Union, France, Mexico, Morocco, Peru, the Republic of Korea, the Republic of Moldova, South Africa and the United States of America.

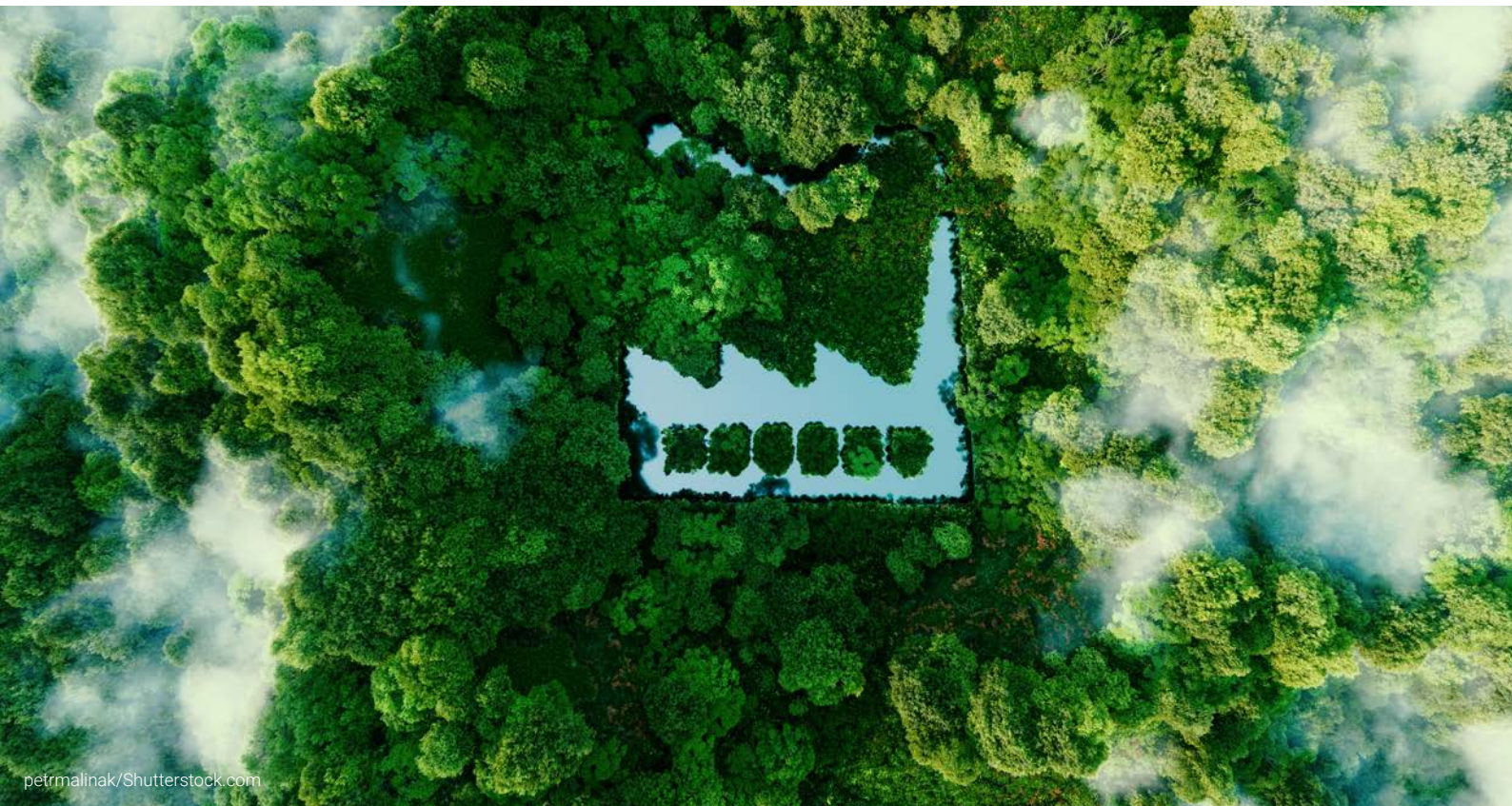
“IT’S TIME TO DRAW A RED LINE AROUND GREENWASHING”

The 2021 [report](#) from the [United Nations’ High-Level Expert Group](#) on the Net Zero Emissions Commitments of Non-State Entities, released at the twenty-seventh Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27), held in Sharm el-Sheikh, Egypt, calls to fight against false environmental claims.

“A growing number of governments and non-State actors are pledging to be carbon-free – and obviously that’s good news. The problem is that the criteria and benchmarks for these net-zero commitments have varying levels of rigor and loopholes wide enough to drive a diesel truck through”, said António Guterres, United Nations Secretary-General.

Energy companies cannot proclaim that their activities are “net zero” while they continue to develop fossil fuel projects or other such ventures that are harmful to the environment. Participating in lobbying activities against climate change or reporting only partially on their activities is also considered bad practice.

“We must have zero tolerance for net-zero greenwashing. Today’s Expert Group report is a how-to guide to ensure credible, accountable net-zero pledges,” said the Secretary-General at the launch of the report.



petrmalinak/Shutterstock.com

³ <https://www.un.org/sg/en/content/sg/statement/2022-11-08/secretary-generals-remarks-launch-of-report-of-high-level-expert-group-net-zero-commitments-delivered>



Stonks Photography/Shutterstock.com

II. LEGISLATION ON CONSUMER PROTECTION AND ENVIRONMENTAL CLAIMS

WHAT IS AN ENVIRONMENTAL CLAIM?

The European Commission's proposal for a directive on empowering consumers for the green transition adopts the following definition: "Environmental claim' means any message or representation, which is not mandatory under Union law or national law, including text, pictorial, graphic or symbolic representation, in any form, including labels, brand names, company names or product names, in the context of a commercial communication, which states or implies that a product or trader has a positive or no impact on the environment or is less damaging to the environment than other products or traders, respectively, or has improved their impact over time"⁴.

It is hard to recognize when a green claim becomes greenwashing, hence the numerous guides designed to help corporations develop a clear and informed approach. The [Guidelines for Providing Product Sustainability Information](#) released in 2017 identify five fundamental principles and five aspirational principles to guide corporations in the development of a responsible communication strategy on environmental claims. In order not to cross over into greenwashing, environmental information and communication must meet at least the five fundamental criteria, which can also be found in several legislations.

COLOMBIAN DECREE 1369 OF 2014

This Colombian decree stipulates that "the claim must be complete, truthful, transparent, timely, verifiable, up-to-date, understandable, accurate and appropriate and must not omit relevant information that may mislead consumers" which is aligned with the five fundamental principles of the Guidelines.

⁴ Article 1 of the European Commission's directive proposal.



RELIABILITY

Build your claims on a reliable basis

- Accurate and scientifically true Robust and consistent
- Substantiated data and assumptions

Telling consumers the truth is fundamental to gaining their trust, which is a prerequisite for ensuring that they purchase and use products in a more sustainable manner. Claims must therefore be based on substantiated evidence. Consumers can then be sure that their action is contributing to a greater good, something of which they are increasingly conscious.

The scientific complexity of environmental questions compels corporate actors to base their environmental claims on substantiated scientific methods that meet state-of-the-art standards. This entails adopting standards of accuracy and robustness.

Trustworthiness can be enhanced by asking an external body to assess the level of reliability of the information and data.



RELEVANCE

Talk about major improvements, in areas that matter

- Significant aspects ('Hotspots') covered
- Not masking poor products performance, no burden shifting
- Genuine benefit which goes beyond legal compliance

Consumers need to be sure that sustainability claims are relevant to the product and that their informed purchasing decisions and, if applicable, their changed purchasing behaviours, are relevant and have an impact.

The sustainability claim must provide relevant information on certain features (for example processes, materials used in production or impacts linked to the intended use of the product) that, according to the selected scope of the underlying study and the applied methods, contribute significantly to the sustainability profile of the product.



CLARITY

Make the information useful for the consumer

- Exclusive and direct link between claim and product
- Explicit and easy to understand
- Limits of claim clearly stated

Consumers want clear messages and language to inform their purchasing decisions, as well as to know how to use the product responsibly and what to do at the end of its life (for example reuse, recycle or dispose of it responsibly). This enables consumers to take action. Environmental claims may lead consumers to believe that certain products are more environmentally friendly than they really are. This can take the form of an exaggeration or misrepresentation of an improved environmental performance, or a claim that cannot be verified as to its relevance or truth. The UNEP Guidelines present many illustrations about this requirement for clarity.



TRANSPARENCY

Satisfy the consumer's appetite for information, and do not hide

- Developer of the claim and provider of evidence published
- Traceability and generation of claim (methods, sources, etc.) published
- Confidential information open to competent bodies

Transparency means that the information must be essential, true and rational; the environmental information available to the consumer must be sufficient to guide them in their decision-making process, without being so detailed that it blinds their ability to assess the quality of the product. This is how corporate actors can develop a balanced approach in their communication strategy. In particular, the consumer must be in a position to check the scientific data to support environmental claims: selected methods, data sources, assumptions or professional judgements, value choices (for example for data aggregation) must be published or available.



ACCESSIBILITY

Let the information get to the consumer, not the other way around

- Clearly visible: claim easily found
- Readily accessible: claim close to the product, and at required time and location

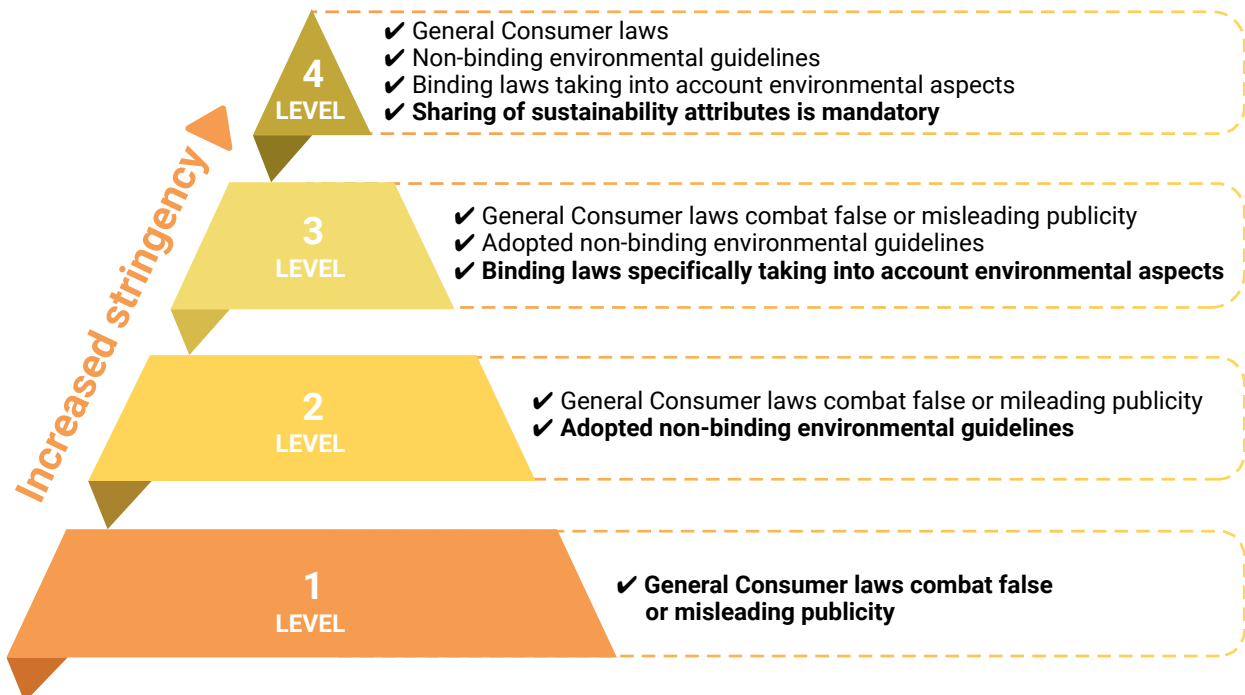
Time and interest are often limiting factors for consumers when making a purchasing decision, particularly for frequent purchases (such as groceries). As a result, purchasing and usage behaviour can be more difficult to change. The environmental claim must be clearly visible and remain clearly accessible when the consumer needs it so they can exercise their purchasing options. For example, a QR code can be used to direct the consumer to a website presenting all necessary information that cannot be included on the product.

This analysis has proposed that the 11 jurisdictions surveyed⁵ be classified into four levels of legislation according to the degree of advancement and specificity of their enforcement mechanisms. These legislations are presented in detail in the Annex:

- **LEVEL 1:** Countries that do not have specific legislation against greenwashing but that **enacted general consumer laws to combat false and misleading publicity**. These countries are Mexico, Morocco, the Republic of Moldova and South Africa.
- **LEVEL 2:** Countries that have enacted general consumer laws to combat false and misleading publicity and have also **adopted guidelines (i.e. non-binding policy instruments) to formulate green claims**. In these countries and jurisdictions, guidelines serve as useful interpretation tools for judges and civil society organizations and also give clear guidance to the business sector. These countries are Canada, Peru, and certain states in the United States of America (California, Washington, Maryland, Florida, Indiana and Alabama).

- **LEVEL 3:** Countries that have enacted general consumer laws and developed guidelines on how to provide sustainability information. These countries have also enacted **laws and policy instruments specifically considering environmental aspects** designed to fight greenwashing. These countries are Colombia, and the Republic of Korea.
- **LEVEL 4:** Countries that have specific legislations on misleading and false environmental advertising and are in the process of implementing laws that make **the availability of product sustainability information mandatory**. These measures are found in European Union and French legislation.

