



FROM MARKETING CLAIMS TO UNFAIR COMMERCIAL PRACTICES: REGULATING GREENWASHING IN EU LAW*

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ABSTRACT

The regulation of unfair competition within EU law is both extensive and fragmented, being dispersed across a range of secondary legislative instruments, predominantly Directives. This regulatory framework is inherently multi-layered, as it integrates provisions aimed at consumer protection alongside rules designed to safeguard the interests of traders. The increasing prominence of sustainability, closely linked to the expansion of green marketing practices, has intensified efforts by traders to portray goods and services as environmentally sustainable. In practice, however, such claims frequently operate at the margins of truthfulness and objective verifiability. Product labelling and commercial statements often contain information capable of creating misleading impressions regarding the characteristics, quality, or environmental impact of the goods or services concerned. Consequently, consumers may engage in economic transactions under the influence of deceptive or misleading claims and information overload, driven by the belief that their purchasing decisions contribute to environmental protection and sustainability objectives. Current legal framework is intended to be supplemented by Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and improved information (hereinafter “Directive 2024/825”). Similarly, the draft GCD Directive is also relevant within the defined area. The primary objective of this article is to analyse Directive 2024/825 and to identify its key normative elements, with particular emphasis on the newly introduced obligations imposed on affected entities, primarily traders, and the corresponding rights conferred upon consumers. The partial objective of this paper is to analyse the European legal framework

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and the national legal framework governing the defined area, with a focus on the specific rights and obligations of traders.

Keywords: Consumer protection, Greenwashing, GCD Regulation, Unfair competition, 2024/825 Directive

1. INTRODUCTION & METHODOLOGY

The term greenwashing is currently appearing with increasing frequency in academic literature and is drawing closer attention not only from the general public but also from experts. In this regard, we would like to emphasize that it is important to distinguish between the concepts of green marketing and greenwashing, since not all green marketing is greenwashing, but usually, all greenwashing is part of green marketing. We are currently witnessing growing trends on the part of national legislators,¹ as well as European lawmakers regarding environmental protection and stricter legal regulation of related aspects. This is evidenced by a number of initiatives, particularly at the European Union level, aimed at environmental protection in a broad sense.² In the light of sustainability and in relation to the business environment, the CSRD³ resonates, which, according to *Odobaša* and *Marošević*, “regulates the future framework and rules of mandatory, regular and public non-financial reporting of European and non-European companies operating in a more comprehensive and thorough manner than previous European regulations were introduced on the European market.”⁴

When it comes to the greenwashing, two legal acts play key role - the proposal of Directive on substantiation and communication of explicit environmental claims (Green Claims Directive)⁵ as well as the Directive 2024/825, which regulates cer-

¹ Duić, D.; Čemalović, U., *The Environmental Legal Framework Governing the Relations Between the EU and Serbia as a Candidate Country*, in: Wessel, R. A. et al. (eds.) *EU External Relations Law and Sustainability: The EU, Third States and International Organizations*, TMC Asser Press, The Hague, 2025, pp. 457–477.

² Probably the best-known document in this regard is the so-called Green Deal, which is widely discussed by both the general public and experts, with particular attention paid to the impact of this regulation on individuals as well as on businesses. See Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the Framework for Achieving Climate Neutrality and amending Regulations [2021] OJ L243/1.

³ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards Corporate Sustainability Reporting [2022] OJ L322/15.

⁴ Odobaša, R.; Marošević, K., *Expected Contributions of the European Corporate Sustainability Reporting Directive (CSRD) to the Sustainable Development of the European Union*, in: Duić, D.; Petrašević, T. (eds.), *EU and Comparative Law Issues and Challenges Series (ECLIC)*, Vol. 7, 2023, pp. 596–598, at p. 594.

⁵ Proposal for a Directive of the European Parliament and of the Council on Substantiation and Communication of Explicit Environmental Claims (Green Claims Directive), COM(2023) 166 final.

tain aspects of consumer protection in light of green transition.⁶ Similarly, emphasis is placed on compliance with the obligations of entities that place packaging or non-packaging products on the market, and these obligations arise from this position.⁷ In this article, however, we will focus on a narrower scope of issues that go beyond environmental protection, specifically addressing selected aspects of commercial law related to unfair competition and consumer protection law. Each Member State is required to adopt and publish the measures necessary to comply with Directive 2024/825 by March 27, 2026, and those measures will apply from September 27, 2026.

