

Advertisements in the fashion industry: Sustainability claims

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Introduction

- Jos van der Wijst
 - IP-partner at BG.legal
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 - Full-service law firm
 - Copyright, trademark- & design registrations, advertisement law
 - Other IP related services
 - Founder of LegalAIR
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- This presentation: sustainability claims in the fashion industry
 - The legislation on the use of sustainability claims
 - The potential of AI/Blockchain in making this sector more sustainable



Sustainability claims

- No legal definition
- "The expressions "environmental claims" or "green claims" refer to the practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product or a service, is environmentally friendly (i.e. it has a positive impact on the environment) or is less damaging to the environment than competing goods or services"*.

*Guidance of the Commission for the implementation/application of Directive 2005/29/EC on unfair commercial practices (2011)

Sustainability claims: examples



Greenwashing

- Changing markets: Most of the sustainability claims of major European and British clothing brands are unsubstantiated or misleading

EU fast fashion brands found to be lying about the sustainability of their fabrics



<https://www.euronews.com/green/2021/07/02/eu-fashion-brands-found-to-be-lying-about-the-sustainability-of-their-fabrics>

Sustainability in fashion: recent example

Hunkemöller sued by German consumer advocate for greenwashing

> April 12, 2022 by [Jasmijn](#). About [Laws and regulations](#) with tags [The Netherlands](#). 823 views.

Dutch lingerie retailer Hunkemöller has been sued by a German consumer advocate. The lawsuit is due to **misleading marketing** in its online shop about sustainability. Dutch retailer Peek&Cloppenburg and German fashion group Popken Fashion GmbH have also been warned.



‘Completely arbitrary if products contain sustainable material’

Hunkemöller marketed a part of their collection as being made from **‘sustainable cotton’**. However, this cotton is **mixed with mostly conventionally produced cotton**, the consumer advocate found. Therefore it is **‘completely arbitrary’** in which garments the environmentally friendly material is used, Verbraucherzentral

<https://ecommercenews.eu/hunkemoller-sued-by-german-consumer-advocate-due-to-greenwashing/>

The Dutch Authority ACM

ACM continues its campaign against misleading sustainability claims in the clothing sector

Authority for
Consumers & Markets



Guidelines

Sustainability claims

<https://fashionunited.nl/nieuws/business/acm-start-vervolgonderzoek-misleidende-duurzaamheidsclaims-bij-zes-kledingbedrijven/2021110451561>

Current EU-legislation

- Directive 2005/29/EC concerning unfair business-to-consumer commercial practices
 - Guidance on the implementation of this Directive
 - Contains a chapter on environmental claims
- Directive 2006/114/EC concerning misleading and comparative advertising
- Environmental Claims Guidance
- Only a Directive → no Regulation



European Commission
Directorate-General Health & Consumer Protection

Guidelines for Making and Assessing Environmental Claims

Contract No. B5-1000/99/000051

Report No. 67/94/22/1/00281

EU-legislation in the pipeline

- The European Commission proposed several amendments to the Unfair Commercial Practices Directive (UCPD).
- A few blacklist practices to ban greenwashing:
 - Making generic, vague environmental claims
 - Claim about an entire product, when it really concerns only a certain aspect
 - Displaying a ‘voluntary sustainability label’
- The EU Strategy for Sustainable and Circular Textiles
 - Part of the European Green Deal
 - A few action points:
 - Providing clearer information on textiles through e.g. a Digital Product Passport and Tackle greenwashing



ACM Guidelines sustainability claims



1. Make clear what sustainability benefit the product offers



2. Substantiate your sustainability claims with facts and keep them up-to-date



3. Comparisons with other products, services, or companies must be fair



4. Be honest and specific about you company's efforts with regard to sustainability



5. Make sure that visual claims and labels are useful to consumers, not confusing

Possible solution: AI

What are the potential benefits of AI?

1. AI predicts trends to reduce waste
2. AI helps customers shop used clothes
3. AI speeds up 3D modelling
4. AI ensures sustainability claims

**Turn Product Pages
To Fitting [Rooms.]**

<https://towardsdatascience.com/5-ways-ai-is-transforming-the-fashion-industry-for-sustainability-bfd3bb1fc00a>
<https://www.sustainably-chic.com/blog/how-ai-is-making-the-fashion-industry-more-sustainable>



Americana Chen

Dec 29, 2021 · 8 min read ★ · Listen



5 Ways AI is Transforming the Fashion Industry for Sustainability



Possible solution: Blockchain

Blockchain could provide reliable information on the origin of products

H&M to Use Blockchain to Trace its Products

April 27, 2020



José Rodríguez

Fashion giant H&M [has partnered](#) with blockchain platform VeChain in order to integrate cryptos' underlying technology.

<https://ihodl.com/topnews/2020-04-27/hm-use-blockchain-trace-products/>

<https://www.fashionrevolution.org/tag/who-made-my-clothes/>

<https://www.provenance.org/>



Questions



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