Many countries appear to be adopting mechanisms to specifically combat greenwashing. Legal analysis revealed that the regulatory framework consisted of legislation, policy responses, ancillary regulations and guidelines. In most systems, misleading and deceptive advertising is prohibited, but there are many nuances when it comes to applying the rules to environmental claims. Enforcement measures vary greatly from one jurisdiction to another.



⁵ Canada, Colombia, the European Union, France, Mexico Morocco, Peru, the Republic of Korea, the Republic of Moldova, South Africa and the United States of America.



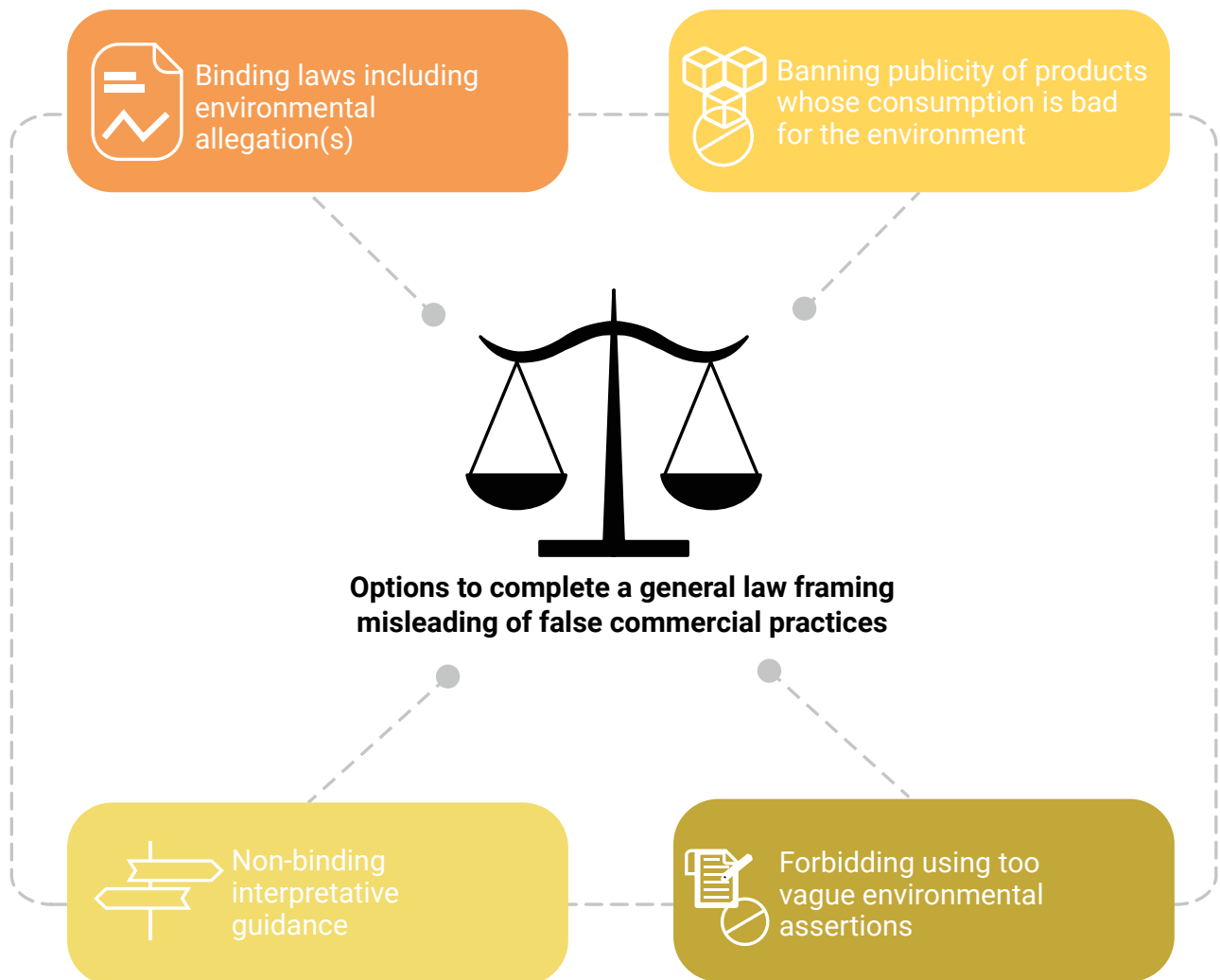
beboys/Shutterstock.com

III. WHAT ARE THE FIRST STEPS IN ESTABLISHING A FRAMEWORK TO COMBAT GREENWASHING?

The analysis of the different regulatory frameworks in the countries studied indicated different steps to set up a framework to fight greenwashing. The first step is to adopt general consumer protection laws or strengthen any existing ones against false or misleading commercial practices. This legislation can be strengthened by developing relevant guidelines to help enforcers in their interpretation of what constitutes misleading green claims and

to support economic actors in following better practices.

There is scope to go further by prohibiting the use of certain environmental claims, especially those that are vague and ambiguous. Consideration should also be given to banning the advertising of certain products that are bad and particularly toxic for the environment.



1. A STRUCTURED LAW FRAMING MISLEADING OR FALSE COMMERCIAL PRACTICES

In many countries, such as Mexico, Morocco, the Republic of Moldova and South Africa, legislation establishes general requirements for consumer protection and ensuring the necessary framework for advertisement of products and services, including requirements for complete and clear information on

their essential characteristics. In these countries, the laws ensure the rights and interests of consumers in case of unfair, misleading or false commercial practices and enable better participation in the decision-making process.

EXAMPLES OF A RANGE OF LAWS FRAMING MISLEADING OR FALSE COMMERCIAL PRACTICES

Mexico [The Federal Law on Consumer Protection](#) establishes that “Information or advertising relating to goods, products or services that is disseminated by any means or form must be truthful, verifiable, clear and must not contain text, dialogue, sounds, images, brands, designations of origin and other descriptions that induce or could induce error or confusion by being misleading or abusive” (art. 32).

Republic of Moldova [Law no. 105-XV on Consumer protection](#) covers the following consumers’ rights: “protection against the risk of purchasing a product, a service that could affect his life, health, inheritance or security or prejudice his rights and legitimate interests; (d) complete, correct and precise information regarding the purchased products and services; (...)” (art. 5).

South Africa [The Consumer Protection Act](#) established the “right to information in plain and understandable language” (art. 22) and the “Right to fair and responsible marketing” (art 29.)

Analysis of the various countries’ legislations (see Annex) assessed whether the principles of the guidelines providing sustainability information were incorporated, directly or indirectly.

Most of the countries use similar principles which confirm the pertinence of the UNEP Guidelines as a framework to combat greenwashing.

2. AVAILABLE GUIDELINES AS INTERPRETATIVE RESOURCES

To support businesses in drafting an environmental claim, many guides aligned with the [Guidelines for Providing Product Sustainability Information](#) have been developed. Some guides are drafted and published by State agencies and are generally not binding; they serve as a framework for policies and provide interpretative guidance for enforcers. They are also useful for businesses when formulating green claims.

State agency guides should be the product of collaboration, including in the drafting process, between State and private actors to ensure their pertinence and impact. The [guide produced by the French Agency for Ecological Transition \(ADEME\)](#) is a good example of such practice. The guide was developed in partnership with the French Association of Communication Consulting Agencies, the Union of Advertisers and the Professional Advertising Regulatory Authority.

The Federal Trade Commission (FTC) at the United States federal level published the Guides for the Use of Environmental Marketing Claims (“Green Guides”) to present general principles on environmental claims. These guides list the following three principles: substantiation of environmental marketing claims; general claims of environmental benefit should not be made (“environmentally friendly” or “eco-friendly” are too broad); clearly crafting comparative claims. The Green Guides were updated several times to meet evolving societal concerns. The guides were first issued in 1992 and were revised in 1996, 1998 and 2012; in December 2022 a public consultation to update the Green Guides⁶ was launched. The FTC’s 2012 update of the guides contain new sections on: (1) certifications and seals of approval; (2) carbon offsets, (3) free-of claims, (4) non-toxic claims, (5) made with renewable energy claims, and (6) made with renewable materials claims. The Green Guides are not agency rules or regulations, instead describing the types of environmental claims the FTC may or may not find deceptive under section 5

of the FTC Act.⁷ For example, they advise marketers not to make unqualified degradable claims for a solid waste product unless the claim can be proven. The FTC has brought several actions in recent years.

In Canada, in December 2021, the Competition Bureau archived its 2008 guidance on environmental claims and replaced it with the [more high-level guidance “Environmental claims and greenwashing”](#), which recommends best practices: (1) avoid vague claims such as “eco-friendly” or “safe for the environment”, which can lead to multiple interpretations, misunderstanding and deception; (2) ensure claims are truthful and aren’t misleading; (3) be precise about the environmental benefits of the product, claims must be tested and all tests must be adequate and proper; (4) do not result in misinterpretations ; (5) do not exaggerate the environmental benefits of the product; (6) do not imply that the product is endorsed by a third-party organization if it isn’t.

In Colombia, the non-binding [Colombian code for advertisement self-regulation](#) contains a principle about the protection of the environment. It states that advertisements and messages “should consider and, when possible, stimulate actions and behaviours to respect and protect the environment”. It also states that marketing messages can contain environmental claims that refer to environmental and ecological aspects relating to the production, packaging, distribution, use, consumption and disposal of products, as long as these claims are truthful and demonstrable (art. 24).

Other guides are produced by **private actors**, for instance guidelines endorsed by sectoral industry such as those [on environmental claims endorsed by members of EDANA](#), a global trade association of nonwovens and related industries, with a focus on Europe, the Middle East and Africa. They serve as self-regulation mechanisms which are very useful in guiding corporations to better understand misleading environmental claims.

⁶ <https://www.ftc.gov/news-events/news/press-releases/2022/12/ftc-seeks-public-comment-potential-updates-its-green-guides-use-environmental-marketing-claims>

⁷ Under section 5, the agency can take enforcement action against deceptive claims, which ultimately can lead to commission orders prohibiting deceptive advertising and marketing, as well as fines, if those orders are later violated.

Countries could consider adopting international or regional guidelines such as the [UNEP Guidelines Providing Product Sustainability Information](#) and adapting them according to their unique legal culture.

For example, in Chile, the UN Global Compact recently published a [guide](#) based on the UNEP Guidelines. The guidelines were adapted to Chilean context and practice, making it more operational.

EXISTING GUIDELINES ON DRAFTING ENVIRONMENTAL CLAIMS:

- [Peruvian Guide on Environmental Advertising](#)
- [UNEP Guidelines for Providing Product Sustainability Information's principles](#)
- [Guide by the French Agency for Ecological Transition \(ADEME\)](#)
- [Colombian code for advertisement self-regulation](#)
- [FTC "Green Guides"](#)
- [Canadian guidance on environmental claims and greenwashing](#)
- [Guidelines on environmental claims endorsed by members of EDANA](#)
- [Chile UN Global Compact guide](#)

3. ENHANCED LEGISLATION TO INCLUDE ENVIRONMENTAL CLAIMS

To reinforce the call for action on environmental issues, some legislations include specific references to environmental marketing claims in the general

legal regime of false and misleading commercial practices.

EXAMPLES OF A RANGE OF LEGISLATION INCLUDING ENVIRONMENTAL CLAIMS

Colombia The [decree 1369 of 2014](#) stipulates the object, scope and requirements of environmental marketing claims.

Article 3: "Requirements. The advertising of the environmental qualities, characteristics or attributes of any product must comply with the following requirements: 1. It must be an objective and proven assertion. 2. The tests, research, studies or other evidence must be based on the application of recognised technical and scientific procedures. The advertiser shall keep at the disposal of the Superintendence of Industry and Commerce the information that proves its claims. 3. The claim must be complete, truthful, transparent, timely, verifiable, up to date, understandable, accurate and suitable and not omit relevant information that could mislead consumers. 4. Environmental claims must indicate whether the quality, characteristic or attribute advertised is predicated of the product, its packaging or a portion or component thereof, and further specify the environmental benefit it represents. 5. If the advertising is based on a comparison of an old product with a new product of the same brand, the environmental characteristics of the old product and those of the new product must be specified. 6. If comparative advertising is developed on the basis of different brands, the environmental characteristics of the compared products shall be specified".

Republic of Korea, the [Environmental Technology and Industry Support Act](#) of 2011 (last amended in 2016) prohibits acts "that may deceive or mislead consumers with respect to the environmental impact of products". Article 16-10 (Prohibition against Unfair Labelling or Advertising, etc.) provides that: (1) Manufacturers, manufacturing sellers, or sellers (hereinafter referred to as "manufacturers, etc.") shall not engage in any of the following acts that may deceive or mislead consumers with respect to the environmental impact of products: 1. False or exaggerated labelling or advertising; 2. Deceptive labelling or advertising; 3. Unfairly comparative labelling or advertising; 4. Slandorous labelling or advertising.

4. BANNING THE USE OF VAGUE ENVIRONMENTAL CLAIMS

To avoid misleading consumers into believing that a product or service is better for the environment than it really is, vague environmental claims should not be used. This is particularly true for expressions such as “carbon neutral”, “made from recycled materials” or even “sustainable product”. Many corporations tend to adopt this type of claim to support their products and services, without any scientific evidence.

The report from the [United Nations High-Level Expert Group](#) on the Net Zero Emissions Commitments of Non-State Entities, including businesses, financial institutions, cities and regions and released during COP27 in Sharm el-Sheikh, calls to attention the need to avoid any kind of carbon-neutral green claims when not proven.

