

GIBSON DUNN

ESG: Risk, Litigation & Reporting Update

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## New Anti-Greenwashing Rules: Germany Raises the Bar for Sustainability Claims

*The German Federal Parliament (Bundestag) and the Federal Council (Bundesrat) have adopted legislation amending the Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG), implementing the [EU Directive Empowering Consumers for the Green Transition](#). The new rules will enter into force on **September 27, 2026**.*

*The reform significantly tightens the legal framework for environmental and sustainability claims. Notably, the vast majority of German case law on greenwashing to date has been based on UWG claims, underscoring the practical relevance of the changes for businesses.*

The key changes include the following:

### 1. Timeline: No Transition Period

The new rules will apply as of September 27, 2026. There is no transition period. Companies must ensure that all products and marketing materials comply with the new requirements by that date, including products that have been produced at an earlier date and have not been sold yet, as well as packaging and marketing materials printed at an earlier date.

## 2. New Statutory Definitions

To enhance legal certainty, the amended UWG introduces statutory definitions aligned with the terminology of the EU Directive, including:

- “generic environmental claim”
- “recognized excellent environmental performance”
- “sustainability label”

These definitions form the basis for the stricter assessment of environmental claims and will play a central role in enforcement.

## 3. Expansion of Per Se Prohibited Practices (“Black List”)

The UWG’s list of per se prohibited commercial practices (the so-called “black list”, Section 3(3) UWG) is expanded. The following practices will be unlawful irrespective of their actual impact:

- **Unsubstantiated generic environmental claims:** Claims such as “eco-friendly”, “green” or “climate-friendly” are prohibited unless they can be substantiated by “recognized excellent environmental performance”, i.e. top-tier performance evidenced by EU ecolabels or equivalent best-in-class ratings under EU law, such as an energy class A rating.
- **Unauthorized sustainability labels:** The use of sustainability labels is prohibited unless they are based on a recognized certification scheme or established by a public authority, for example the EU Ecolabel as established through Regulation (EC) No. 66/2010.
- **Carbon offset-based claims:** Claims suggesting that a product has a neutral, reduced or positive environmental impact based on greenhouse gas offsetting are prohibited.

## 4. Expanded Scope of Misleading Commercial Practices

The concept of misleading commercial practices is broadened in two key aspects:

- **Environmental and social product characteristics:** Environmental and social attributes, including durability, reparability and recyclability, are now explicitly recognized as “main characteristics” of a product. Misleading statements in this regard will constitute an infringement.
- **Forward-looking environmental claims:** Claims such as “carbon neutral by 2050” are only permissible if they are supported by clear, objective and verifiable commitments, a detailed and realistic implementation plan with measurable and time-bound targets, and independent third-party verification, with results made publicly available.

## 5. Who Can Bring Claims and What Are the Consequences?

While the reform leaves the UWG's standing rules and the core architecture of the sanctions regime untouched, the expanded substantive grounds make it worth recalling who can sue and what consequences apply.

In principle, competitors, individual consumers, certain qualified trade or consumer associations, and qualified Chambers of Industry and Commerce may have standing under the UWG. However, not every claimant can pursue every remedy: standing varies depending on whether damages, injunctive relief, or surrender of profits is sought.

Infringements may give rise to claims for injunctive relief and removal, or damages. Qualified trade or consumer associations, and qualified Chambers of Industry and Commerce may also apply for a surrender of profits. This is a UWG-specific mechanism under which profits obtained through an intentional or grossly negligent infringement to the detriment of a large number of consumers can be confiscated; such amounts are not paid to the claimant but are instead transferred to the Federal budget.

Beyond these civil remedies, widespread infringements with an EU dimension may attract regulatory fines of up to 4% of annual turnover, and misleading advertisements are punishable by fine or imprisonment of up to two years. In addition, infringements may also cause significant reputational harm.

## 6. How Companies Can Prepare

Given the absence of a transition period, companies should prioritize the following actions in the run-up to September 27, 2026:

- **Audit all sustainability-related advertising**, branding and labeling for compliance with the new black list items and the expanded definition of misleading claims.
- **Establish central oversight for sustainability claims**: Companies should ensure that responsibility for environmental and sustainability claims is clearly assigned and centrally coordinated, given the increased enforcement risk.
- **Ensure cross-functional alignment across the organization**: The use of sustainability-related communication is typically dispersed across multiple functions in companies. Legal departments should therefore actively coordinate with e.g. marketing, communications, branding, and product teams to ensure consistent understanding and provide practical guidance on permissible and impermissible claims under the new regime.
- **Implement internal approval and review processes**: Introduce or tighten review mechanisms for all sustainability-related claims, including clear sign-off requirements and escalation pathways for higher-risk statements (e.g., generic or forward-looking claims).
- **Build robust substantiation frameworks**: Ensure that all environmental claims are supported by documented, verifiable evidence that can withstand scrutiny from competitors, regulators and courts.
- **Prepare governance for forward-looking commitments**: Climate targets and similar commitments should be embedded in formal implementation plans with measurable milestones, internal accountability structures, and independent verification mechanisms.

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