

EmpCo Directive: A New Era for Sustainability Marketing

7 October 2026 Lucia Scharl LL.M.

Law & science from a single source



- A medium-sized law firm based in Munich
- Areas of expertise: food, animal feed, life sciences, pharmaceuticals, consumer goods
- In addition: Comprehensive expertise in competition and trademark law, environmental and planning law, and ESG matters.
- > 20 lawyers

www.meisterernst.com



- 8 scientists, including 3 publicly appointed and sworn experts in food chemistry
- Areas: Scientific and regulatory consulting, approval procedures, toxicological assessment (crisis), marketability and labelling, safety assessments (food, cosmetics, chemicals, biocides, packaging, consumer goods), scientific validation of statements

www.rda-science.com

Agenda

1. Classification of the new EmpCo Directive

2. Requirements under EmpCo Directive

- New prohibited practices and rules on misleading advertising
- New legal concepts and definitions
- Possible consequences and sanctions, as well as further implications for product labeling and advertising

3. Practical implications, to-dos for companies



1. Classification of the new EmpCo Directive

Start of application

➔ Effective as of September 27, 2026



No transition or sell-off periods
provided for in the EmpCo Directive.



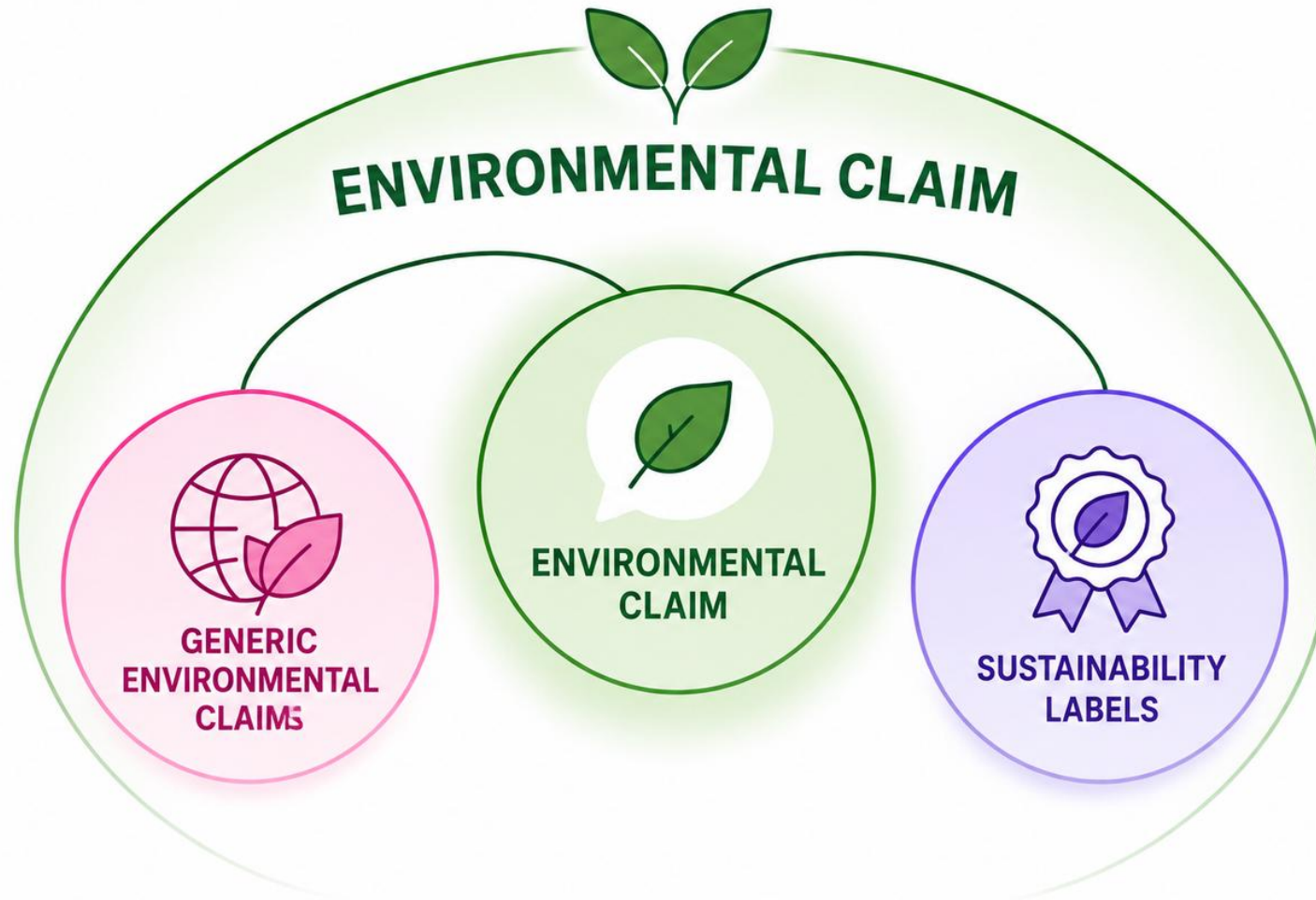
However: **for food packaging**,
Art. 3(3) sentence 2 of Regulation 1169/2011 (LMIV) could apply.