The [French Anti-gaspillage pour une économie circulaire \(Anti-waste for a circular economy – AGECE\) law](#), dated 10 February 2020, adopted a principle prohibiting the use of certain expressions such as “biodegradable” and “respectful of the environment” which was mitigated if information was made easily accessible to the public in a

balance sheet of greenhouse gas emissions to demonstrate the validity of the claim.

Other examples of such prohibitions exist in other jurisdictions, including in some American states. In [California](#), honesty requirements for labelling on recyclable materials provide that the misuse of the “chasing arrows” symbol, the term “recyclable” or any other suggestion that a material is recyclable, is prohibited. Likewise, the California Public Resources Code Section 42357 provides that companies may label plastic products as “compostable” or “home compostable” only if these products meet one of two specific American Society for Testing and Materials (ASTM) standards or have OK compost HOME certifications. In [Washington](#), the law authorizes the state’s attorney general and local governments to pursue false or misleading environmental claims and “greenwashing” for plastic products claiming to be “compostable” or “biodegradable” when in fact they are not.⁸ In [Maryland](#), plastic products cannot be labelled “biodegradable”, “degradable” or “decomposable” unless they meet certain standards.⁹

5. BANNING ADVERTISING OF CERTAIN PRODUCTS OF WHICH CONSUMPTION IS HARMFUL TO HEALTH AND/OR BAD FOR THE ENVIRONMENT

Some countries have banned advertising of certain products. There are examples where the legislative power adopted laws to ban advertising of certain products considered harmful to stop consumers from being tempted to purchase them. In France, the “Evin law” dated 10 January 1991 banned advertising of cigarettes and alcohol in order to fight against smoking and alcoholism.

Similarly, the French Climate and Resilience law of 22 August 2021 has banned advertising the most polluting vehicles¹⁰ in order to reduce their attractiveness to consumers. The law also bans advertising fossil fuels.¹¹

⁸ Revised Code of Washington, section 70A.455.010(2).

⁹ Maryland Code, Environment, section 9-2101 et seq.

¹⁰ [Article L. 229-62 of the French Environmental Code](#): “publicity relative to the sale or the promotion of certain types of vehicles whose carbon dioxide emissions are above 123 g/km, is forbidden of as 1 January 2028” (sic).

¹¹ [Article L. 229-61 of the French Environment Code](#)

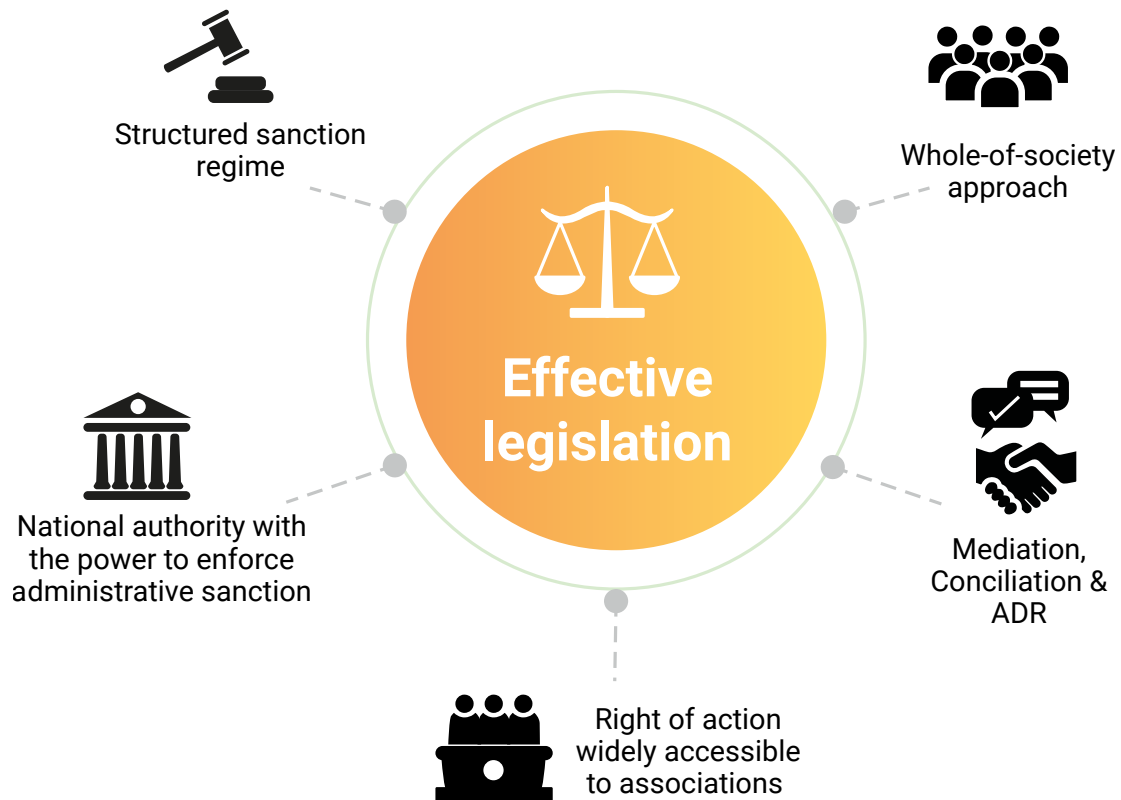


Roselynn/Shutterstock.com

IV. WHAT ARE THE DRIVERS OF ACTION IN IMPLEMENTING EFFECTIVE LEGISLATION?

Having legislation and relevant guidance in place is the first step in combating greenwashing. Other key drivers for success are to: (i) develop adequate enforcement mechanisms in a structured, proportionate and diversified sanction regime, (ii) have a national authority with the power to enforce

administrative sanctions, (iii) have a strong civil society and facilitate right of action, as well as effective mediation processes, and (iv) involve a broad group of stakeholders to implement effective legislation.



1. DEVELOP AND ADOPT A STRUCTURED, PROPORTIONATE AND DIVERSIFIED SANCTION REGIME

After a thorough review of a sample of legislation on misleading and false advertising practices, with or without specific references to environmental attributes, a proper and systematic implementation mechanism including a clear regime of appropriate sanctions is needed. Sanctions should be developed and adopted systematically while also being diversified, proportionate and gradual, ranging from an administrative regime to a civil one and also including the criminal justice system in cases where the violation is proven to be intentional and to have caused severe and damaging effects.

Several sanction systems could apply to prevent and stop greenwashing. For instance, in the Securities and Exchange Commission (SEC) in the United States of America, material misrepresentations by public companies¹² can amount to a violation of [SEC Rule 10b-5 of the Securities Exchange Act of 1934](#), which can constitute fraud. Greenwashing practices in official corporate documents or statements could amount to a violation of United States of America federal law.

¹² A public company is a company with public ownership and that has shares that trade on a public market. As it is public, it is required to meet the SEC's strict filing requirements for public companies.

EXAMPLES OF FINES AND SANCTIONS

Country	Sanctions
France	The Climate and Resilience law amended article L. 132-2 of the French Consumer Code, which defines the applicable penalties in case of misleading commercial practices. The fine is equal to 10 per cent of the turnover from or 50 per cent of the cost incurred for the advertising or the practice that constitutes the offense. The fine can be increased to 80 per cent when misleading commercial practices are based on environmental claims.
Mexico	Individuals are liable to a sentence of up to two years in prison. Violations of the provisions of article 32 of <i>Ley Federal de Protección al Consumidor</i> , which are considered particularly serious, will be liable to fines ranging from approximately \$7,500 to \$211,000, or a fine of up to 10 per cent of the offender's annual gross income from the marketing and selling of the goods. ¹³
Peru	Fines for a serious infringement of up to approximately \$300,000 and not exceeding 10 per cent of the gross income received by the infringer or, for a very serious infringement, a fine of up to approximately \$830,000 and not exceeding 10 per cent of the gross income received by the infringer for all his economic activities. ¹⁴
Republic of Korea	A penalty surcharge not exceeding the amount equivalent to 2 per cent of the turnover determined by presidential decree or, in case of no turnover, a penalty surcharge may be imposed within the range of up to approximately \$383,000. ¹⁵
United States of America - State of California	In 2017, the State of California settled cases, negotiating penalties of \$27,000 and \$940,000 against Overstock.com and Walmart respectively. In 2018, 23 California district attorneys obtained a \$1.5 million settlement against Amazon for allegedly deceptive biodegradable claims.
United States of America	In 2017, Volkswagen, a major automobile manufacturer, agreed to a guilty plea and paid \$20 billion in penalties for using software designed to mislead the United States Environmental Protection Agency and American consumers about vehicle emissions.

¹³ [Ley Federal de Protección al Consumidor](#), art. 32: Fines ranging from 146,620.98 to 4,105,387.31 Mexican pesos.

¹⁴ [Decreto legislativo no. 1044](#), art. 52: Fines are established in Unidad Impositiva Tributaria (UIT), respectively 250 UIT and 700 UIT. In 2022, the value of the UIT as a reference index in tax regulations was 4,600 soles.

¹⁵ [South Korea Environmental Technology and Industry Support Act](#), Article 16-13 (Penalty Surcharges): A penalty surcharge may be imposed within the range of up to 500 million won.

2. CREATE A NATIONAL AUTHORITY WITH THE POWER TO ENFORCE ADMINISTRATIVE SANCTIONS, IMPOSE FINES AND/OR PROHIBIT CERTAIN TYPES OF ADVERTISING

Countries and jurisdictions wishing to combat greenwashing should be sure to first create a national authority with sufficient power to protect consumers' rights, including the authority to punish for greenwashing practices. States should work towards ensuring that consumer protection enforcement agencies have the necessary human and financial resources to promote effective compliance and to obtain and facilitate redress for consumers in relevant cases ([United Nations Guidelines for Consumer Protection](#)). Specific training for enforcement agencies should also be supported.

State agencies should be empowered to impose administrative sanctions, including a system of fines. The process should be put in place in a public and transparent manner and preferably be independent and managed separately from the executive branch of government. This system could include establishing a naming-and-shaming procedure which would make public the bad practices of concerned corporate actors. This would force such actors to reform themselves publicly and to show what steps they have taken to ensure that no instances of false and misleading advertising recur.

In South Africa, the [Consumer Protection Act](#) (2008) creates a commission that is a regulatory body incorporating redress principles. According to article 69 "A person (...) may seek to enforce any right in terms of this Act or in terms of a transaction or agreement, or otherwise resolve any dispute with a supplier, by (...) filing a complaint with the Commission". The Commission, in the case of alleged violations of this act and after investigating such a complaint, may issue and enforce compliance notices or refer the matter to the tribunal or to the National Prosecuting Authority.

The national authority can also help companies to understand which behaviours should be avoided by providing clear guidance (like the French [guidelines for self-assessment of claims](#)) or, should the legislative power decide to institute a pre-approval system for environmental claims, these State agencies should be entrusted with verifying claims before the advertisement is released to the market.

Finally, one more step could be to set up a system for pre-approving green claims, similar to the [nutrition and health claims in the European Union \(Bureau européen des unions de consommateurs - BEUC\)](#). Such a system would alleviate the burden on consumer authorities when making technical assessments on whether a product is sustainable. The Republic of Korea has introduced such a system in the Environmental Technology and Industry Support Act. The Article 16-14 (Pre-examination of Labels and Advertisements) stipulates that (1) Before indicating matters related to the environmental impact of products in labels or advertisements, manufacturers, etc. may submit the contents of such labels or advertisements to the Minister of Environment and ask him or her to review whether such contents violate Article 16-10 (1), and that (2) The Minister of Environment shall review the contents of labels or advertisements submitted under paragraph (1) as prescribed by Ordinance of the Ministry of Environment, and notify the results thereof to manufacturers, etc. who have requested the review.

3. ENCOURAGE THE EMPOWERMENT OF CONSUMERS AND ENVIRONMENTAL PROTECTION ASSOCIATIONS, FACILITATE A WIDELY ACCESSIBLE RIGHT OF ACTION AND CREATE A DEDICATED TYPE OF CLASS ACTION

The first step in applying the [United Nations Guidelines for Consumer Protection](#) is to support the creation of consumer and environmental protection associations. In several legal systems, consumer protection associations already play a major role in implementing effective legal mechanisms to protect consumers and obtain redress for them. To enable such a system and ensure that it functions properly, these associations must be empowered with widely accessible right of action (a right to begin and prosecute an action in the courts), with the capacity to trigger civil liability lawsuits and be authorized to request injunctions before a court of law to end any misleading communication campaign or unlawful and/or dangerous behaviour.

For example, Moroccan consumer protection laws empower associations, including those that do not have a public interest status, to file legal actions in civil liability and against certain types of contracts. Alternative dispute resolution (ADR) mechanisms (different ways to resolve disputes without a trial, including mediation) are also encouraged and have a high success rate (72 per cent of such disputes are resolved through ADR).¹⁶

Another option is to create a dedicated type of class action (a lawsuit filed or defended by an individual or small group acting on behalf of a large group) applicable in cases of greenwashing.

4. FOSTER COOPERATION BETWEEN ALL ACTORS TO DEVELOP AND IMPLEMENT PROPER AND EFFECTIVE LEGISLATION AND REGULATIONS

In order to be successful, the legislative process must be inclusive and associated with a large number of stakeholders from civil society, universities and the corporate world. This will enable increased acceptance and credibility as recommended by the aspirational principle on collaboration of the UNEP Guidelines for Providing Product Sustainability Information, and can be achieved by adopting regulations involving stakeholder consultation in the drafting process.

Creating sectoral initiatives and organising training for corporate actors with the help and support of trade organizations and chambers of commerce would encourage cooperation and build dialogue between a variety of actors, ranging from corporations to consumer associations and civil society at large.