The methodological approach of this paper can be divided into three levels. The first is a descriptive-analytical method focused on the regulatory framework for unfair competition and consumer protection under EU law and national law. The second level is an analysis of the concept of greenwashing and analysis of specific provisions of the new component of the legislative framework, namely Directive 2024/825, and its impact on Directives 2005/29/EC and Directive 2011/83/EU, with a summary of the obligations arising for traders from Directive 2024/825. The third level involves an examination of the proposed GCD Directive focusing on the fundamental obligations of traders arising from the proposed legislation. The main objective of this paper is primarily to analyse Directive 2024/825, including an analysis of the European legal framework and the national legal framework regulating the defined area with regard to the specific rights and obligations of traders. In summary, the methodology of this paper is based on a normative analysis of existing and applicable legislation (including Directive 2024/825), supplemented by an empirical review of the scholarly literature and relevant case law, with the aim of comparing the transition from general regulation to a specific prohibition of greenwashing practices.

2. UNFAIR COMMERCIAL PRACTICES IN GENERAL

2.1. Regulation on EU Level

At the EU level, the regulation of unfair competition is conceptually organized primarily through directives. From the perspective of its protective purpose, it can be divided into regulations governing B2C (business-to-consumer) and B2B

⁶ Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as Regards Empowering Consumers for the Green Transition through Better Protection against Unfair Practices and through Better Information [2024] OJ L2024/825.

⁷ For example, under Slovak national law, this area is regulated by Act No. 79/2015 Coll., the Waste Management Act.

(business-to-business) relationships. From the perspective of the objective of EU law on unfair competition, this legislation is primarily aimed at consumer protection. This is evidenced by the purpose and scope of Council Directive 93/13/EEC on unfair terms in consumer contracts⁸ and Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market (Unfair Commercial Practices Directive)⁹ regulating unfair practices in both online and offline environment.

Directive 93/13/EEC regulates unfair terms in contracts concluded between a seller or supplier and a consumer; its annex contains the terms referred to in Article 3(3), which include an indicative and non-exhaustive list of contractual terms that may be considered unfair. Directive 2005/29/EC regulates unfair commercial practices that harm the economic interests of consumers and is known (not only) for the non-exhaustive list set out in Annex 1, which defines commercial practices that are considered unfair in all circumstances, also known as the *black list*.

The third key directive in the area of consumer protection is Directive 2011/83/EU,¹⁰ which regulates certain aspects of consumer information in the case of contracts other than distance contracts or off-premises contracts. However, this directive does not specifically target unfair commercial practices, but forms part of the consumer protection legal framework within the context of EU law. All three of the aforementioned directives were updated by Directive 2019/2161,¹¹ which aims to modernize consumer regulation. An exception to the general observation that the regulation of unfair competition is aimed at consumer protection is the regulation focusing on the area of misleading advertising, specifically Directive 2006/114/EC of the European Parliament and of the Council on misleading and comparative advertising, which states in Article 1 that its purpose is to protect

⁸ Council Directive 93/13/EEC of 5 April 1993 on Unfair Terms in Consumer Contracts [1993] OJ L95/29.

⁹ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning Unfair Business-to-Consumer Commercial Practices in the Internal Market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') [2005] OJ L149/22.

¹⁰ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on Consumer Rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council [2011] OJ L304/64.

¹¹ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU as regards the Better Enforcement and Modernisation of Union Consumer Protection Rules [2019] OJ L328/7.

traders against misleading advertising and its unfair consequences and to establish the conditions under which comparative advertising is permitted.

2.2. Slovak National Regulation of Unfair Competition

Under Slovak national law, the legal framework governing unfair competition is set forth in Act No. 513/1991 Coll., the Commercial Code. This framework is based on the general and permanent applicability of a general clause and includes a list of eight additional specific factual basis: misleading advertising, misleading labeling of goods and services, creating a likelihood of confusion, free-riding on reputation, bribery, disparagement, breach of trade secrets, and endangering health and the environment. According to *Vozár* the general and permanent validity of the general clause means that if there is no specific factual basis for a certain action that meets the characteristics of a general general clause, or if a certain action does not meet the characteristics of one of the specific factual bases listed in Sections 45 to 52, it will be considered unfair competition and will be assessed according to Section 44, paragraph 1.¹² However, the aforementioned specific factual basis of unfair competition constitute only a non-exhaustive list of unfair competitive conduct, and for their application, they must satisfy the conditions of the general clause - the conduct must occur in the context of competition, be contrary to fair competition practices, and be capable of causing harm to other competitors or consumers. If a specific provision does not meet the criteria of the general clause, it cannot be granted the protection provided by the Commercial Code.

