

The EU EmpCo Directive: New Greenwashing Rules Now in Force

For businesses that sell to EU consumers, this alert highlights why the new greenwashing rules matter now, including for packaging, websites, advertising, brand and product names, and sustainability labels. The rules apply now and can also reach non-EU businesses and financial services firms dealing with EU consumers.

Overview

On 27 September 2026, new rules to strengthen EU consumer protection against greenwashing went into effect. The “[EmpCo Directive](#)” (full name: “Directive as regards empowering consumers for the green transition through better protection against unfair practices and through better information”) introduces new, more specific, restrictions on businesses in their dealings with consumers through targeted amendments to the Unfair Commercial Practices Directive (“**UCPD**”) and the Consumer Rights Directive (“**CRD**”).

The UCPD changes drive most day-to-day marketing issues and greenwashing risks, so this alert focuses on them and the questions they raise for businesses dealing with consumers in the EU. The rules apply to all business-to-consumer sectors, including financial services, and can affect non-EU businesses selling cross-border to EU consumers. In-scope companies should review existing consumer communications, including brand names, advertising, packaging, and product descriptions.

Summary of Key Considerations

- **Two-tier regime.** Some claims are prohibited in all circumstances; others may be misleading subject to a case-by-case assessment.
- **No transition period.** Business-to-consumer commercial practices must comply from 27 September 2026.
- **Old stock is not exempt.** Leniency may be available in some cases at the discretion of national competent authorities, but businesses must demonstrate efforts to comply.
- **Business-to-consumer focus.** The UCPD is limited to business-to-consumer commercial practices; purely business-to-business communications are not in scope.
- **Local variation.** Monitor transposition and enforcement in each relevant Member State.
- **Financial services in scope.** While the EmpCo Directive applies to financial services, there are also circumstances where more specific rules and/or mandated disclosures will take precedence.

Questions Businesses Should Be Asking Now

- Do any brand, product or company names carry implied environmental benefits? Are any of our products (including “old stock”) labelled with “carbon neutral”, “climate positive” or similar wording?
- Which sustainability labels, including in-house trust marks, do we display, and how has the underlying scheme been verified?
- Are net zero or other future climate targets referenced in consumer marketing? How are those targets verified?
- What claims are made in our sustainability or Corporate Sustainability Reporting Directive (“CSRD”) reports? Do we make use of these more broadly in consumer-facing materials?
- How do our supplier and retailer contracts allocate responsibility for claims, including substantiation, warranties and indemnities?
- For companies in financial services, which marketing or website content reaches end-consumers?

Scope

The UCPD applies to unfair business-to-consumer commercial practices before, during and after a commercial transaction in relation to a ‘product’, a broad concept covering goods, services, immovable property, rights and obligations. It covers ‘traders’ and anyone acting in their name or on their behalf. ‘Consumers’ are individuals acting outside their trade or profession; purely business-to-business practices remain outside scope. The European Commission’s September 2026 Questions & Answers document on the EmpCo Directive (the “**September Q&A**”) ([here](#)) confirms that the EmpCo Directive does not change the general scope of the UCPD, which focuses on how products are presented to consumers rather than on their intrinsic characteristics or composition. Information passed down a supply chain or reused in consumer-facing materials, including reports under CSRD reused in marketing, may warrant consideration.

Timing and “Old Stock”

The amendments made to the UCPD by the EmpCo Directive have applied without a transition period since 27 September 2026. Bulgaria, Malta, the Netherlands, Poland, Portugal, Slovenia, Spain, and Sweden had not adopted national legislation by this date, but this is not a reason to defer action. The pre-existing UCPD could already, in principle, be used to show that greenwashing was a misleading and unfair commercial practice.

Given the absence of a transition period, the new requirements apply to pre-existing materials, including stock and packaging already shipped to retailers and remaining unsold. The Consumer Protection Cooperation Network (“CPC Network”) published its “Common Understanding on Old Stock Situations” in June 2026 ([here](#)) (the “CPC Common Understanding”) for products or packaging displaying environmental claims or sustainability labels manufactured, ordered, distributed or placed on retailers’ shelves before 27 September 2026 (“old stock”). Although it is not legally binding, the CPC Common Understanding notes that old stock is not exempt and that any leniency from national competent authorities is discretionary and is likely to be applied narrowly where there are “genuine and specific transitional difficulties”. Businesses should think about how to evidence their response to old stock situations.

Unfair Commercial Practices – Annex I “Blacklist”

The UCPD differentiates between claims that are *per se* unfair, and those that are unfair if their presentation is misleading (or aggressive)¹. In the latter situation, a case-by-case assessment of the practice and its effect on the consumer’s transactional decision is required, noting that both actions (Article 6) and omissions (Article 7) can be misleading.