With a view to achieving wider cooperation and more inclusive participation of all concerned stakeholders, it is suggested that a mediation system be considered to replace the systematic use of arbitration in disputes over greenwashing practices. Mechanisms of conciliation and mediation are much more accessible and user-friendly than arbitration. They could help resolve many conflicts in a creative and positive way, be it interpretative or to help stop damaging practices more rapidly and efficiently. Actors would benefit from feeling included in the process and feel motivated to play a more active role; this is what is needed to help change bad behaviours and practices. For example, Mexico has adopted a conciliation process under its federal law of consumer protection.¹⁷ Although not specific to greenwashing, it could certainly be applied to such practices.

¹⁶ United Nations (2018). Voluntary peer review of consumer protection law and policy: Morocco. p. 20 https://unctad.org/system/files/official-document/ditccplp2018d1_en.pdf

¹⁷ *Ley Federal de Protección al Consumidor*, article 111 on conciliation proceedings



Bruno23/Shutterstock.com

V. FORWARD-LOOKING LEGISLATION THAT FAVOURS AND TAKES INTO ACCOUNT PRODUCT SUSTAINABILITY

This brief seeks to show that general consumer laws against misleading or false publicity could be strengthened by incorporating different mechanisms including explicit references to environmental issues, drafting guidelines, banning certain practices such as the use of vague language, or forbidding the publicity of certain products known to be harmful to the environment.

A next step already taken in some front-runner legislations (namely those of France and of the European Union) is to look at the environmental quality of products, regardless of their performance level and assess their impact and sustainability in order to empower consumers in their product purchases. To achieve this, producers should be required to inform consumers about certain environmental characteristics of their products and services.

Producers are compelled to display information relating to certain criteria such as the repairability, robustness or reliability of or the incorporation of recycled materials in the product. France provides us with an example of innovation in its adoption of the AGECE law, dated 10 February 2020, in application of extended producer responsibility (EPR) policies. The law requires those who manufacture products that generate waste to clearly indicate on the label the environmental qualities and characteristics of the product, based on a life cycle approach (see [art. L. 541-9 of the French environmental regulations](#)).

Repairability is a particularly important feature as it orients consumers towards the purchase of products whose lifespan will be longer because they can be repaired; this reinforces the fight against planned obsolescence which plagues many products.¹⁸

An additional step forward consists of implementing a workable and efficient notation system by establishing an “eco-score”, visible on the product and similar to the existing “nutri-score” which informs the consumers of the nutritional value of food products available on the market. To this end, the French Climate and Resilience law has put in place a five-year experimentation period to introduce the “eco-score” which will become mandatory on

certain categories of products determined by decree with the purpose of informing the consumer of the environmental impact of the products in a reliable and accessible way.



Similarly, the European Union is in the process of putting in place a regulation¹⁹ to establish environmental footprint measures and labelling for certain products and services in accordance with a mandatory accounting method. Experiments have been conducted since 2013 on the Product Environmental Footprint (PEF) method, with high participation by stakeholders including corporate actors, industrial and sectoral associations, technical experts, academics, NGOs, consumer associations and governmental actors. These directives should be ready for adoption in 2023. This regulation seeks to standardize and reinforce the reliability of environmental data; it aims to assess the environmental footprint of products and services. The product environmental score, which would be visible on the products and available online, will provide clear, reliable and comparable data for consumers, enabling them to pick products with a lower environmental impact.

The methodology developed by the Directorate-General for Environment of the European Commission is inspired by a set of ISO standards, including ISO 14040 (life cycle assessment) and ISO 14020 (environmental statements). It relies on a general and mandatory framework applicable to all products and services, with additional specific criteria designed for certain sectors. In order to

¹⁸ <https://www.ecologie.gouv.fr/indice-reparabilite>

¹⁹ <https://www.oneplanetnetwork.org/sites/default/files/from-crm/InTex%2520-%252007272022.pdf>

define criteria, it is important that corporations acting in the same sector work together and support research on sustainability and its various assessment criteria; in most cases sustainability is product specific. This collaboration is applicable to specific product categories, where [PEF](#) is complemented by PEF Category Rules (PEFCRs). It will be conducted in accordance with a multi-criteria method based on 16 environmental parameters

including climate change, particulate matter, depletion of water resources, depletion of non-renewable energy resources, land use, acidification and carcinogenic human toxicity. However, it should be noted that it is difficult and complex to provide a clear and concise assessment of the environmental footprint of products to be scientifically assessed, as many other considerations also come into play.

16 ENVIRONMENTAL IMPACTS CONSIDERED IN THE PEF METHOD



Climate change



Water use



Land use



Acidification



Ozone depletion

Human toxicity,
non-cancerEutrophication
marineEcotoxicity
freshwaterEutrophication,
terrestrialParticulate
matterResource use,
mineral and metalsResource use,
fossilsEutrophication,
freshwaterHuman toxicity,
cancerIonising radiation,
human healthPhotochemical
ozone formation,
human health

CONCLUSION

This brief is part of a global effort to address the many challenges posed by the environmental and social issues of the twenty-first century. While the fight against greenwashing is a real struggle, it also offers a rare opportunity to enable consumers to play a key role in transformation and to become

more involved. Governments must increase their commitment to stronger legislation and support effective mechanisms and drivers, such as full participation of all relevant parties and stronger stakeholder engagement, as described above.

Key takeaways:

What can countries do to strengthen their regulations against greenwashing and how can the UNEP Guidelines contribute?



Define objectives according to the level of regulation (level 1 to 4) that best fits national context.



Adapt the UNEP Guidelines to national context. This will (1) guide businesses in improving the way they convey sustainable information to consumers and (2) provide interpretative guidance for enforcers. It is also possible to adapt the guidelines to specific sectors (food, textiles, chemicals of concern, etc.).



Make specific reference to environmental aspects in national laws to combat false and misleading publicity.



Use the five fundamental principles²⁰ of the UNEP Guidelines in legislations and clarify that claims must be based on a life cycle approach.



Ban vague expressions such as “made from recycled materials” and “net zero”.



Make available to specialized agencies access to data and methodologies used by businesses.



Create or strengthen a national authority with the power to enforce administrative sanctions and encourage the development of consumers and environmental protection associations.



Develop a system of sanctions that is structured, proportionate and diversified (administrative, civil and criminal) together with a system of alternative dispute resolution (ADR) such as conciliation and mediation.



Favour inclusive multi-stakeholder participation in order to facilitate the implementation of the legislation.

²⁰ Reliability, relevance, clarity, transparency and accessibility

ANNEX: SUMMARY OF REGULATORY AND LEGISLATIVE TEXTS BY LEVELS

CHART OF LEGISLATIONS AND REGULATIONS BY LEVEL OF MATURITY

Summary

LEVEL 1	28
MOLDOVA	28
SOUTH-AFRICA	29
MEXICO	30
MOROCCO	31
LEVEL 2	32
PERU	32
US	34
CANADA	38
LEVEL 3	41
COLOMBIA	41
SOUTH KOREA	44
LEVEL 4	47
FRANCE	47
EUROPEAN UNION	49

COUNTRIES THAT DO NOT HAVE SPECIFIC LEGISLATION ON GREENWASHING BUT HAVE SPECIFIC LAWS ON MISLEADING AND FALSE PUBLICITY INCLUDING REQUIREMENTS TO DIVULGE INFORMATION IN PUBLICITY

MOLDOVA

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
Law No. 105-XV on the consumers protection	Disclosure information Misleading advertising	Y	N	<p>This law establishes the general requirements for consumers' protection, ensuring the necessary framework for products and services, including requirements for complete information on their essential characteristics, and ensuring the legitimate rights and interests of consumers in case of unfair or misleading commercial practices and their participation in substantiating and making decisions that concerns them as consumers.</p> <p>This law applies to unfair commercial practices of traders towards consumers, before, during, and after a commercial transaction related to a product, a service.</p> <p>Article 5 envisages the following consumers' rights : Every consumer has the right to: (...) b) protection against the risk of purchasing a product, a service that could affect his life, health, inheritance or security or prejudice his rights and legitimate interests; d) complete, correct and precise information regarding the purchased products and services; (...)</p> <p>Article 10. Unfair commercial practices: (1) Unfair commercial practices are prohibited. (2) A commercial practice is unfair if:</p> <p>a) it is contrary to the requirements of professional diligence; and b) distorts or is susceptible to distort, in whole or in part, the economic behaviour of the average consumer it reaches or to whom it is addressed or of the average member of a group, in case where the commercial practice is addressed to a certain group of consumers. (...)</p> <p>(5) Deceptive commercial practices can be deceptive actions or deceptive omissions. (6) A commercial practice is considered to be misleading if it contains false information or, in any other way, including through its general presentation, induces or may mislead the average consumer and, in any case, determines or is likely to cause the consumer to make a trading decision that he would not have made in other circumstances, even if the information is factually correct regarding one or more of the following elements:</p> <p>a) the existence or nature of the product; b) the main characteristics of the product</p>	<p>Article 10 2. Competence and right to report regarding unfair commercial practices</p> <p>(1) In order to stop and combat unfair commercial practices, persons or authorities who, according to the law, have a legitimate interest may:</p> <p>a) initiate an action in court; b) notify the Agency for Consumer Protection so that it either makes a decision on the complaints or initiates court actions against traders who have committed or are likely to commit unfair commercial practices.</p>	<p>Article 10 3. Responsibilities and sanctions for the use of unfair commercial practices by the competent courts or the Agency for Consumer Protection:</p> <p>a) order the termination of unfair commercial practices; b) order the prohibition of unfair commercial practices;</p> <p>(2) the court that issued the final judicial decision, and respectively the Consumer Protection Agency, may request that the trader publishes the judgment/decision.</p>	NO	RELIABILITY CLARITY

SOUTH-AFRICA

Note : Good practice on alternative dispute resolution (ADR) mechanisms including conciliation and mediation

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
Consumer Protection Act (68 of 2008), Consumer Protection Act Regulations as published - 1 April 2011	Disclosure information Misleading advertising	Y	N	<p>Art. 22: Right to information in plain and understandable language: Consumers have the right to demand agreement, contracts and other documents in a plain and understanding language</p> <p>Art 24: Product labelling and trade descriptions: Suppliers are not permitted to provide false, deceptive or misleading representations regarding services and products.</p> <p>It is not permitted to use innuendo, ambiguity or exaggeration when referring to products or the benefits thereof.</p> <p>Part E Right to fair and responsible marketing, including Art 29: General standards for marketing of goods or services</p>	<p>Chapter 3 Protection of Consumer rights and consumers' voice Part A Consumer's right to be heard and obtain redress</p> <p>Art. 69: <i>Enforcement of rights by consumer: A person contemplated in section 4 (1) may seek to enforce any right in terms of this Act or in terms of a transaction or agreement, or otherwise resolve any dispute with a supplier, by—</i></p> <p><i>(a) referring the matter directly to the Tribunal (...)</i></p> <p>Part B Commission investigations</p> <p>Initiating complaint to Commission</p> <p>Art 71. <i>(1) Any person may file a complaint (...) with the Commission or (2) The Commission may directly initiate a complaint concerning any alleged prohibited conduct on its own motion.</i></p> <p>Then the Commission conducts an investigation (see art. 72, 73, 74) Cf Enforcement guidelines relate to internal enforcement functions of the Commission in order to give effect to the Consumer Protection Act.</p>	<p>Y. See Part C Redress by court Powers of court to enforce consumer rights</p> <p>Art 76: <i>a court considering a matter in terms of this Act may</i></p> <p><i>(a) order a supplier to alter or discontinue any conduct that is inconsistent with this Act;</i></p> <p><i>(b) make any order specifically contemplated in this Act; and</i></p> <p><i>(c) award damages against a supplier for collective injury to all or a class of consumers generally</i></p>	<p>Chapter 3 Protection of Consumer rights and consumers' voice Part A Consumer's right to be heard and obtain redress</p> <p>Art 70: <i>Alternative dispute resolution: A consumer may seek to resolve any dispute in respect of a transaction or agreement with a supplier by referring the matter to an alternative dispute resolution agent who may be—</i></p> <p><i>(a) an ombud with jurisdiction or</i></p> <p><i>(b) an industry ombud, (c) a person or entity providing conciliation, mediation or arbitration services</i></p>	CLARITY

MEXICO

Note : Mexico has made a proposal to adopt a law on sustainable products. Good practice on conflict mediation mechanisms