The Commercial Code also regulates procedural remedies in cases of unfair competition, although the scope of authority to assert such claims is limited in the context of consumer protection. Claims arising from unfair competition may be asserted only by a legal entity authorized to defend the interests of consumers, but exclusively to the extent of ceasing the conduct and remedying the defective situation, and only in selected factual circumstances, specifically in cases of violation of the general clause, misleading advertising, misleading labeling of goods and services, creating a risk of confusion, and endangering health and the environment (i.e., excluding free-riding on reputation, bribery, disparagement, and breach of trade secrets). When assessing whether the three conditions of the general clause- which must be met cumulatively- are satisfied, the defendant's position in the competitive market will be key, while legal entities defending consumer interests are entitled to assert claims *ex lege*. From a review of court case law regarding the assertion of private-law claims based on violations of unfair competition provi-

¹² Vozár, J., in: Ovečková, O. *et al.* (eds.), *Commercial Code. Large Commentary. Part 1 (§ 1 to § 260)*, 2nd ed., Wolters Kluwer SR s.r.o., Bratislava, 2022, p. 340.

sion, it can be concluded that legal entities authorized to defend the interests of consumers or competitors do not make frequent use of this option.

Given the focus of this paper, the most relevant specific form of unfair competition is the endangerment of health and the environment. This provision defines such conduct as actions by which a competitor distorts the conditions of competition by engaging in production, markets products, or performs services that endanger the interests of health or environmental protection safeguarded by law, in order to gain an advantage for themselves or another party at the expense of other competitors or consumers. This provision essentially addresses situations where a business saves funds that it would otherwise have spent on complying with public law obligations arising primarily from specific legal regulations regulating a broad range of areas, including, for example, waste management, occupational health and safety, and other related fields. Protection against practices falling within the scope of greenwashing is also regulated at the national level by Act No. 108/2024 Coll. on Consumer Protection, which to a significant extent reflects the European regulatory framework outlined in the preceding subchapter, as the relevant legal acts have been implemented into its provisions.

3. GREENWASHING – CONCEPT

Greenwashing presents a legal challenge at the intersection of consumer protection law, unfair competition law, and environmental protection law. It can be said that this is a practice in which a business creates a misleading impression regarding the environmental characteristics of a product, service, or its own business activities, where this impression is not supported by objective, verifiable, and truthful information. As noted by Netto et al., the term greenwashing was first used in 1986, by an environmentalist Jay Westervelt. He published an essay on the hospitality industry about their practices to promote towel reuse.¹³ At the same time, Netto et al. distinguishes between two forms of greenwashing: so-called claim greenwashing and executional greenwashing.¹⁴ Claim greenwashing uses textual arguments that explicitly or implicitly refer to the ecological benefits of a product or service to create a misleading environmental claim.¹⁵ Executional greenwashing is described as a new form of greenwashing and this strategy of greenwashing does not use any type of claim that was described before, but it suggests natureevoking ele-

¹³ De Freitas Netto, S. V. et al., *Concepts and Forms of Greenwashing: A Systematic Review*, Environmental Sciences Europe, Vol. 32, Issue 19, 2020, p. 6.

¹⁴ *Ibid.*, p. 7-10.

¹⁵ *Ibid.*, p. 7.

ments such as images using colors (e.g., green, blue) or sounds (e.g., sea, birds).¹⁶ Backgrounds representing natural landscapes (e.g., mountains, forests, oceans) or pictures of endangered animal species (e.g., pandas, dolphins) or renewable sources of energy (e.g., wind, waterfalls) are examples of executional nature-evoking elements. These nature-evoking elements, intentionally or not, may induce false perceptions of the brand's greenness.¹⁷

From a legal perspective, greenwashing is most appropriately classified under the category of misleading commercial practices, and its significance is growing as a result of increasing consumer demand for sustainable products and services. As we also mention in the introduction of this article, it is also necessary to clearly distinguish green marketing from greenwashing and not to confuse these categories. Similarly, it is possible to distinguish the application of greenwashing in various sectors of the business environment, most prominently appearing especially in apparel industry¹⁸ and cosmetics industry.¹⁹ Researchers, however, also address this topic with regard to its impact on stakeholders, concluding that misleading claims regarding environmental practices inflict harm on stakeholders.²⁰ In light of greenwashing, *Bogojević* argues that “for green claims about products (and services) to achieve their intended market impact, a rigorously enforced system of verification and accountability is needed. Sustaining a market where green claims empower consumers to make informed choices as part of facilitating the ecological transition requires market regulation.”²¹

