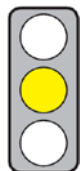


KEY ISSUES

Objective of the Communication: The Commission advises the application of its developed methods to the conform measurement of the environmental performance of products and organisations.

Parties Affected: businesses, consumers.



Pros: (1) EU-wide uniform methods for the benchmarking of environmental performances can reduce barriers to trade and strengthen competition in the Single Market.

(2) Because participation in the three-year test phase is to be voluntary, businesses will not incur additional cost in that time.

Cons: (1) Businesses will incur additional cost in case the use of the proposed methods is made mandatory, as considered by the Commission.

(2) To prevent distortion of competition, the compliance with existing schemes must be enforced, with a functioning market surveillance put in place.

CONTENT

Title

Recommendation 2013/179/EU dated 9 April 2013 **on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations**

Communication COM(2013) 196 dated 9 April 2013: **Building the Single Market for Green Products** – Facilitating better information on the environmental performance of products and organisations

Brief Summary

References are to the Communication COM(2013) 196, unless stated otherwise.

► Background and objectives

- “Green products” compare to other similar products of the same category in having a better environmental performance along their life cycle, from the extraction of raw materials, to the production, distribution, use and reuse, recycling and recovery, through the more efficient use of resources and in reduced environmental damage. “Green organisations” – private or public institution including enterprises and authorities [Recommendation 2013/179/EU No. 2 (g)] prove beneficial to the environment in bettering their environmental performance by assessing the life cycle [Life Cycle Assessment (LCA)] of their products and associated processes.
- At present, no widely accepted and scientifically sound definition of what green products and organisations are exists. The Commission finds this to be a reason for the low market share of green products and organisations.
- The Commission intends:
 - “to allow and facilitate, [...], a higher uptake of green products and greener practices by companies” (p. 2),
 - to counter the fragmentation of the internal market (Recommendation 2013/179/EU, recital 11).
- To do so, the Commission develops and advises:
 - EU-wide uniform methods for measuring and
 - EU-wide uniform principles for communicating environmental performance of products and organisations.
- Member States and organisations are recommended to use those methods and principles (Recommendation 2013/179/EU).

► Benefits of green products and organisations

- According to the Commission, green products are characterised by
 - a more efficient use of resources,
 - lower cost for producers and for consumers during the utilisation phase,
 - easier recycling and reusing,
 - less environmental damage and
 - higher customer satisfaction.

- According to the Commission, green organisations
 - are at the “forefront of innovation”,
 - better their own environmental performances and that of other actors along the supply chain,
 - have lower cost and higher productivity and
 - have less exposure to environmental risks.
- The „green economy“ offering „environmental“ goods and services
 - has been growing at an annual rate of 4% from 2008 on, even during the recession.
 - is among the sectors with the highest potentials for job growth.
- ▶ **Causes and disadvantages to non-uniform schemes/requirements**
 - The differences in national and private sector schemes for measuring and communicating environmental performances of products and organisations are assumed to stem from
 - different weights put on
 - environmental performance measured through direct impacts of that can be directly attributed to a product or organisation, e.g. production waste, and
 - indirect environmental impacts on life cycle stages that come before and after production and utilisation such as environmental damages from the extraction of raw materials.
 - discretion in benchmarking environmental performance.
 - The variety of different methodologies [„proliferation“, p. 5; SWD(2013) 112, p. 3] leads to
 - higher costs of compliance for businesses that intend to market themselves or their products as green,
 - lowers consumer confidence in claims about the environmental impact of products and
 - is “hindering” cross-border competition.
- ▶ **EU-wide uniform methods to measure the “environmental performance” of products and organisations (“environmental footprint”)**
 - The Commission has developed the following methods for measuring the environmental performance of products and organisations and recommends their exclusive use:
 - the Product Environmental Footprint (PEF) method (Recommendation 2013/179/EU, Annex II)
 - the Organisation Environmental Footprint (OEF) method (Recommendation 2013/179/EU, Annex III).
 - Unlike existing methods, the PEF and OEF methods bring EU-wide uniform
 - “environmental impact categories” for a Life Cycle Assessment (LCA) – e.g. climate change, human- or eco-toxicity, resource depletion – and
 - minimum data requirements.
 - The PEF and OEF Method are supplemented and specified by
 - “Product Environmental Footprint Category Rules” (PEFCR; Recommendation 2013/179/EU, Annex II.2), which specify benchmarks for product categories – a “model product”– to which the environmental footprint of a product can be compared to.
 - “Organisation Environmental Footprint Sector Rules” (OEFSR; Recommendation 2013/179/EU, Annex III.2), which introduce sector specific benchmarks for reasons of comparison of the OEF assessments of organisations in that sector.
 - For a given product or sector category, the PEFCR and OEFSR mainly regard
 - the 3 or 4 most relevant environmental impacts,
 - the most relevant processes or life cycle stages.
- ▶ **Communicating environmental performance by EU-wide uniform principles**