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
Ley Federal de Protección al Consumidor	Disclosure information Misleading advertising	Y	N	<p>Ley Federal de Protección al Consumidor Federal</p> <p>Artículo 32 : « La información o publicidad relativa a bienes, productos o servicios que se difundan por cualquier medio o forma, deberán ser veraces, comprobables, claros y exentos de textos, diálogos, sonidos, imágenes, marcas, denominaciones de origen y otras descripciones que induzcan o puedan inducir a error o confusión por engañosas o abusivas.</p> <p>Para los efectos de esta ley, se entiende por información o publicidad engañosa o abusiva aquella que refiere características o información relacionadas con algún bien, producto o servicio que pudiendo o no ser verdaderas, inducen a error o confusión al consumidor por la forma inexacta, falsa, exagerada, parcial, artificiosa o tendenciosa en que se presenta». <i>(Information or advertising relating to goods, products or services that is disseminated by any means or form must be truthful, verifiable, clear and must not contain text, dialogue, sounds, images, brands, designations of origin and other descriptions that induce or could induce error or confusion by being misleading or abusive.</i></p> <p><i>For the purposes of this law, misleading or abusive information or advertising is understood to be that which refers to characteristics or information related to a good, product or service that may or may not be true, and which misleads or confuses the consumer due to the inaccurate, false, exaggerated, partial, contrived or biased manner in which it is presented)</i></p>	<p>Ex Post control mechanisms in collaboration with the Attorney General's Office</p> <p>"La Procuraduría podrá emitir lineamientos para el análisis y verificación de dicha información o publicidad a fin de evitar que se induzca a error o confusión al consumidor, considerando el contexto temporal en que se difunde, el momento en que se transmite respecto de otros contenidos difundidos en el mismo medio y las circunstancias económicas o especiales del mercado.</p> <p>En el análisis y verificación de la información o publicidad, la Procuraduría comprobará que la misma sea veraz, comprobable, clara y apegada a esta Ley y a las demás disposiciones aplicables"</p> <p><i>(The Office of the Attorney General may issue guidelines for the analysis and verification of specific information or advertising in order to ensure the consumer, is not misled or confused considering the temporal context in which it is disseminated, the time when it is transmitted with respect to other content disseminated in the same medium and the economic or special circumstances of the market.</i></p> <p><i>In the analysis and verification of the information or advertising, the Attorney General's Office will verify that it is truthful, verifiable, clear and in accordance with this Law and other applicable provisions).</i></p>	<p>Capítulo XIV: Sanciones:</p> <p>ARTÍCULO 128 BIS. En casos particularmente graves, la Procuraduría podrá sancionar con clausura total o parcial, la cual podrá ser hasta de noventa días y con multa de \$146,620.98 a \$4'105,387.31.</p> <p>Las violaciones a lo establecido en el artículo 32 que se consideren particularmente graves conforme a lo establecido en el artículo 128 Ter de esta ley, serán sancionadas con la multa establecida en el párrafo anterior o bien con multa de hasta un 10% de los ingresos brutos anuales del infractor obtenidos por la comercialización del bien o los bienes, productos o servicios contenidos en la publicidad respectiva, correspondiente al último ejercicio fiscal en que se haya cometido la infracción, en caso de reincidencia. <i>(Violations of the provisions of Article 32 that are considered to be particularly serious, will be liable to fine ranging from \$146,620.98 to \$4'105,387.31 or a fine of up to 10% of the offender's annual gross income from the marketing and selling of the goods)</i></p>	<p>Procedimiento conciliatorio</p> <p>ARTÍCULO 111.- La Procuraduría señalará día y hora para la celebración de una audiencia de conciliación en la que se procurará avenir los intereses de las partes, la cual deberá tener lugar, por lo menos, cuatro días después de la fecha de notificación de la reclamación al proveedor.</p>	<p>RELIABILITY</p> <p>CLARITY</p> <p>ACCESSIBILITY</p>
Proposition de Ley para la Regulación y Certificación de Productos Ecológicos y Sustentables (marzo 2020)	Certification for goods and services	N (bill)	Y	<p>Proposition:</p> <p>1) To promote and define requirements for every step of the life of a product presented as ecological or sustainable. 2) To establish best practices corporations must follow to define a product as ecological or sustainable.</p> <p>This regulation is about products and not the publicity or the information that must be divulged. It is designed to use taxonomy i.e. establish criteria to define what is a sustainable or ecological product.</p>	<p>Control mechanisms both ex-ante and ex-post through certification of ecological and sustainable products. This proposal covers the products but not their publicity.</p>			

MOROCCO

The new Moroccan law has a provision that would enable consumers to use mediation or sue corporate actors for misleading advertising. In the new law consumers association could play a key role in bringing complaints before the courts and also fight against false environmental claims.

<p>Adopted a consumer protection legislation in February 18, 2011: law n°31-08¹.</p>	<p>Creates a general regime against misleading commercial practices</p>	<p>Y</p>	<p>N (Bill) Legislative work is underway to introduce an explicit reference to environmental claims in Article 21 of Law 31-08.</p>	<p>It institutes a general protection regime against misleading commercial practices. Article 21 of the law states that "any advertising that includes, in any form whatsoever, false or misleading claims, indications or presentations is prohibited. It also forbids any advertising likely to mislead, in any form whatsoever, when it concerns one or more of the following elements: existence, nature, composition, substantial qualities, content of useful principles, species, origin, quantity, method and date of manufacture, properties, expiration date, prices or rates and conditions of sale of the goods, products or services advertised, conditions or results of their use, reasons or processes of sale and provision of services, scope of commitments made by the advertiser, identity, qualities or abilities of the manufacturer, resellers, promoters or providers".</p>	<p>There is an authority in charge of monitoring compliance with the law on misleading commercial advertising: investigators from the Ministry of Commerce and Industry, or from the Ministry of Tourism, conduct investigations and their reports relative to implementation deficiencies can lead to the prosecution of companies, which will be brought before the courts. There are mechanisms already in place to facilitate the effective implementation of the law and enable consumer legal recourse against misleading advertising. Consumer associations are about to play a very important role: they will soon be able to bring complaints before the courts as they are now empowered by the legislator to do so. They could also act to fight against false environmental claims.</p>	<p>Under Article 174 of the Act, violation of the provisions of Article 21 may be punishable by a fine of between 50,000 and 250,000 Dirhams. This amount may be increased to represent half of the expenses constituting the offense. Finally, when the violation has been committed by a legal entity, the fine is established between 50,000 and 1,000,000 dirhams.</p>	<p>A platform is available on one of the websites of the Ministry where consumers can find a lot of information on how to exercise their rights and file complaints. There are two options for handling complaints: (i) either they <u>will be dealt with by the Ministry's supervisory authorities in the case of mediation</u>, which will take place under the aegis of consumer protection associations, or (ii) they will be brought directly before the judge.</p>	<p>RELIABILITY CLARITY ACCESSIBILITY</p>
---	---	----------	---	--	--	--	--	--

¹ http://www.khidmat-almostahlik.ma/portal/sites/default/files/fichier%20Page/BO_5932_%20loi%2031-08_Fr.pdf

COUNTRIES THAT HAVE GENERIC STANDARDS ON DISCLOSURE OF INFORMATION IN ADVERTISING AND ON FALSE & MISLEADING ADVERTISING AND ENVIRONMENTAL GUIDELINES THAT ARE NON-BINDING. E.G.; USA AND CANADA. AN AUTHORITY APPLIES THE LAW AND DRAWS ON THE STANDARDS DEVELOPED IN ITS POLICIES. (SEE GREEN CLAIMS IN THE US AND CANADA)

PERU

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	Shared principles with the Guidelines for providing product sustainability information
Código de Protección y Defensa del Consumidor (LEY N. 295741)	Disclosure of information	Y	N	<p>Art 1 : "acceder a informacion oportuna, suficiente, veraz y facilmente accesible" (access to appropriate, sufficient, accurate/reliable and easily accessible information)</p> <p>Art 2 : "esta informacion debe ser relevante y brindada por el proveedor para permitir al consumidor una toma de decision o una eleccion adecuada" (this information must be relevant and provided by the supplier to enable the consumer to make an appropriate and informed decision or choice.)</p> <p>Art 3: "prohibicion de la informacion falsa o que induzca a error al consumidor respecto a su naturaleza, origen, modo de fabricacion, componentes, características, propiedades, entre otros" (prohibition of false or misleading information to the consumer with regard to its nature, origin, method of manufacture, components, characteristics, properties, among others)</p>	NO	NO		RELIABILITY RELEVANCE CLARITY ACCESSIBILITY
Decreto Legislativo N° 1044	Misleading advertising	Y	N	<p>Artículo 8 capítulo II del Decreto Legislativo N° 1044 que aprueba la Ley de Represión de la Competencia Desleal : Actos de engaño / deceptive acts «los actos de engaño son aquellos que inducen, de manera real o potencial, al error referente a los atributos, beneficios o condiciones de los productos o servicios ofrecidos» (deceptive/misleading acts are those which mislead, actually or potentially, as to the attributes, benefits or conditions of the products or services offered)</p>	<p>Greenwashing acts are described as misleading, deceitful, or false. Only an ex-post control is then possible by the Commission against disloyal and misleading information. It can be triggered by a complaint or an investigation to check the truthfulness of the information provided to the consumer. Comisión contra la Competencia Desleal de Indecopi</p> <p>Art 25.1.- La Comisión es el órgano con autonomía técnica y funcional encargado de la aplicación de la presente Ley con competencia exclusiva a nivel nacional (The Commission is the body with technical and functional autonomy in charge of the application of the present Law with exclusive competence at the national level.)</p> <p>Artículo 28.- Formas de iniciación del procedimiento.- 28.1.- El procedimiento sancionador de investigación y sanción de actos de competencia desleal se inicia siempre de oficio por iniciativa de la Secretaría Técnica (The sanctioning procedure for the investigation and sanctioning of unfair competition acts is always initiated ex officio on the initiative of the Technical Secretariat).</p>	<p>1) Medida cautelar (Art 33); 2) Multas per infracción calificada grave «de hasta doscientas cincuenta (250) UIT y que no supere el diez por ciento (10%) de los ingresos brutos percibidos por el infractor» o per infracción calificada como muy grave « una multa de hasta setecientos (700) UIT y que no supere el diez por ciento (10%) de los ingresos brutos percibidos por el infractor relativos a todas sus actividades económicas, « (Art 52); 3) Medidas correctivas (art 55); 4) Multas coercitivas por incumplimiento de medidas cautelares (art 56); 5) Indemnización por daños y perjuicios (Artículo 58)</p> <p>1) Precautionary measure (Art 33); 2) Fines for a serious infringement «of up to two hundred and fifty (250) UIT and not exceeding ten percent (10%) of the gross income received by the infringer» or for a very serious infringement «a fine of up to seven hundred (700) UIT and not exceeding ten percent (10%) of the gross income received by the infringer for all his economic activities,» (Art. 52); 3) Corrective measures (art 55) 4) Coercive fines for non-compliance with precautionary measures (Art 56). (5) Compensation for damages (Art 58)</p>	NO	

<p>Guide on Environmental Advertising</p>	<p>Disclosure of Information</p> <p>Misleading Advertising</p>	<p>N</p>	<p>Y</p>	<p>The Guide on Environmental Advertising is intended to provide guidance on advertising products or services with claims or statements related to their positive impact on the environment and sustainability. Its purpose is to prevent deceptive advertising from becoming established in the country. The document is directed towards:</p> <p>1) Advertisers engaged in green advertising: In order to ensure that the terms, colors, and claims they use on their products and advertising are appropriate.</p> <p>2) Consumers: To encourage them to adjust their consumption behavior based on accurate and objective advertising, avoiding being influenced by general claims without prior substantiation that can be verifiable and/or quantifiable.</p> <p>Section 1 provides a description of the methodology used in creating the document, as well as the abbreviations and definitions employed. Section 2 elaborates on the definition and means of environmental or sustainability advertising, along with the principles to consider while advertising. It also covers the relevant aspects of this type of advertising and its main manifestations. Subsequently, it describes the phenomenon of greenwashing and its impact on green consumers, the various documents produced by states and international organizations regarding this practice, and the applicable regulations in Peru.</p> <p>The Guide was prepared by Indecopi, the national consumer protection authority, with exclusive competence for overseeing and imposing sanctions in advertising matters.</p>	<p>NO</p>	<p>NO</p>	<p>NO</p>	<p>RELIABILITY CLARITY RELEVANCE TRANSPARENCY ACCESSIBILITY</p>
--	--	----------	----------	---	-----------	-----------	-----------	---

US

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
Section 5 of the FTC Act	Unfair or deceptive acts or practices	Y	N	<p>Section 5 of the Federal Trade Commission Act (FTC Act) (15 USC 45) prohibits “unfair or deceptive acts or practices in or affecting commerce.”</p> <p>An act or practice is unfair where it</p> <ul style="list-style-type: none"> • Causes or is likely to cause substantial injury to consumers, • Cannot be reasonably avoided by consumers, and • Is not outweighed by countervailing benefits to consumers or to competition. <p>An act or practice is deceptive where</p> <ul style="list-style-type: none"> • A representation, omission, or practice misleads or is likely to mislead the consumer; • A consumer’s interpretation of the representation, omission, or practice is considered reasonable under the circumstances; and • The misleading representation, omission, or practice is material. 	<p>The FTC (Federal Trade Commission) is responsible for enforcing Section 5 of the FTC Act. Following an investigation, the Commission may initiate an enforcement action using either an administrative or a judicial process if it has “reason to believe” that the law is being or has been violated.</p> <p>See Section 13(b) of the FTCA.</p>	<p>FTC enforcement actions:</p> <p>Administrative Enforcement of Consumer Protection and Competition Laws: 1) Administrative Adjudication; 2) Enforcing Final Commission Orders; 3) Redress After an Administrative Order is Entered; 4) Civil Penalty Enforcement Against Non-Respondents in Consumer Protection Matters.</p> <p>Judicial Enforcement: Even where the Commission determines through adjudication that a practice violates consumer protection or competition law, the Commission must still seek the aid of a court to obtain civil penalties or consumer redress for violations of its orders</p>	NO	
Section 43(a) of the Lanham Act	False designations of origin, false descriptions, and dilution forbidden	Y	N	<p>Civil action</p> <p>(1) Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which—</p> <p>(A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or</p> <p>(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person’s goods, services, or commercial activities,</p> <p>shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.</p>	Civil Action	Yes	NO	