In the digital environment, greenwashing takes on particular significance in connection with various sophisticated forms of online advertising. Digital platforms enable the rapid dissemination of environmental claims, often through personalized advertising or influencer marketing. In this context, one can also point to the relevant

¹⁶ *Ibid.*, p. 10 referring to Parguel, B.; Benoit-Moreau, F.; Russell, C., *Can Evoking Nature in Advertising Mislead Consumers? The Power of 'Executional Greenwashing'*, International Journal of Advertising, Vol. 34, Issue 1, 2015, pp. 107–134.

¹⁷ De Freitas Netto, S. V. *et al.*, *op. cit.*, note 13, p. 10 referring to Parguel B, Benoit-Moreau F, Russell C., *Can evoking nature in advertising mislead consumers? The power of 'executional greenwashing'*, International Journal of Advertising, Vol. 34, Issue 1, pp. 107–134.

¹⁸ Adamkiewicz, J. *et al.*, *Greenwashing and Sustainable Fashion Industry*, Current Opinion in Green and Sustainable Chemistry, Vol. 38, 2022.

¹⁹ Kaur, H.; Subburayan, B., *A Comprehensive Evaluation of Assessment Tools for Detecting Corporate Greenwashing Practices in the Beauty and Cosmetics Industry*, Shanlax International Journal of Arts, Science and Humanities, Vol. 11, Special Issue 3, 2024.

²⁰ Santos, C.; Coelho, A.; Marques, A., *A Systematic Literature Review on Greenwashing and its Relationship to Stakeholders: State of Art and Future Research Agenda*, Management Review Quarterly, Vol. 74, Issue 3, 2024, pp. 1397–1421.

²¹ Bogojević, S., *Regulating Greenwashing: Where Market Rules Meet Climate Action*, Journal of Environmental Law, Vol. 37, Issue 2, 2025, pp. 169–174.

provisions of the DSA, which, while not explicitly regulating greenwashing, establishes a framework for advertising transparency, the identification of advertisers, and a ban on certain manipulative practices, e.g., dark patterns (Art. 26 of DSA). These tools can also indirectly contribute to curbing greenwashing by increasing informational transparency and enabling more effective oversight of online content. According to *Wolters* and *Borgesius* “category of online marketing also falls outside the scope of the DSA’s advertising definition: influencer marketing.”²² They further states that “in the words of Goanta and Ranchordás, ‘modern influencer marketing is a digital form of word-of-mouth (‘WOM’) advertising.’” As an example, they point out to that “brand could pay a popular video blogger (an influencer) to mention the brand in YouTube videos. In such a case, the brand does not pay the platform for the advertising, and the marketing falls outside the DSA’s advertising definition.”²³ We agree with this statement, however, if a situation arises where a company pays a digital platform for advertising (for example, showing signs of greenwashing), the provisions of the DSA will apply to such a legal relationship.

Greenwashing that goes beyond the scope of permitted advertising could even constitute illegal content, as the definition of illegal content in Article 3(1)(h) means any information which, in itself or by reference to an activity, including the sale of goods or the provision of services, does not comply with the law of the Union or of a Member State, regardless of the precise subject matter or nature of that law. As *Treščáková* states “content regulation on digital platforms by DSA can result in the removal of legitimate content, which can lead to censorship.”²⁴ Mentioned situation could be also a mean of reducing competition in the context of greenwashing when advertising is repeatedly reported. In this context, the DSA introduces new mechanisms for moderating illegal content, including out-of-court methods for settling disputes between the platform and its end or commercial users, which *Hučková* analyzes in the light of Article 20 of the DSA, and states that AI and its tools occupy a relatively strong position in content moderation on digital platforms since not every decision to remove content is directly controlled by humans.²⁵

²² Wolters, P.; Borgesius, F. Z., *The EU Digital Services Act: What Does It Mean for Online Advertising and Adtech?*, International Journal of Law and Information Technology, Vol. 33, 2025, eaaf004, p. 7 referring to Goanta, C.; Ranchordás, S., *The Regulation of Social Media Influencers: An Introduction*, in: *The Regulation of Social Media Influencers*, Edward Elgar Publishing, Cheltenham, 2020, pp. 1–22.