To prevent information on the environmental performance of products and organisations from being confusing or misleading, the Commission recommends to regard the following principles:

 - The way how information has been generated must be transparent.
 - Information on the environmental performance of products must be
 - scientifically sound and verifiable,
 - comparable within a product category or sector and
 - presented in ways that are fully understandable and of easy access to target audiences.
- ▶ **Future policy**
 - The Commission intends to introduce a three-year test phase which “relevant stakeholders”– also from third countries – may take part in.
 - The test phase serves the purpose of
 - testing “different” ways of the assessment of ex-ante conformity and market surveillance systems for PEF and OEF,
 - testing “innovative” ways of managing the process with the goal of making the application of the PEF and OEF method easier, especially for small and medium-sized enterprises (SMEs) and
 - determining the process of development of PEFCRs and OEFSRs.
 - “As appropriate” (p. 9), the Commission intends to incorporate the PEF and OEF method in
 - its Eco-Management and Audit Scheme [EMAS; Regulation (EC) No. 1221/2009, see [cepPolicyBrief](#)],
 - its Green Public Procurement (GPP, see [cepPolicyBrief](#) – only available in German) and
 - in the EU Ecolabel [Regulation (EC) No. 1980/2000].

- In addition to the Directive on unfair commercial practices (2005/29/EC), the Commission intends to establish further “guidance” on the promotion of “clear, accurate and relevant environmental claims in marketing and advertising” (p. 11).
- After the test phase, the Commission intends to review whether
 - the PEF and OEF methods should be made mandatory [SWD(2013) 111, p. 42],
 - alternative approaches to the PEF and OEF method exist (p. 10).

Statement on Subsidiarity

According to the Commission the rank growth of national schemes for measuring and communicating the environmental performance has hindered cross-border trade in the EU for producers of green products. The principle of mutual recognition cannot reduce non-technical barriers to trade, because even without legal requirements, exporters will have to apply schemes familiar to and accepted by consumers in their export markets, e.g. for national eco-labels, in order to be not disadvantaged to the domestic producers (p. 6).

Political Background

In its Communication “Integrated Product Policy” [COM(2003) 302], the Commission addresses the need for a uniform assessment of the environmental impact throughout a product’s life cycle. In its two Single Market Acts [Communication COM(2010) 608, see [cepPolicyBrief](#); Communication COM(2011) 206], the Commission considered establishing a common European methodology to assess and label the environmental impact of products („environmental footprint”). And again, in its Roadmap to a Resource Efficient Europe [Communication COM(2011) 571, s. [cepPolicyBrief](#)] and its European Consumer Agenda [Communication COM(2012) 225, see [cepPolicyBrief](#)], the Commission proposes a EU-wide uniform method for assessing, labelling and comparing a products’ environmental performance.

The Directive on the indication of energy consumption of products (2010/30/EU, see [cepPolicyBrief](#)) already commits dealers of “energy-related products” today, to provide information on energy consumption of their products. Legislation on harmonising indication of environmental performance of products and „green marketing” exists in different legal acts – e.g. Energy Star Regulation [(EC) No. 106/2008] – and in general provisions against misleading product information as in the Directive on unfair commercial practises (2005/29/EC).