With respect to claims that are *per se* unfair, the EmpCo Directive adds the following environmental and sustainability-related commercial practices to the Annex I “blacklist”. The Directive also introduces new defined terms for sustainability labels, certification schemes, environmental claims and generic environmental claims in support of the below:

- *Sustainability labels*. Sustainability labels must be based on a compliant certification scheme or established by a public authority. Well-known labels are not automatically compliant; responsibility sits with the trader, and third-country public labels are a risk.
- *Generic environmental claims*. Claims such as “eco-friendly”, “green” and “climate-friendly” are prohibited unless the trader can demonstrate “recognised excellent environmental performance”² relevant to the claim. Imagery and colour may contribute; a clear specification on the same medium may take a claim outside the ban, but where there is no room to specify, the Commission’s view is that the claim should generally not be made.
- *Whole-product or whole-business claims*. An environmental claim about the entire product or entire business when it only concerns a certain aspect of the product or a specific activity of the business is prohibited.
- *Product-level carbon neutrality claims*. Claiming, based on the offsetting of greenhouse gas emissions, that a product has a neutral, reduced or positive impact on the environment in terms of greenhouse gas emissions is prohibited. Company-level and lifecycle-based claims are treated differently; whether a claim falls within the prohibition depends on its wording and context.
- *Legal requirements*. Presenting requirements imposed by law on all products within the relevant product category on the Union market as a distinctive feature of the trader’s offer is prohibited.

Commercial Practices That Are Unfair if They Are Misleading

The EmpCo Directive expands Article 6(1) to cover environmental and social characteristics and circularity aspects, including durability, reparability and recyclability. The misleading-practices assessment remains case-by-case and considers the overall presentation and whether the communication may affect a consumer’s transactional decision.

Social characteristics include the quality and fairness of working conditions, human rights, equal treatment and opportunities, social initiatives and ethical commitments such as animal welfare.

Brand, product and company names may constitute environmental claims; intellectual property protection does not exempt them. Names using terms such as “green”, “eco”, “natural” or “carbon neutral” may therefore require the same scrutiny as other environmental messaging.

¹ The EmpCo Directive does not make any amendments to the provisions of the UCPD regarding aggressive commercial practices.

² ‘Recognised excellent environmental performance’ means environmental performance compliant with Regulation (EC) No 66/2010 of the European Parliament and of the Council or with national or regional EN ISO 14024 type I ecolabelling schemes officially recognised in the Member States, or top environmental performance in accordance with other applicable Union law (Article 2(s) of the UCPD).

Under Article 6(2)(d), claims about future environmental performance require a detailed, realistic implementation plan with clear, objective, publicly available and verifiable commitments, measurable and time-bound targets, necessary resources and regular independent third-party verification, with findings made available to consumers. The September Q&A addresses practicalities but applying the requirements to existing net zero commitments will require care.

Article 6(2)(e) addresses irrelevant benefits that do not result from a feature of the product or business, for example, marketing bottled water as “gluten-free”. Whether a benefit is genuinely relevant remains subject to the general misleading practices assessment.

Specific quantitative claims, such as “this jacket is made with 50% recycled materials”, remain permitted if they are not misleading and can be substantiated. The distinction is between a specific factual claim and an unsupported broader environmental impression.

Financial Services

The UCPD applies to financial services, but Member States may impose stricter or more prescriptive requirements. If the UCPD conflicts with other EU rules addressing specific aspects of unfair commercial practices, those rules prevail. The EmpCo Directive does not change mandatory disclosure rules under the EU Sustainable Finance Disclosure Regulation (“**SFDR**”), but sustainability-related marketing and website content beyond those disclosures may be in scope. In September 2026, the Luxembourg financial regulator, the Commission de Surveillance du Secteur Financier (“**CSSF**”), stated that financial market participants should take due account of the EmpCo Directive and that consumer-facing sustainability claims should be clear, accurate and substantiated. An individual acting outside their trade or profession may remain a consumer under the UCPD even if treated as an elective professional investor.

Consequences of Non-Compliance

Persons and organisations with a legitimate interest, such as competitors and consumer associations, may take legal action and/or bring a complaint before a competent national authority. National competent authorities may also act on their own initiative, and CPC Network “sweeps” may lead to coordinated enforcement.

Consumers may have access under national law to proportionate and effective remedies, including compensation, price reduction or termination; these may operate alongside collective redress.

The UCPD and CRD require effective penalties for breaches of the requirements introduced by the EmpCo Directive. Reputational risk may also be significant, particularly where enforcement or consumer action is public.

Member States must provide for a maximum penalty of at least 4% of the trader’s annual turnover in the Member State concerned (or Member States to the extent there is a cross-jurisdictional issue). The penalty is not automatically based on EU-wide or global turnover.

Conclusion

The EmpCo Directive applies now with no transition period (and only limited scope for enforcement leniency in respect of old stock). The right response will depend on each business’s claims, labels, products, supply chain and Member State footprint. Businesses may wish to prioritise a focused review of consumer-facing communications and supporting records rather than assume that existing wording is compliant.

Enforcement approaches may differ between Member States, and the September Q&A will likely carry significant weight with national competent authorities and courts. The Commission has also indicated that it will update its UCPD and CRD Guidance Notices at a later date, so further guidance should be expected.

For further information regarding this Alert and if you would like to discuss how the rules apply to your business, please contact one of the authors below.

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* In April 2026, Simpson Thacher announced plans to expand its presence in Asia with an office in Singapore.
** In August 2026, Simpson Thacher announced plans to expand its presence in the U.S. with an office in Chicago.

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