Take this into account now
when designing packaging and promotional materials.

2. Requirements under EmpCo Directive

Different kinds of Environmental Claims



Different kinds of Environmental Claims



“Environmental claim” means any message or representation ...



not mandatory under Union or national law



in any form



in the context of a **commercial communication**



**positive or zero impact,
less damaging or improved over time**



Meisterernst
Rechtsanwälte



ESSENCE

BEE GREEN
small choices, big impact.

Image generated by AI

Different kinds of Environmental Claims



“Generic environmental claim” means any environmental claim ...



in **written or oral form**



including through **audiovisual media**



not included on a sustainability label



specification of the claim is **not provided in clear and prominent terms** on the same medium

Difference between generic environmental claims and sustainability labels



Specification Requirement



Different kinds of Environmental Claims



Meisterernst
Rechtsanwälte

Different kinds of Environmental Claims



Voluntary

trust mark, quality mark or equivalent



Aims to **set apart and promote**
a product, a process or a business



By reference to **environmental
or social characteristics**, or both



Excludes any mandatory label
required under Union or national law



Meisterernst
Rechtsanwälte



Amendments to Annex of the UCPD – „Black List“

Annex I, paragraphs 1–3 of the EmpCo set out new business practices that are **always** considered unfair:

1

Sustainability label
not based on a
certification scheme



(No. 2a)

2

Generic environmental claim
without recognised
outstanding
environmental
performance



(No. 4a)

3

Overly broad environmental claims



(No. 4b)

4

Product-specific CO₂ claims
based on offsetting
(compensation)



(No. 4c)

5

Advertising self-evident features



(No. 10a)

Amendments to Annex of the UCPD – „Black List“

Recognized outstanding environmental performance pursuant to Art. 1(1)(b)(s) of the EmpCo



**Regulation (EC)
No. 66/2010**
EU Ecolabel



**National or regional
schemes**
EN ISO 14024 Type I



**Best environmental
performance standards**
Other Union law

Amendments to Annex of the UCPD – „Black List“

German Legislation on Recognized Outstanding Environmental Achievements

Explanatory Memorandum to the Government Bill on the Unfair Competition Act





NATURAL

COFFEE

100 % ARABICA



MORE ENVIRONMENTALLY FRIENDLY PRODUCTION PROCESS

In our production process
75 % less water is used
compared to the industry average
in accordance with certified
environmental standard XYZ.



Certified according to environmental standard XYZ.

Certification system behind a sustainability label

General: A **third party verification** system that enables the use of a sustainability label certifying that a product, process, or business activity meets specific requirements



Sustainability labels without a certification system



With the purchase of this product, **50 cents** are donated to the **Antarctic Foundation**.

The Antarctic Foundation is committed to the **conservation** of **emperor penguins** through **wildlife rehabilitation centres**.



Additions to the Misleading Practices under the UCPD

Meisterernst

Rechtsanwälte

1

Environmental and social features and circularity aspects are an explicit part of the essential characteristics of the product.



2

Advertising with irrelevant advantages can be misleading.



3

Making an environmental claim about future environmental performance must meet additional requirements.



Images generated by AI

3. Consequences & Sanctions

Consequences and Sanctions

Violations of Section 5c UWG (German Act against Unfair Competition) can result in **significant sanctions**.



Fines



Up to **€50,000**



For companies with
annual turnover > €1.25 million:
Up to 4% of annual turnover



Injunctions under the UWG



Cease and desist from the unlawful conduct



Claim for removal



Reimbursement of costs

Thank you very much for your attention!

Meisterernst
Rechtsanwälte



Lucia Scharl LL.M.
Attorney
Bar-certified specialist for IP law
<https://www.meisterernst.com/>