Guides for the Use of Environmental Marketing Claims (Green Guide)	Disclosure information Misleading advertising	N	Y	<p>Guides for the Use of Environmental Marketing Claims (FTC Green Guides) present general principles on environmental claims. The guidance they provide includes: 1) general principles that apply to all environmental marketing claims; 2) how consumers are likely to interpret particular claims and how marketers can substantiate these claims; and 3) how marketers can qualify their claims to avoid deceiving consumers.</p> <p>The Green Guides describe how consumers are likely to interpret claims, how marketers can substantiate these claims and explain how marketers can qualify claims to avoid deception. <u>The Guides list the following principles: substantiation of environmental marketing claims, general claims of environmental benefit should not be made, clearly crafting comparative claims.</u></p> <p>The FTC's most recent update of the Guides contain new sections on: 1) certifications and seals of approval; 2) carbon offsets, 3) free-of claims, 4) non-toxic claims, 5) made with renewable energy claims, and 6) made with renewable materials claims. Among other modifications, the Guides caution marketers not to make broad, unqualified claims that a product is "environmentally friendly" or "eco-friendly".</p> <p>The Guides also:</p> <ol style="list-style-type: none"> 1) advise marketers not to make an unqualified degradable claim for a solid waste product unless they can prove that the entire product or package will completely break down and return to nature within one year after customary disposal; 2) caution that items destined for landfills, incinerators, or recycling facilities will not degrade within a year, so marketers should not make unqualified degradable claims for these items; and 3) clarify guidance on compostable, ozone, recyclable, recycled content, and source reduction claims. <p>The Green Guides are not agency rules or regulations. Instead, they describe the types of environmental claims the FTC may or may not find deceptive under Section 5 of the FTC Act.</p>	NO	NO	NO	RELIABILITY RELEVANCE CLARITY TRANSPARENCY ACCESSIBILITY
--	--	---	---	--	----	----	----	--

Laws of the State of California	Disclosure information False and misleading advertising environmental claims Labelling of plastic products	Y	Y	<ul style="list-style-type: none"> • Cal. Bus. & Prof. Code § 17580(a) provides that it is “unlawful for any person to make any untruthful, deceptive, or misleading environmental marketing claim, whether explicit or implied.” It further requires that companies making environmental claims must maintain records to support those claims. • Public Resources Code Section 42355.51 makes it unlawful to use any misleading environmental marketing claims on product packaging. • SB 343 (Truth in Labelling for Recyclable Materials) amends Public Resources Code Section 42355.51 to provide that the misuse of a “chasing arrows” symbol, the term “recyclable,” or any other suggestion that a material is recyclable, is prohibited. However, manufacturers may use these claims if the packaging or material is considered recyclable in the State of California pursuant to regulations to be adopted by the Department of Resources Recycling and Recovery (also known as CalRecycle). • Public Resources Code Section 42357 provides that companies may label plastic products as “compostable” or “home compostable” only if these products meet one of two specific ASTM standards or have OK compost HOME certifications. • AB 1201 (Biodegradable/Compostable Claims on Packaging/ Labeling) extends the state’s existing restrictions on several environmental marketing claims for plastic products—including “biodegradable” and “compostable” claims—so that they now arguably cover all consumer products sold in the state. 	YES	<p>YES</p> <p>Cases:</p> <ul style="list-style-type: none"> • In 2017, the state reached settled cases, negotiating penalties of \$27,000 and \$940,000 against Overstock.com and Walmart respectively. • In 2018, 23 California District Attorneys obtained a \$1.5 million settlement against Amazon for allegedly deceptive biodegradable claims. 		
Laws of the State of Washington	Labelling of plastic products	Y	Y	<p>Wash. Rev. Code § 70A.455 Plastic Product Degradability Sections</p> <ul style="list-style-type: none"> • Wash. Rev. Code § 70A.455.010(2) authorizes the state’s attorney general and local governments to pursue false or misleading environmental claims and ‘greenwashing’ for plastic products claiming to be ‘compostable’ or ‘biodegradable’ when in fact they are not. • Wash. Rev. Code § 70A.455.040(1) mandates that products labelled as “compostable” be comprised only of wood or fibre-based substrate OR must meet the ASTM composting standard D6400 or D6868, as applicable. • Wash. Rev. Code § 70A.455.030(1) prohibits labelling of most plastic products with the terms “biodegradable,” “degradable,” “decomposable”, or “oxo-degradable.” • Wash. Rev. Code § 70A.455.050 & § 70A.455.070 requires that food service products—along with certain film products—that meet ASTM composting standards must be “readily and easily identifiable.” 				

Laws of the State of Maryland	Labelling of plastic products	Y	Y	<p>Md. Code, Env't § 9-2101 et seq regulates the labelling of plastic products as "biodegradable," "degradable," "decomposable," or "decompostable."</p> <ul style="list-style-type: none"> Md. Code, Env't § 9-2102(b)(1) mandates that plastic products cannot be labelled as "compostable" unless they meet standards. Md. Code, Env't § 9-2102(a) prohibits labelling of most plastic products with the terms "biodegradable," "degradable," "decomposable," or any other term to imply that the product will break down in a landfill or any other environment. Md. Code, Env't § 9-2103(a) requires plastic bags being marketed as "compostable" to be green in color and include the word "compostable" on the bag itself. Md. Code, Env't § 9-2103(c) prohibits plastics bags labelled "compostable" from being simultaneously marketed as "recyclable." 				
Laws of the State of Florida	False and misleading advertising environmental claims	Y	Y	<p>Fla. Stat. Ann. § 403.7193 requires advertisers to maintain "records documenting and supporting the validity of representations concerning environmental harm or benefit and expand the Green Guides list of terms by including concepts such as "environmentally friendly," "ecologically sound," "environmentally safe," and "any other like term."</p>				
Laws of the State of Alabama	Labelling of plastic products	Y	Y	<p>Ala. Code § 22-27A-1 requires that no person shall distribute, sell, or offer for sale any rigid plastic container, including a plastic beverage container, labelled "degradable," "biodegradable," "compostable," or any other word suggesting the container will biodegrade, unless it meets certain requirements.</p>				
Laws of the State of Indiana	Environmental Marketing Claims			<p>Ind. Code § 24-5-17-1 et seq-Environmental Marketing Claims with violations and punishments.</p>	YES	YES		

CANADA

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
The Competition Act	False or misleading claims	Y	N	<p>Generally, the Competition Act's deceptive marketing provisions prohibit businesses from making false or misleading claims to promote a service, product or business interest. Such claims include any messages, pictures, or verbal communications, including online and in-store advertisements, social media messages, promotional emails, among other things. To determine whether a claim is false or misleading, the courts consider the "general impression" it conveys, as well as its literal meaning.</p> <p>The Competition Act also prohibits performance claims that are not based on adequate and proper testing. This includes any form of statement, warranty or guarantee of a product's performance, efficacy, or length of life. Performance claims provide consumers with important information about products or services that allow them to make informed purchasing decisions. When buying a product, Canadians expect that all performance claims are based on sound testing and that the product will perform as advertised. The Bureau's position is that performance claims that are not based on adequate and proper testing can mislead consumers into buying one product over another, undermining a fair and properly functioning marketplace and harming Canadians.</p>	<p>Ex-post facto control mechanisms</p> <p>The Bureau takes environmental claims seriously. The Bureau will take action to combat claims that raise issues under the Competition Act, the Consumer Packaging and Labelling Act as well as the Textile Labelling Act. The Bureau may consider national and international standards, technological and scientific advances, consumer behaviour and other legal requirements. <u>Environmental claims that raise issues under these laws will be examined on a case-by-case basis and assessed on their own merits.</u></p>	<p>The Act provides two adjudicative regimes to address false or misleading representations and deceptive marketing practices.</p> <p>Under the criminal regime, the general provision prohibits all materially false or misleading representations made knowingly or recklessly. Other provisions specifically forbid deceptive telemarketing, deceptive notices of winning a prize, double ticketing, and schemes of pyramid selling. The multilevel marketing provisions prohibit certain types of representations relating to compensation.</p> <p>Under the civil regime, the general provision prohibits all materially false or misleading representations. Other provisions specifically prohibit performance representations that are not based on adequate and proper tests, misleading warranties and guarantees, false or misleading ordinary selling price representations, untrue, misleading or unauthorized use of tests and testimonials, bait and switch selling, and the sale of a product above its advertised price. The promotional contest provisions prohibit contests that do not disclose required information.</p> <p>False or misleading representations and deceptive marketing practices can have serious economic consequences, especially when directed toward large audiences or when they take place over a long period of time. They can affect both business competitors who are engaging in honest promotional efforts, and consumers.</p>	NO	RELIABILITY
The Consumer Packaging and Labelling Act	False or misleading representations	Y	N	<p>The Consumer Packaging and Labelling Act (CPLA) requires that pre-packaged non-food consumer products bear accurate and meaningful labelling information to help consumers make informed purchasing decisions.</p> <p>The CPLA prohibits the making of false or misleading representations and sets out specifications for mandatory label information such as the product's name, net quantity, and dealer identity. All information on a package, whether in symbols or words, must be neither false nor misleading to consumers.</p>			NO	RELIABILITY CLARITY

Textile Labelling Act	False or misleading representations	Y	N	<p>The Textile Labelling Act is a regulatory statute. It requires that consumer textile articles bear accurate and meaningful labelling information to help consumers make informed purchasing decisions. The Textile Labelling Act prohibits the making of false or misleading representations and sets out specifications for mandatory label information such as the generic name of each fibre present and the dealer's full name and postal address or a CA identification number. The Textile Labelling Act allows designated inspectors to enter any place at any reasonable time; examine textile fibre products, open packages, examine and make copies of documents or papers; and seize products, labelling, packaging or advertising material which do not conform with the Textile Labelling Act and Regulations.</p>			NO	RELIABILITY CLARITY
Environmental Claims: A Guide for Industry and Advertisers From 2008 but archived in 2021	Misleading advertising	N	Y	<p>In 2008, Competition Bureau published guidelines regarding the direct application of these laws to greenwashing and the risk of making false, misleading and unsubstantiated environmental claims in Canada.</p> <p>The Competition Bureau has archived Environmental claims: A guide for industry and advertisers. The Guide may not reflect the Bureau's current policies or practices and does not reflect the latest standards and evolving environmental concerns. The guide will remain available for reference, research, and recordkeeping purposes, but it will not be altered or updated as of the date of archiving.</p>	ARCHIVED		NO	
Guidance Environmental claims and greenwashing	Disclosure information Misleading advertising	N	Y	<p>In December 2021, the Competition Bureau archived its 2008 guidance, Environmental Claims: A Guide for Industry and Advertisers, which had been developed in partnership with the Canadian Standards Association.</p> <p>In its place, the Competition Bureau has published the more high-level guidance Environmental claims and greenwashing, which recommends the following best practices:</p> <ol style="list-style-type: none"> 1) avoid vague claims such as "eco-friendly" or "safe for the environment", which can lead to multiple interpretations, misunderstanding and deception 2) ensure claims are truthful and aren't misleading 3) be precise about the environmental benefits of your product claims must be tested and all tests must be adequate and proper 4) do not result in misinterpretations 5) do not exaggerate the environmental benefits of your product 6) do not imply that your product is endorsed by a third-party organization if it isn't 				RELIABILITY RELEVANCE CLARITY TRANSPARENCY

Canadian Code of Advertising Standards	Disclosure information Misleading advertising	N	N	<p>The Canadian Code of Advertising Standards (Code) sets the criteria for acceptable advertising in Canada. Created by the advertising industry in 1963 to promote the professional practice of advertising, the Code is the cornerstone of advertising self-regulation in Canada.</p> <p>It is widely endorsed by advertisers, advertising agencies, media that exhibit advertising, and suppliers to the advertising process. The Code is not intended to replace the many laws and guidelines designed to regulate advertising in Canada.</p> <p>14 principles: Accuracy and Clarity Disguised Advertising Techniques Price Claims Bait and Switch Guarantees Comparative Advertising Testimonials Professional or Scientific Claims Imitation Safety Superstitions and Fears Advertising to Children Advertising to Minors Unacceptable Depictions and Portrayals</p>	<p>The Code is administered by Advertising Standards Canada (Ad Standards)</p> <p>Ad Standards administer complaint procedures for inaccurate, deceptive, or otherwise misleading environmental representations. Consumers and competitors can submit complaints to Ad Standards, which, if accepted, are managed in accordance with the Ad Standards Consumer Complaint Procedure or Advertising Dispute Procedure</p>	<p>If Council concludes an advertisement violates the Code, the advertiser, with a copy to the complainant, will be notified of the decision in writing and requested to appropriately amend the advertising in question or withdraw it, in either case without unreasonable delay.</p> <p>If an advertiser fails to participate in or comply with the provisions of the Consumer Complaint Procedure or to voluntarily comply with a decision of Council, Ad Standards will advise exhibiting media of the advertiser's failure and may publicly declare that the advertising or representation(s) in question have been found to contravene the Code, and publicly identify the advertiser of such advertising or entity making such representation(s); and may notify the Competition Bureau and/or other regulatory authorities of the fact that the advertiser of such advertising or entity making such representation(s) has not participated in or with the Consumer Complaint Procedure, and/or that the advertising or representation(s) in question has/have been found to contravene the Code, and that the advertiser or entity making the representation(s) has not complied with a decision of Council.</p>		RELIABILITY RELEVANCE CLARITY TRANSPARENCY ACCESSIBILITY
Provincial Consumer Protection Statutes	False, misleading, or deceptive representations	Y	N	<p>Many but not all provincial Consumer Protection Statutes prohibit unfair, deceptive, or abusive practices.</p> <p>These provisions generally capture any representations that are aimed at deceiving consumers, taking advantage of them, or placing undue pressure on them. Prohibited unfair practices may include making false, misleading, or deceptive representations, failing to mention an important fact, making unconscionable representations.</p>				

COUNTRIES THAT HAVE GENERAL LEGISLATION INCLUDING ON MISLEADING ADVERTISING & FRAUD, BINDING LEGISLATION ON MISLEADING ENVIRONMENTAL ADVERTISING AND NON-BINDING GUIDELINES ON GREENWASHING.