²³ Wolters; Borgesius, p. 8.

²⁴ Trescakova, D., *Freedom of Expression on the Internet vs. Digital Services Act: Chosen Aspects*, in: Duić, D.; Petrašević, T. (eds.) *EU and Comparative Law Issues and Challenges Series (ECLIC)*, Vol. 9, 2025, p. 136.

²⁵ Huckova, R., *Automated Decision-Making and the Role of Artificial Intelligence in Resolving Disputes over Illegal Content on Digital Platforms*, in: Duić, D.; Petrašević, T. (eds.) *EU and Comparative Law Issues and Challenges Series (ECLIC)*, Vol. 9, 2025, p. 488.

3.1. On the applicability of existing legal framework

Under European Union law, Directive 2005/29/EC on unfair commercial practices has thus far served as the primary legal framework for assessing greenwashing; this directive harmonizes consumer protection rules regarding commercial practices employed by businesses toward consumers. Greenwashing may constitute misleading conduct under Article 6 of Directive 2005/29/EC if it contains false information or, in any way, including the overall presentation, misleads or is likely to mislead the average consumer, thereby causing or likely to cause the consumer to take a transactional decision that he would not have taken otherwise. Similarly, this may constitute a misleading omission under Article 7 of Directive 2005/29/EC if the trader fails to provide essential information about the product's environmental characteristics that the consumer needs to make an informed decision.

Particularly problematic are general and vague claims such as “eco,” “green,” or “sustainable” if they are not supported by specific and verifiable data or verifiable through actual testing, which is necessary for such a claim. From a comparative perspective, we could consider similar claims through the case decided by the Court of Justice of the EU known as *Deutsches Weintor*, in which the court addressed the question of whether wine may be labeled as “easily digestible,” as this constitutes a health claim.²⁶ The Court of Justice of the European Union ultimately concluded that the claim “easily digestible” can be classified as a health claim.²⁷

The European Commission's guidelines, in particular the updated Guidance on the interpretation and application of Directive 2005/29/EC, serve as an important interpretive tool for the application of Directive 2005/29/EC,²⁸ which explicitly identify environmental claims as an area with an increased risk of misleading practices. The Commission's guidelines use the term “environmentally misleading advertising.” In the context of business-to-consumer relations, this may relate to all forms of business practices by businesses toward consumers concerning the environmental characteristics of products. Depending on the circumstances, this may include all types of statements, information, symbols, logos, graphics, and labels, as well as their interaction with colors on packaging, labeling, advertising in all media (including websites), and their use by any organization that qualifies as a “trader” and engages in commercial practices directed at consumers. The Commission emphasizes that environmental claims must be accurate, clear, unambiguous,

²⁶ Case C-544/10, *Deutsches Weintor* [2012] ECLI: ECLI:EU:C:2012:526.

²⁷ Case C-544/10, *Deutsches Weintor* [2012] ECLI: ECLI:EU:C:2012:526, para. 39-41.

²⁸ Commission Notice – Guidance on the Interpretation and Application of Directive 2005/29/EC of the European Parliament and of the Council concerning Unfair Business-to-Consumer Commercial Practices in the Internal Market [2021] OJ C526/1, p. 72.

and evidence-based, with the burden of proof regarding their truthfulness resting on the business operator. These requirements are further specified in the food, energy, and textile sectors, where greenwashing occurs particularly frequently.²⁹ Although Directive 2005/29/EC undoubtedly constitutes a relevant regulatory framework, we agree with the statement by *MaCLennan* “that the way these latter provisions have been applied by national courts is highly fact-specific, depending on a court’s view on what would have an impact on an average consumer’s decision, and as a result, very variable.”³⁰

At the national level, greenwashing is punishable under consumer protection laws or advertising laws. Supervisory authorities, such as the Slovak Trade Inspection, may impose sanctions for misleading environmental claims, while the self-regulatory framework for advertising and codes of ethics, overseen by the Advertising Council under national conditions, also play a significant role.

