Insights: Perspectives

It's Not Easy Being Green: Environmental Marketing Claims in the US and EU

NOVEMBER 18, 2026 Written by Bryan J. Wolin and Victor F. DeFrancis

Kilpatrick's **Bryan Wolin** and **Vic DeFrancis** joined KNPZ's **Florian Stoll**, **Mathias Zintler**, and **Felix Tann** on November 12, 2026, to present "It's Not Easy Being Green: Environmental Marketing Claims in the US and EU." The panel discussed the legal standards governing environmental advertising, recent enforcement and litigation, and evolving European requirements affecting businesses operating across both markets.

The presentation highlighted the importance of aligning environmental claims with supporting evidence and consumer expectations. Although U.S. and EU requirements share common principles, differences in their treatment of environmental claims and sustainability labels require careful consideration when developing international campaigns.

Key takeaways from the presentation include:

1. Broad Green Claims: Specificity Matters

- Terms such as "green," "eco-friendly," and "sustainable" can communicate environmental benefits beyond what a company intends or can substantiate.
- The FTC's Green Guides discourage broad, unqualified benefit claims, while the EU's Empowering Consumers for the Green Transition Directive ("EmpCo") prohibits general environmental claims unless an advertiser satisfies precisely defined standards.
- Identifying a particular benefit with precision, such as the percentage of recycled material in packaging, and stating it clearly and prominently in the same advertisement or on the same packaging, helps businesses communicate clearly and substantiate the resulting message.

2. Substantiation: Evidence Must Fit Both Express and Implied Claims

- Credible research does not necessarily support every message an advertisement conveys.
- Testing showing that a bag will break down under composting conditions may not substantiate a claim implying that it will degrade in a landfill.
- Similarly, evidence showing that a product is free of certain chemicals may not support broader implied claims that competing products (that contain the chemicals) are unsafe.
- Businesses should assess whether their evidence supports all express and implied claims made in an advertisement.

3. U.S. and EU Requirements: One Campaign May Need Different Claims

- U.S. advertising clearance does not establish EU compliance.
- EmpCo expressly prohibits certain practices, including carbon-offset-based claims that a product has a neutral, reduced, or positive greenhouse-gas impact.
- The FTC's Green Guides, by comparison, contemplate carbon-offset claims subject to appropriate substantiation, accounting, and disclosures.
- International campaigns require review of both the evidence supporting a claim and whether the claim is permissible in each market.

4. Future Commitments: Long-Term Goals Need Present Support

- If a company communicates that it has environmental goals, it should have credible plans, the capacity to achieve them, and the ability to reassess them as circumstances change.
- EmpCo expressly prohibits making future environmental performance claims without verifiable commitments, realistic implementation plans, measurable targets, and independent verification.

5. Sustainability Labels: Certification Does Not End the Inquiry

- A third-party certification seal does not eliminate an advertiser's responsibility to substantiate its claims.
- Under FTC guidance, companies should convey the specific basis for the certification, as well as disclose any relevant material connections to the certifier.
- EmpCo prohibits the use of sustainability labels unless they comport with strict certification schemes.
- Businesses should carefully consider the scope of a third-party certification, and the express and implied claims these labels make to consumers, before using them in advertising.

Related People





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