COLOMBIA

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Guidelines
Ley 1480 de 2011 (Estatuto del Consumidor)	Disclosure information Misleading advertising	Y	N	<p>The consumer's law in Colombia. Titulo VI (Title VI) is about marketing. Article 30 is about misleading claims.</p> <p>Artículo 3°. Derechos y deberes de los consumidores y usuarios.</p> <p>1.3. Derecho a recibir información: Obtener información completa, veraz, transparente, oportuna, verificable, comprensible, precisa e idónea respecto de los productos que se ofrezcan o se pongan en circulación, así como sobre los riesgos que puedan derivarse de su consumo o utilización, los mecanismos de protección de sus derechos y las formas de ejercerlos. <i>(Right to receive information: Obtain complete, truthful, transparent, timely, verifiable, understandable, accurate and suitable information regarding the products offered or put into circulation, as well be protected against the risks that may arise from their consumption or use, the mechanisms for protecting their rights and the ways to exercise them)</i></p> <p>1.4. Derecho a recibir protección contra la publicidad engañosa <i>(Right to be protected against misleading advertising.)</i></p> <p>Artículo 23 del mismo estatuto: establece que es obligación de todo proveedor y productor "suministrar a los consumidores información, clara, veraz, suficiente, oportuna, verificable, comprensible, precisa e idónea sobre los productos que ofrezcan y, sin perjuicio de lo señalado para los productos defectuosos, serán responsables de todo daño que sea consecuencia de la inadecuada o insuficiente información. En todos los casos la información mínima debe estar en castellano" <i>(Article 23 of the same Act establishes that it is the obligation of all suppliers and producers "to provide consumers with clear, truthful, sufficient, timely, verifiable, understandable, accurate and suitable information on the products they offer and, without prejudice to the provisions on defective products, they shall be liable for any damage resulting from inadequate or insufficient information. In all cases the minimum information must be in Spanish)</i></p>	<p>Artículo 58. Procedimiento. La Superintendencia de Industria y Comercio tiene competencia en todo el territorio nacional</p> <p>Procedure. The Superintendence of Industry and Commerce has jurisdiction throughout the national territory.</p>	<p>Artículo 30. Prohibiciones y responsabilidad de la publicidad engañosa (Article 30 defines Prohibitions and liability for misleading advertising).</p> <p>El anunciante será responsable de los perjuicios que cause la publicidad engañosa. El medio de comunicación será responsable solidariamente solo si se comprueba dolo o culpa grave. En los casos en que el anunciante no cumpla con las condiciones objetivas anunciadas en la publicidad, sin perjuicio de las sanciones administrativas a que haya lugar, deberá responder frente al consumidor por los daños y perjuicios causados <i>(The advertiser shall be liable for damages caused by misleading advertising. The media shall be jointly and severally liable only if intent or gross negligence is proven. In cases where the advertiser does not comply with the objective conditions announced in the advertisement, without prejudice to any administrative sanctions that may be applicable, the advertiser shall be liable to the consumer for the damages caused)</i></p> <p>Art 58.10 (e siguientes): Sanciones administrativa: una multa de hasta ciento cincuenta (150) salarios mínimos legajes (sic) mensuales vigentes</p>	NO	<p>RELIABILITY</p> <p>RELEVANCE</p> <p>CLARITY</p> <p>TRANSPARENCY</p>

Decreto 1369 de 2014	Disclosure information Misleading advertising	Y	Y	<p>It regulates specifically the environmental marketing claims. This decree stipulated the object, scope, requirements of environmental marketing claims. According to some experts, this Decree was a first step to regulate greenwashing in Colombia, but it didn't have the expected effects in practice.</p> <p>Artículo 3°. Requisitos. La publicidad de las cualidades, características o atributos ambientales de cualquier producto, deberá cumplir con los siguientes requisitos: 1. Deberá tratarse de una aseveración objetiva y comprobada. 2. Las pruebas, investigaciones, estudios u otra evidencia deben basarse en la aplicación de procedimientos técnicos y científicos reconocidos. El anunciante mantendrá a disposición de la Superintendencia de Industria y Comercio, la información que demuestre sus afirmaciones. 3. La afirmación debe ser completa, veraz, transparente, oportuna, verificable, actualizada, comprensible, precisa e idónea y no omitir información relevante que pueda inducir en error a los consumidores. 4. Las afirmaciones ambientales deben indicar si la cualidad, característica o atributo publicitado se predica del producto, de su embalaje o de una porción o componente de ellos, y además especificar el beneficio ambiental que representa. 5. En caso de que la publicidad se fundamente en la comparación de un producto antiguo con uno nuevo de la misma marca, deberán especificarse las características ambientales del producto anterior y las del nuevo producto. 6. Si se desarrolla publicidad comparativa con fundamento en marcas distintas, deberán especificarse las características ambientales de los productos comparados (<i>Article 3. Requirements. The advertising of the environmental qualities, characteristics or attributes of any product must comply with the following requirements: 1. It must be an objective and proven assertion. 2. The tests, research, studies, or other evidence must be based on the application of recognised technical and scientific procedures. The advertiser shall keep at the disposal of the Superintendence of Industry and Commerce the information that proves its claims. 3. The claim must be complete, truthful, transparent, timely, verifiable, up to date, understandable, accurate, and suitable and not omit relevant information that could mislead consumers. 4. Environmental claims must indicate whether the quality, characteristic or attribute advertised is predicated of the product, its packaging or a portion or component thereof, and further specify the environmental benefit it represents. 5. If the advertising is based on a comparison of an old product with a new product of the same brand, the environmental characteristics of the old product and those of the new product must be specified. 6. If comparative advertising is developed based on different brands, the environmental characteristics of the compared products shall be specified).</i></p>	<p>ARTÍCULO 5°. Competencia. La Superintendencia de Industria y Comercio vigilará la publicidad regulada por el presente decreto e impondrá las sanciones establecidas en la Ley 1480 de 2011. (<i>The Superintendence of Industry and Commerce shall monitor the advertising regulated by this decree and impose the sanctions established in Law 1480 of 2011.</i>)</p>	<p>ARTÍCULO 5°. Competencia. La Superintendencia de Industria y Comercio vigilará la publicidad regulada por el presente decreto e impondrá las sanciones establecidas en la Ley 1480 de 2011. (<i>The Superintendence of Industry and Commerce shall monitor the advertising regulated by this decree and impose the sanctions established in Law 1480 of 2011.</i>)</p>	<p>RELIABILITY RELEVANCE CLARITY TRANSPARENCY COMPARABILITY</p>
----------------------	--	---	---	--	---	---	---

<p>Código Colombiano de Autoregulación Publicitaria (Colombian Code for Auto-regulation of Ads)</p>	<p>Disclosure of information</p>	<p>N</p>	<p>Y</p>	<p>It is made of principles.</p> <p>ARTÍCULO 8. PRINCIPIOS BÁSICOS</p> <p>Sin perjuicio del sometimiento al ordenamiento Constitucional y Legal exigible por las autoridades competentes, los mensajes comerciales se rigen por los principios de VERACIDAD, DECENCIA, HONESTIDAD, BUENA FE, y RESPONSABILIDAD SOCIAL, conforme se dispone en el presente Código (<i>BASIC PRINCIPLES Without prejudice to the submission to the Constitutional and Legal order required by the competent authorities, commercial messages are governed by the principles of TRUTH, DECENCY, HONESTY, GOOD FAITH, and SOCIAL RESPONSIBILITY, as set forth in this Code</i>).</p> <p>ARTÍCULO 24. PROTECCIÓN AL MEDIO AMBIENTE</p> <p>Los mensajes comerciales deberán considerar y, en lo posible, estimular acciones y comportamientos de respeto y cuidado del medio ambiente. En consecuencia no deberán directa o indirectamente, estimular o propiciar conductas que ocasionen, entre otras, contaminación, menoscabo de paisajes naturales o urbanos, obstaculización del debido cuidado y disfrute por los sitios públicos de interés turístico y monumentos, o el uso inadecuado de los recursos naturales.</p> <p>Los mensajes comerciales pueden contener aseveraciones en materia ambiental, explícitas o implícitas, en las cuales se haga referencia a aspectos ambientales o ecológicos relativos a la producción, empaque, distribución, uso o consumo y disposición de productos, siempre que resulten veraces y demostrables. Éstas podrán hacerse en cualquier medio, incluyendo las etiquetas, las inserciones en paquetes, materiales promocionales, puntos de venta, literatura del producto, entre otros.</p> <p><i>Article 24 is a principle about the protection of the environment. It states that «commercial ads/messages should consider and, when possible, stimulate actions and behaviours to respect and protect the environment...».</i></p> <p><i>It is also stated that marketing messages can contain environmental claims that refer to environmental and ecological aspects relating to the production, packaging, distribution, use, consumption, disposal of products, as long as these claims are truthful and demonstrable.</i></p> <p><i>It is not a binding instrument.»</i></p>	<p>Art 56: Las reclamaciones y solicitudes que sean presentadas ante la Comisión Nacional de Autorregulación Publicitaria –CONARP–, serán absueltas por la Comisión mediante conceptos en los que se determine si, a su juicio, existe o no violación a las normas de autorregulación publicitaria. (<i>Complaints and requests submitted to the National Commission for Advertising Self-Regulation (CONARP) shall be resolved by the Commission by means of opinions determining whether or not, in its opinion, there has been a violation of the rules of advertising self-regulation.</i>)</p>	<p>Art 65: La naturaleza estrictamente ética de los pronunciamientos de las autoridades de aplicación y, en consecuencia, adoptados en Buena Fe y en conciencia por los integrantes de las instancias y autoridades del Código en relación con el cumplimiento de las normas éticas en el mensaje publicitario y su percepción e impacto en el consumidor promedio. En consecuencia, no corresponde a las autoridades éticas la valoración de disposiciones que integran el ordenamiento jurídico (The strictly ethical nature of the pronouncements of the enforcement authorities and, consequently, adopted in good faith and conscience by the members of the Code's bodies and authorities in relation to compliance with ethical standards in the advertising message and its perception and impact on the average consumer. Consequently, it is not the role of the ethical authorities to assess provisions that are part of the legal system)</p>		<p>RELIABILITY 3 DIMENSIONS BEHAVIOUR CHANGE</p>
---	----------------------------------	----------	----------	--	---	--	--	--

SOUTH KOREA

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
Environmental Technology and Industry Support Act	Disclosure information Misleading advertising	Y	Y	<p>The purpose of this Act is to promote the development, support, and dissemination of environmental technologies and foster the environmental industry, thereby contributing to environmental conservation, the promotion of green growth and the sustainable development of the national economy.</p> <p>Article 16-10 (Prohibition against Unfair Labelling or Advertising, etc.)</p> <p>(1) Manufacturers, manufacturing sellers, or sellers (hereinafter referred to as "manufacturers, etc.") shall not engage in any of the following acts that may deceive or mislead consumers with respect to the environmental impact of products:</p> <ol style="list-style-type: none"> 1. False or exaggerated labelling or advertising; 2. Deceptive labelling or advertising; 3. Unfairly comparative labelling or advertising; 4. Slandorous labelling or advertising. <p>Article 16-11 (Verification, etc. of Details of Labels and Advertisements)</p> <p>(1) Manufacturers, etc. shall be able to verify matters concerning facts included in labels or advertisements they have placed with respect to the environmental impact of products.</p> <p>Article 16-14 (Pre-examination of Labels and Advertisements) GOOD PRACTICE</p> <p>(1) Before indicating matters related to the environmental impact of products in labels or advertisements, manufacturers, etc. may submit the contents of such labels or advertisements to the Minister of Environment and ask him/her to review whether such contents violate Article 16-10 (1).</p> <p>(2) The Minister of Environment shall review the contents of labels or advertisements submitted under paragraph (1) as prescribed by Ordinance of the Ministry of Environment, and notify the results thereof to manufacturers, etc. who have requested the review.</p>	To secure the reliability of the environmental information which is disclosed under Article 16-8, the Minister of Environment may verify such environmental information.	<p>Article 16-12 (Corrective Measures)</p> <p>(1) Where manufacturers, etc. engage in unfair labelling or advertising in violation of Article 16-10 (1), the Minister of Environment may issue any of the following measures to the manufacturers, etc.:</p> <ol style="list-style-type: none"> 1. Termination of the relevant violation; 2. Publication of the fact of receiving a corrective order; 3. Corrective advertisement; 4. Other measures necessary to correct correcting the violations. <p>(2) Matters necessary for the publication of the fact of receiving a corrective order and the corrective advertisement pursuant to paragraph (1) 2 and 3 shall be prescribed by Presidential Decree.</p> <p>Article 16-13 (Penalty Surcharges)</p> <p>(1) With respect to manufacturers, etc. who place labels or advertisements in violation of Article 16-10 (1), the Minister of Environment may impose a penalty surcharge not exceeding the amount equivalent to 2% of the turnover determined by Presidential Decree (referring to business profit in the case of manufacturers, etc. prescribed by Presidential Decree; hereinafter the same shall apply): Provided, That with respect to manufactures, etc. prescribed by Presidential Decree, where a violator has no turnover or where it is difficult to compute the turnover, a penalty surcharge may be imposed within the range of up to 500 million won.</p>	NO	