4. DIRECTIVE 2024/825

In the previous sections of this paper, we described the regulatory framework through which greenwashing practices have been subject to sanctions to date. It cannot therefore be said that this area is unregulated, as existing legal instruments have been capable of addressing even new, sophisticated commercial practices containing deceptive or misleading environmental claims. Currently, however, at the EU level, there are two legal acts that directly target practices falling under the umbrella of greenwashing. The first is the proposal of GCD Directive, which is not yet an applicable legal act, and the second is Directive 2024/825, which we will address in this section of the article. In the literature, Directive 2024/825 is referred to as “key tool in combating greenwashing, requiring precise, verifiable environmental claims, shifting the burden of proof to businesses, and enhancing transparency.”³¹

The framework of Directive 2024/825 is based on the amendment of Directive 2005/29/EC (Article 1) and the amendment of Directive 2011/83/EC (Article 2). Furthermore (Article 3), the Directive regulates reporting to the Commission and review, and subsequently (Article 4), the conditions for transposing the relevant

²⁹ Commission Notice – Guidance on the Interpretation and Application of Directive 2005/29/EC of the European Parliament and of the Council concerning Unfair Business-to-Consumer Commercial Practices in the Internal Market [2021] OJ C526/1, p. 72.

³⁰ Maclennan, J.; De Catelle, W., *The Revision of EU Greenwashing Laws: A New Framework of Analysis*, Business and Human Rights Journal, Vol. 10, Issues 2–3, 2025, p. 457, referring to Willem H. van Boom, *Unfair Commercial Practices*, in: Twigg-Flesner, C. (ed.), *Research Handbook on EU Consumer and Contract Law*, Cheltenham: Edward Elgar 2016, pp. 388–405.

³¹ Vozár, J.; Zlocha, L., *Directive (EU) 2024/825 as a Tool to Eliminate Greenwashing?*, in: Treščáková, D.; Hučková, R. (eds.), *Law-Commerce-Economy XIV*, ŠafárikPress, 2025, p. 236.

provisions of the Directive into the national legal systems of the Member States. The 2024/825 Directive “aims to promote sustainable consumption patterns by prohibiting practices that prevent consumers from making informed green choices and by ensuring better information provision on durability and reparability of products at point of purchase.”³² The text of the Directive does not explicitly define its scope in the introductory articles, as is standard for regulations of this type, but its scope can be inferred from the amendments it introduces to the other two specific Directives. Since the GCD Directive revises Directive 2005/29/EC and Directive 2011/83/EU, its scope must be derived from the scope of those two directives. According to Article 3 of Directive 2005/29/EC, the Directive applies to unfair commercial practices by traders toward consumers. Directive 2011/83/EU also stipulates in Article 3 that it applies to any contract concluded between a trader and a consumer under the conditions and to the extent set out in its provisions. In light of the above, it can therefore be concluded that the provisions of Directive 2024/825 will apply to B2C relationships, excluding B2B relationships.

4.1. Amendments to the Directive 2005/29/ES

Directive 2005/29/EC aims to protect consumers from unfair commercial practices that harm their economic interests. It introduced (in Article 2) definitions of the terms “consumer,” “trader,” “product,” “business-to-consumer commercial practices,” “significant disruption of economic conduct,” “code of conduct,” “code owner,” “professional diligence,” “invitation to purchase,” “undue influence,” and “regulated profession.” This article is expanded to include additional definitions, specifically the definition of the term “goods,” as defined in Article 2(5) of Directive 2019/771.

Furthermore, Article 2 of Directive 2005/29/EC is amended to include definitions of environmental claims, general environmental claims, sustainability labels, certification schemes, recognized excellent environmental characteristics, durability, software updates, consumables, and functionality. Under Article 6 of Directive 2005/29/EC, the definition of the main characteristics of a product is amended such that the original wording is replaced by a new one. The new definition of the main characteristics of a product significantly reflects environmental claims, as the main characteristics of a product will also include environmental or social characteristics, circularity aspects such as durability, reparability, or recyclability, as well as the results and key indicators of tests or inspections performed on the product.

³² Keirsbilck, B., *Empowering Consumers for the Green Transition: Overview of Directive (EU) 2024/825*, Journal of European Consumer and Market Law, Vol. 13, Issue 5, 2024, p. 205.

Article 6(2) of Directive 2005/29/EC addresses the misleading nature of commercial practices, and points (d) and (e) are to be added to that provision. Point (d) provides that a commercial practice shall be regarded as misleading if it makes environmental claims regarding future environmental characteristics without clear, objective, publicly available, and verifiable commitments set out in a detailed and realistic implementation plan that includes measurable and time-bound targets and other relevant elements necessary to support its implementation, such as resource allocation, and which is regularly verified by an independent third-party expert whose findings are made available to consumers. Conduct under point (d) shall also be considered misleading if it promotes benefits to consumers that are irrelevant and do not result from any characteristic of the product or the business.