Options for Influencing the Political Process

Leading Directorate-General:	DG Environment
Committees of the European Parliament:	Environment (in charge), Internal Market, Agriculture, Industry
Leading German Federal Ministry:	Environment (in charge)
Committees of the German Bundestag:	Environment (in charge),

ASSESSMENT

Economic Impact

Ordoliberal Assessment

Uniform methods for the assessment of environmental performance can reduce barriers to trade and **strengthen competition in the Single Market**. For businesses that want to label and market their products as “green” throughout the EU, incur additional costs of compliance to the various national and international provisions. It can, however, not been observed that the Single Market is considerably hampered by the multitude of eco-labels and that on the other hand, environmental claims on performance backed by a uniform methodical assessment of that performance would substantially promote the market for green products, as boldly claimed by the Commission.

Already today are dealers of “energy-related” products subject to strict environmental standards that stem from the ecodesign-Directive (2009/125/EC; see [cepPolicyBrief](#) – only available in German). At the same time, however, is the EU-wide market surveillance not sufficient to monitor the compliance with the standards. As a result, many products even fail to meet legal requirements. For businesses to plan with greater certainty for the associated and necessary investments and **to prevent distortion of competition, the compliance with existing standards should be enforced by putting in place a functioning market surveillance**.

In which way businesses intend to market their products’ environmental performance beyond the existing minimum standards should be left up to them. Too false or misleading claims on the performance of products have already been prohibited by the Directive on unfair commercial practises (2005/29/EC).

Impact in Efficiency and Individual Freedom of Choice

EU-wide prevailing methods for measuring and labelling environmental performance can give meaning to eco labels and **will thus appeal to the environmentally conscious consumer**. A Life Cycle Assessment that regards various environmental impacts of a product provides the advantage in that it reduces the incentives for businesses to forgo polluting activities in one stage of the life cycle that it then markets as environmentally-friendly at the cost of equal or more pollution in another stage. Then again could a life-cycle approach lead to

confusion on part of the consumers, in particular if they are interested only in certain performances such as the energy consumption in the utilisation stage.

Uniform methods for measuring and benchmarking environmental performance require that a good has the same use, and is disposed in the same way in all Member States and that EU-wide uniform preferences of the general public, as to the emphasis of the different environmental performances, exist. **National labels can allow for country-specific differences in preferences and are through their existence of many years more widely accepted than EU-wide uniform labels.** Thus, the EU Eco-label, introduced in 2000, has not gained much attention or acceptance.

Impact on Growth and Employment

Because participation in the harmonisation within the three-year test phase is voluntary, businesses will not incur additional cost in that time. At the end of the test phase **however, businesses with green practices could incur cost in case the application of the PEF and OEF method is made mandatory.** Such is hinted in the Impact Assessment [SWD(2013) 111, p. 42]. The Commission assumes that the application of its Recommendation will boost competitiveness of the environmentally conscious businesses and that their production and employment will expand. If this will be the case, remains to be seen.

Impact on Europe as a Business Location

The measures, as envisioned by the Commission, apply to all products traded in the EU, irrespective of their place of production. The consequences on Europe's quality as a Business Location will in case of an introduction thus be negligible.

Legal Assessment

Legal Competence

The EU may take action to protect the environment and to contribute to a "prudent and rational utilisation of natural resources" (Art. 191 (1) TFEU). Moreover, the Commission is vested with the right to make recommendations with no binding effect (Sentence 3 of Art. 292 TFEU).

Subsidiarity

Unproblematic. EU-wide uniform schemes for measuring and communicating the environmental performance of products and organisations, can only be established on EU-level.

Conclusion

Uniform benchmarks and methods for the assessment of environmental performances can strengthen competition in the Single Market. Prevention of distortion of competition demands that the compliance with existing standards is enforced for which functioning market surveillance should be put in place. EU-wide prevailing methods for measuring and labelling environmental performance can raise acceptance of eco-labels among consumers. National labels however can meet country-specific differences in preferences and are in general more widely accepted than EU-wide prevailing eco-labels. Because participation is voluntary within the three-year test phase, businesses will not incur additional test cost. This could change in case the application of the PEF and OEF methods is made obligatory.