<p>ACT ON FAIR LABELING AND ADVERTISING</p>	<p>Misleading advertising</p>	<p>Y</p>	<p>N</p>	<p>The purpose of this Act is to prevent unfair labels and advertisements for products and services that deceive or mislead consumers in labelling and advertising, and to promote provision of correct and useful information to consumers, thereby establishing fair trade order and protecting consumers.</p> <p>Article 3 (Prohibition, etc. against Unfair Labelling or Advertising) (1) No business entity, etc. shall place any of the following labelling or advertising that is likely to undermine fair trade order by deceiving or misleading consumers, or compel other business entities to do so: 1. False or exaggerated labelling or advertising; 2. Deceptive labelling or advertising; 3. Unfairly comparative labelling or advertising; 4. Slanderous labelling or advertising.</p>	<p>The FairTrade Commission is responsible for enforcing this Act.</p>	<p>Article 7 (Corrective Measures) (1) Where business entities, etc. engage in unfair labelling or advertising in violation of Article 3 (1), the Fair Trade Commission may issue any of the following measures to the relevant business entities, etc. to correct such violation: 1. Suspension of the relevant violation; 2. Publication of the fact that a corrective order has been issued to the relevant business entities, etc.; 3. Corrected advertising; 4. Other measures necessary for correcting violations.</p> <p>Article 7-5 (Charge for Compelling Performance, etc.) (1) The Fair Trade Commission may impose charges for compelling performance in an amount of up to two million won per day until a commitments decision is performed or revoked.</p> <p>Article 10 (Obligation to Compensate for Damage) (1) Where any person has suffered damage from unfair labelling or advertising which violates Article 3 (1), business entities, etc. shall be obligated to compensate for such damage to the aggrieved person.</p> <p>Article 17 (Penalty Provisions) Any person who falls under any of the following subparagraphs shall be punished by imprisonment with labour for not more than two years or by a fine not exceeding 150 million won</p>		
<p>Environmental Declaration of Products (EDP) Program</p>	<p>Voluntary certification program</p>	<p>N</p>	<p>Y</p>	<p>The EDP Program is National type III environmental declaration program to disclose quantified environmental impacts information on the life cycle of a product, including production, distribution, consumption, and disposal. It is introduced to guarantee the reliability of environmental information of products. EPDs signal a manufacturer's commitment to measuring and reducing the environmental impact of its products and services and report these impacts in a hyper-transparent way. With an EPD, manufacturers report comparable, objective, and third-party verified data that show the good and bad about the environmental performance of their products and services.</p> <p>The Program is administered by KOECO (The Korea Eco-Products Institute). KOECO is a public institution established by national law to promote consumption and production of environmentally preferable products. KOECO is responsible for the administration of the eco-labelling program, the management of public green procurement, and the provision of eco-products information and technical assistance for industries.</p>				

Eco-labelling Program	Voluntary certification program	N	Y	The Korea Eco-labelling Programme, operated by the KOECO, is a voluntary certification program started in 1992. The Eco-label is awarded to products meeting certain environmental standards to verify lifecycle based environmental preferability of products and services.				
Green Product of the Year Award	Award			Green Product of the Year Award aims to encourage companies to develop green products and revitalize the green product market by inducing green purchases by providing more reliable green product information to consumers through green product selection				
The Act on the Promotion of the Purchase of Environment-friendly Products				The Act on the Promotion of the Purchase of Environment-friendly Products, enforced in July 2005, aims to encourage the purchasing of environment-friendly products and services by means of mandating public agencies to buy environment-friendly products and services and supporting industry and household-level green consumption. In addition, KOECO organises the Green-Purchasing Convention.				

COUNTRIES THAT HAVE SPECIFIC LEGISLATION ON MISLEADING AND FALSE ENVIRONMENTAL ADVERTISING THAT INCORPORATES THE 5 FUNDAMENTAL PRINCIPLES OF THE UNEP GUIDELINES. ALSO HAVE AND/OR PLAN TO INTEGRATE MODEL LAW FAVOURING AND CONSIDERING PRODUCTS' SUSTAINABILITY.

FRANCE

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
Loi Climat et Résilience du 22 août 2021	Disclosure information Misleading advertising	Y	Y	<p>The law integrates the fight against environmental claims into the previous legislation on misleading commercial practices, it regulates certain specific environmental claims and increases penalties.</p> <p>It also develops information obligations on the life cycle of the product for certain products, the list of which will be determined by decree.</p> <p>Article L. 121-2 of the Consumer Code, which defines misleading commercial practices, has added a new paragraph to the list of "essential characteristics of the good or service" which now includes "its properties and the results expected from its use, in particular its environmental impact", and the scope of the advertiser's commitments has been broadened to include "environmental matters".</p> <p>Article L. 541-9-11 of the Environmental Code : "Un affichage destiné à apporter au consommateur une information relative aux impacts environnementaux ou aux impacts environnementaux et au respect de critères sociaux d'un bien, d'un service ou d'une catégorie de biens ou de services mis sur le marché national est rendu obligatoire, dans les conditions et sous les réserves prévues à l'article L. 541-9-12.</p> <p>Cet affichage s'effectue par voie de marquage ou d'étiquetage ou par tout autre procédé adapté. Il est visible ou accessible pour le consommateur, en particulier au moment de l'acte d'achat.</p> <p>L'information apportée fait ressortir, de façon fiable et facilement compréhensible pour le consommateur, l'impact environnemental des biens et services considérés sur l'ensemble de leur cycle de vie. Elle tient compte des impacts environnementaux des biens et services considérés, pris en compte selon leur pertinence pour une catégorie donnée, notamment en termes d'émissions de gaz à effet de serre, d'atteintes à la biodiversité et de consommation d'eau et d'autres ressources naturelles. Elle tient également compte des externalités environnementales des systèmes de production des biens et services considérés, évaluées scientifiquement, en particulier pour les produits agricoles, sylvicoles et alimentaires.</p> <p>Cet affichage fait également ressortir, de façon fiable et facilement compréhensible pour les consommateurs, l'impact spécifique en termes d'émissions de gaz à effet de serre des biens et services sur l'ensemble de leur cycle de vie."</p> <p><i>"A display intended to provide consumers with information on the environmental impacts or the environmental impacts and compliance with social criteria of a good, service or category of goods or services placed on the national market is made compulsory, under the conditions and subject to the reservations set forth in Article L. 541-9-12.</i></p> <p><i>This display shall be made by marking or labelling or by any other suitable process. It is visible or accessible to the consumer, in particular at the time of purchase.</i></p>	To secure the reliability of the environmental information which is disclosed, several types of authorities can sue the company on a civil or criminal level : the Directorate General for Competition, Consumer Affairs and Fraud Control (DGCCRF), consumer protection associations or competitors.		N	RELIABILITY RELEVANCE CLARITY TRANSPARENCY ACCESSIBILITY

The information provided shows, in a reliable and easily understandable way for the consumer, the environmental impact of the goods and services considered over their entire life cycle. It considers the environmental impacts of the goods and services considered, according to their relevance to a given category, particularly in terms of greenhouse gas emissions, damage to biodiversity and consumption of water and other natural resources. It also considers the environmental externalities of the production systems of the goods and services considered, as scientifically evaluated, particularly for agricultural, forestry and food products.

This display also shows, in a reliable and easily understandable way for consumers, the specific impact in terms of greenhouse gas emissions of goods and services over their entire life cycle”.

Article L. 228-68 : No advertisement shall state that a product or service is carbon neutral or use any language of equivalent meaning or significance unless the advertiser makes readily available to the public the following:

- (1) A greenhouse gas emissions report that includes the direct and indirect emissions of the product or service;*
- 2° The process by which the product or service’s greenhouse gas emissions are first avoided, then reduced and finally offset. The greenhouse gas emissions reduction path is described using quantified annual progress objectives;*
- 3° The methods for offsetting residual greenhouse gas emissions that comply with minimum standards defined by decree.*

Fines:
3 000 euros for a physical person
15 000 euros for a moral person

EUROPEAN UNION

Regulation	Subject Matter	Binding Y/N	Focus on Green advertising Y/N	Content	Enforcement mechanism	Sanctions	Conflict mediation mechanisms	UNEP Principles
Proposal for a directive of the European Parliament and of the council amending Directive 2005/29/EC as regards empowering consumers for the green transition through better protection against unfair practices and better information	Disclosure information Misleading advertising	Y	Y	<p>In March 2022, the European Commission presented a proposal to provide a legal framework for the use of environmental claims. This proposal aims to reform the 2005 Directive and introduce in its general framework to fight against misleading commercial practices, an explicit reference to environmental claims.</p> <p>Article 1: "environmental claim is a message or representation, which is not mandatory under Union law or national law, including text, pictorial, graphic or symbolic representation, in any form, including labels, brand names, company names or product names, in the context of a commercial communication, which states or implies that a product or trader has a positive or no impact on the environment or is less damaging to the environment than other products or traders, respectively, or has improved their impact over time"</p> <p>With regard to misleading commercial practices relative to their content, article 6 of the Directive would be enriched as follows⁶⁴. Article 6, paragraph 1, point (b) is replaced by the following: «the main characteristics of the product, such as its availability, benefits, risks, execution, composition, environmental or social impact, accessories, durability, reparability, after-sale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product". With regard to commercial practices that are misleading because of the context, a paragraph (d) would be added to article 6, paragraph 2 of the 2005 Directive. It would read as follows : «making an environmental claim related to future environmental performance without clear, objective and verifiable commitments and targets and without an independent monitoring system".</p> <p>The proposal amends the article 7 of the 2005 directive to include the environmental claims : "Where a trader provides a service which compares products, including through a sustainability information tool, information about the method of comparison, the products which are the object of comparison and the suppliers of those products, as well as the measures in place to keep that information up to date, shall be regarded as material".</p>		In the usual way, the proposal states that Member States shall adopt proportionate, effective, and dissuasive sanctions.		RELIABILITY RELEVANCE CLARITY TRANSPARENC ACCESSIBILITY
Commission Recommendation on the use of the Environmental Footprint methods to measure and communicate the life environmental performance of products and organisations 16.12.2021	mechanisms for the sustainability of products and services	Y	Y	<p>The recommendation aims to establish environmental footprint measures and labelling for certain products and services according to a mandatory accounting method.</p> <p>It aims to reliable and correct measurement and information on the environmental performance of products and organisations is an essential element in the environmental decision-making of a wide range of actors.</p> <p>The Product Environmental Footprint and Organisation Environmental Footprint Methods (hereafter Environmental Footprint methods") enable companies to measure and communicate their environmental performance and thereby compete on the market based on reliable environmental information. They contain detailed instructions on how to model and calculate the environmental impacts of products and organisations. The Environmental Footprint methods build on existing, internationally accepted practices, indicators, and rules.</p> <p>The Commission established a framework for developing further the Environmental Footprint methods with the participation of a wide range of stakeholders, including industry.</p>				

<p>Proposal for a Directive of the European Parliament and the Council on substantiation and communication of explicit environmental claims (Green Claims Directive), COM(2023) 166 final 2023/0085 (COD),22/03/2023</p>	<p>Disclosure information & Misleading advertising</p>	<p>Y</p>	<p>Y</p>	<p>In line with previous directive proposals, the European Commission presented on 22 March 2023 a proposal for a directive on green claims which aims to directly combat greenwashing. Its scope is limited to explicit environmental claims in that they would be presented in text form or contained on labels.</p> <p>The article 3 of the proposal sets out requirements for environmental claims. Traders carry out an assessment to substantiate explicit environmental claims. This assessment shall:</p> <p>“(a) specify if the claim is related to the whole product, part of the product or certain aspects of the product, or to all activities of a trader or a certain part or aspect of these activities, as relevant to the claim;</p> <p>(b) rely on widely recognised scientific evidence, use accurate information and take into account relevant international standards;</p> <p>(c) demonstrate that environmental impacts, environmental aspects or environmental performance that are subject of the claim are significant from a life-cycle perspective;</p> <p>(d) where a claim is made on environmental performance, show that it takes into account all environmental aspects or environmental impacts which are significant to assessing the real environmental performance;</p> <p>(e) demonstrate that the claim is not equivalent to requirements imposed by law on products within the product group, or traders within the sector;</p> <p>(f) provide information as to whether the product or trader which is subject to the claim performs significantly better regarding environmental impacts, environmental aspects or environmental performance which are subject to the claim than what is common practice for similar products in the relevant product group or comparable traders in the relevant sector.</p> <p>(g) identify whether improving environmental impacts, environmental aspects or environmental performance subject to the claim leads to significant harm in relation to environmental impacts on climate change, resource consumption and circularity, sustainable use and protection of water and marine resources, pollution, biodiversity, animal welfare, and ecosystems;</p> <p>(h) separate any greenhouse gas emissions offsets used from greenhouse gas emissions as additional environmental information, specify whether those offsets relate to emission reductions or removals, and describe how the offsets relied upon are of high integrity and accounted for correctly to reflect the (veracity of the) claimed impact on climate;</p> <p>(i) include primary information available to the trader for environmental impacts, environmental aspects or environmental performance, which are subject to the claim;</p> <p>(j) include relevant secondary information for environmental impacts, environmental aspects, or environmental performance which is representative of the specific value chain of the product or the trader on which a claim is made, in cases where no primary information is available”.</p> <p>All this information should be made available on a paper form or in the form of an internet link accessible via a QR code.</p> <p>In addition, this information must be verified by a verifier that must be an independent third-party conformity assessment body accredited for this purpose.</p>		<p>In the usual way, the proposal states that Member States shall adopt proportionate, effective, and dissuasive sanctions.</p>		
--	--	----------	----------	--	--	---	--	--