The latest amendment to Directive 2005/29/EC is incorporated into Article 7, which will stipulate that where a trader provides a service involving the comparison of products and provides the consumer with information on the environmental or social characteristics or on the circularity aspects of the products, such as durability, repairability, or recyclability, or on the suppliers of those products, information on the comparison method, the products being compared, and the suppliers of those products, as well as on the measures in place to ensure that the information is kept up to date, shall be considered material information. Last but not least, the individual changes will also be reflected in an amendment to Annex I.

4.2. Amendments to the Directive 2011/83/EU

Similar to Directive 2005/29/EC, Directive 2011/83/EU is amended by adding definitions such as “commercial durability guarantee,” “durability,” “manufacturer,” “repairability score,” and “software update” (Article 2 of Directive 2011/83/EU). Article 5 replaces the definition of the reminder of the existence of the statutory guarantee of conformity of goods and its main elements, including its minimum duration of two years. The normative text further includes an obligation for a manufacturer who offers a consumer a lifetime commercial warranty at no additional cost, covering the entire product, with a duration of more than two years, to make this information available to the trader and to further make available information that such a warranty applies to the product in question, along with its duration and a reminder of the existence of the statutory guarantee of conformity, in a clear manner using a harmonized label.

Article 5 also includes an obligation to remind consumers of the existence of the statutory guarantee of conformity for digital content and digital services, the existence and conditions of after-sales service and commercial warranties for goods with digital elements, for digital content, and for digital services, in cases where

the manufacturer or provider makes the information available to the trader, information on the minimum period, expressed either as a time period or by reference to a date, during which the manufacturer or provider provides software updates. At the same time, Article 5 is supplemented with an obligation for the trader, where applicable, to provide information on the repairability rating of the goods.

With regard to Article 6, which lays down the information requirements for contracts concluded at a distance or off-premises, the trader is required to provide, prior to the conclusion of the contract, clear information on payment, delivery- including, where applicable, environmentally friendly delivery options -performance, delivery timeframes, and, where applicable, complaint-handling policies. Compared to the original wording of the relevant provision, an obligation has been added to specify more environmentally friendly delivery methods where available. Directive 2011/83/EU is also amended to require the trader to clearly highlight the existence of the statutory warranty for goods and its main elements, including a minimum duration of two years, as set out in Directive 2019/771, using a harmonized notice. Another amendment to Directive 2011/83/EU concerns the trader's notification obligations toward the consumer, relating both to warranties for goods at no additional cost and to a point-based assessment of the goods' repairability. If a contract between a merchant and a consumer is concluded at a distance using electronic means and imposes an obligation on the consumer to pay, the consumer must be provided with information regarding the main characteristics of the goods or services to the extent appropriate to the medium and the goods or services, the total price of the goods or services, including taxes, information on the warranty period without additional costs, information regarding the duration of the contract, or, in the case of a contract for an indefinite period or a contract that is automatically renewed, the conditions for terminating the contract and information regarding the minimum duration of the consumer's obligations arising from the contract.

Directive 2011/83/EU introduces the category of so-called harmonized notice and so-called harmonized label, which aims to ensure that consumers are well-informed and can easily understand their rights throughout the Union. The harmonized notice is to be used to provide information in contracts that are not concluded at a distance or on business premises, and the trader must provide the consumer, in a clear and comprehensible manner, with information regarding the existence of a statutory guarantee of conformity of the goods, or, where applicable, information on the existence and conditions of after-sales service and commercial guarantees, and the existence of a statutory guarantee of conformity of the goods with the contract (Article 5(1)(e) and Article 6(1)(l)). The harmonized labeling is intended to ensure that, in the case of contracts not concluded at a distance or on business premises, the trader provides the consumer, in a clear and comprehen-

sible manner, with information regarding a lifetime commercial warranty at no additional cost that covers the entire product, with a duration of more than two years, and if the manufacturer offers the consumer a commercial lifetime warranty at no additional cost, covering the entire product, with a duration of more than two years, and makes this information available to the trader, information that such a guarantee applies to the goods in question, its duration, and a reminder of the existence of the statutory guarantee of conformity, in a clear manner using harmonized labeling (Article 5(1)(ea) and Article 6(1)(la)).

4.3. Obligations Resulting for Businesses

The regulation in the form of Directive 2024/825 could be described as the first significant step toward explicitly imposing obligations on businesses regarding environmental claims. We view the nature of regulation on two conceptual levels. The first involves the redefinition or definition of selected terms that can be considered essential to the issue under examination. The second category of regulation involves defining the specific obligations of businesses in relation to consumers. We also view these obligations in such a way that, even though their primary impact is directed toward consumer protection, their overall impact on the business environment within which transactions take place cannot be denied.

Under Regulation 2024/825, businesses are required to refrain from making general environmental claims unless they are supported by recognized and verifiable evidence, for example claims without clear, objective, publicly available and verifiable commitments set out in a detailed and realistic implementation plan, which includes measurable and time-bound objectives and other relevant elements necessary to support its implementation, such as resource allocation, and which is regularly verified by an independent third-party expert whose findings are made available to consumers. The Directive also prohibits creating a misleading impression regarding the extent of a product's environmental benefits, as well as the use of uncertified environmental labels. Environmental claims must be formulated clearly, precisely, and comprehensibly, and their use is classified as a commercial practice that is considered unfair *per se* if the aforementioned conditions are not met. In this regard, it is also important to note the expansion of the annex 1 of the Directive 2005/29/EC, which has been supplemented with fairly specific case studies regulating potentially harmful practices in the area of greenwashing.

5. GCD DIRECTIVE - FEW REMARKS

In connection with Directive (EU) 2024/825, the proposal for the Green Claims Directive (GCD) represents a qualitative shift in the regulation of greenwashing.

According to Jung and Dowse “the proposed directive establishes an ex-ante control of information, i. e., a control before commercial use of the environmental claim in B2C relationships to achieve these goals.”³³ Under this proposal, traders would be required to ensure that any environmental claim is substantiated by scientifically recognised evidence, based in particular on a life-cycle assessment of the product, while demonstrating not only the existence of an environmental benefit but also its significance and relevance in the context of the overall impact of the product or service.

Among the key obligations imposed on traders are the substantiation of explicit environmental claims (Article 3 GCD proposal), the substantiation of comparative environmental claims (Article 4), the communication of explicit environmental claims (Article 5), the communication of comparative environmental claims (Article 6), the regulation of environmental labels (Article 7), requirements for environmental labelling schemes (Article 8), the review of the substantiation of explicit environmental claims (Article 9), and the verification and certification of the substantiation and communication of environmental claims as well as environmental labelling schemes (Article 10).

Similarly to Directive 2024/825, the proposal introduces definitions and, in some cases, redefinitions of key concepts (such as environmental claim, explicit environmental claim, and a trader’s commercial practices vis-à-vis consumers), while also referring to the definitions set out in 2025/29/EC, particularly with regard to the notions of trader, consumer, and product. At the same time, it establishes a requirement for independent third-party verification of environmental claims prior to their use in commercial communication, thereby aiming to prevent their arbitrary and unsubstantiated use. The proposal further emphasises transparency, requiring traders to clearly explain the content of the claim, the methodology used, and any comparisons with other products, while also specifically regulating the use of environmental labels and comparative claims. The Green Claims Directive thus constitutes a comprehensive regulatory framework aimed at ensuring a high level of credibility of environmental claims and significantly limiting their misleading or inaccurate use in practice.

6. CONCLUSION

Greenwashing is a rapidly evolving phenomenon that requires a comprehensive, multi-level regulatory approach. The existing legal framework of the European

³³ Jung, S.; Dowse, M., *Key Aspects of the Green Claims Directive Proposal*, Journal of European Consumer and Market Law, Vol. 13, Issue 1, 2024, pp. 11–23, at p. 13.

Union, consisting primarily of directives on unfair competition and consumer protection, has provided basic tools for addressing practices that fall under the category of greenwashing. Initially, their applicability had to be inferred rather implicitly, which was subsequently clarified by non-binding legal acts of the European Union (Guidance on the interpretation and application of Directive 2005/29/EC). Given the specific nature of greenwashing and the importance of environmental protection issues, which must be considered alongside with a high level of consumer protection under EU law, the proposal of GCD was created and is currently still in the legislative process. It is not only the growing sophistication of these practices that highlights the need to refine its final wording. In contrast, Directive 2024/825 is now (almost) fully applicable and provides a significant portion of the regulation addressing the phenomenon of greenwashing. These additions to the current legislative framework appropriately address specific challenges in practical application. Explicit and targeted legislation in the form of Directive 2024/825 and, in the form of (and currently still forming) Green Claims Directive, aims to strengthen legal certainty and consumer protection, as well as to create fairer competitive conditions in a market where environmental claims play an increasingly significant role.

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