

Environmental RTDI Programme 2000–2006

**The Use and Regulation of Environmental Claims
as a Means for Promoting Sustainable
Consumption in Ireland
(2004-SD-DS-12-M2)**

Final Report

Prepared for the Environmental Protection Agency

by

the Environmental Institute, University College Dublin

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The Socio-Economics Section of the Environmental RTDI Programme addresses the need for research in Ireland to inform policymakers and other stakeholders on a range of questions in this area. The reports in this series are intended as contributions to the necessary debate on socio-economics and the environment.

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Executive Summary

Sustainable consumption and environmental labels and claims?

Sustainable consumption may be defined as "*the use of goods and services that respond to basic needs and bring a better quality of life, while minimising the use of natural resources, toxic materials and emissions of waste and pollutants over the life cycle, so as not to jeopardise the needs of future generations*" (OECD, 2001, p. 9). It fundamentally requires that consumers have the ability to make more sustainable purchasing choices, but to do so they require information to enable them to differentiate between the environmental impacts of competing products (Department of the Environment, 1997). Environmental claims found on products and their packaging have a key role to play in this regard, as they are a primary source of information for consumers at the point of sale. This study consists of an initial evaluation of the use and regulation of such claims in Ireland, in order to identify how they may be most effectively used to promote sustainable consumption.

Environmental claims, labels or declarations are terms used to describe information appearing on a product, its packaging or in related literature or advertising material, which can be taken as saying something about the product's environmental aspects. They include:

- Self-declared product-related claims and labels (e.g. 'Recycled', 'Biodegradable')
- Self-declared corporate-related labels and claims (e.g. 'Proceeds donated to...')
- Third-party/Certified environmental labels and claims (e.g. EU Eco-Label).

There is low uptake of third-party/certified environmental labels in the Irish market and thus the small survey part of this report deals mainly with self-declared product-related environmental claims – made by manufacturers/retailers for their products but not subject to independent certification or verification. They are primarily found on products and/or product packaging and can be subdivided into two main types:

1. Self-declared factual environmental claims (e.g. 'Biodegradable', 'Recyclable')
2. Self-declared qualitative environmental claims (e.g. 'Environmentally Friendly', images of nature).

As businesses have come to recognise that environmental concerns may be translated into a market advantage for certain products and services, various environmental declarations/claims/labels have emerged on products and with respect to services in the marketplace (e.g. natural, recyclable, eco-friendly, low energy, recycled content, etc.). Studies carried out to date on environmental claims (e.g. Leibuscher *et al.*, 1998; Allison and Carter, 2000; UK Department of Trade and Industry 2002) have identified certain key issues influencing the degree of effectiveness of such claims:

- Credibility of environmental claims
- Control and regulation of claims, in particular on-pack and vague claims
- Need for accompanying consumer education and information programmes.

Policy framework for environmental claims in Ireland

Based on the information gathered in the interviews for this study, it seems that general consumer policy in Ireland has been relatively weak to date, mainly because responsibility for consumer issues is spread across various government departments. There has been very limited progress to date on the few specific initiatives on environmental claims identified in the 1997 National Sustainable Development Strategy and the 2003–2005 Sustainable Development Strategy of the Department of Enterprise, Trade and Employment. The EU has produced guidelines to assist those involved in public procurement to integrate environmental considerations into their purchasing decisions as another tool to promote sustainable consumption but there have been limited attempts to harness this potential in Ireland to date.

The provision of information for consumers is carried out by several government departments and agencies, depending on the topic/area being addressed. Awareness

amongst Irish consumers of environmental issues and of the impact of their purchasing choices remains quite low. More than half of consumers do not pay attention to environmental labels or product information (Drury Research, 2000), and are distrustful of on-pack information. Despite the low levels of awareness, there have been very few initiatives to educate either consumers or businesses about environmental labels and claims and none of a comprehensive, integrated nature as found in the UK and the USA. While resource constraints may be a factor in the low level of activity on environmental claims to date, the continued lack of policy and action may have impacts in areas such as competition between firms in addition to that of consumer choice and decision making.

Regulatory framework for environmental claims in Ireland

A study carried out for the European Commission to examine the means used in 15 Member States to control misleading environmental claims found that there were no instruments of control specific to environmental claims in Ireland and no sanctions in place for misleading claims (Leubuscher *et al.*, 1998). Generic controls currently in place that may be used to deal with certain types of environmental claims consist of the following.

Statutory controls

- Consumer Information Act, 1978
- Sale of Goods and Supply of Services Act, 1980
- European Communities (Misleading Advertising) Regulations, 1988
- European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995 and 2000
- Council Directive 92/75/EEC on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances
- European Communities (Consumer Information on Fuel Economy and CO₂ Emissions of New Passenger Cars) Regulations, 2001

Non-statutory controls

- ASAI Code of Advertising Standards
- European Commission Guidelines for Making and Assessing Environmental Claims

- ISO Standard 14021:1999 on Environmental Labels and Declarations – Self-Declared Environmental Claims (Type II Environmental Labelling)
- International Chamber of Commerce International Code of Environmental Advertising

While regulation and control of self-declared environmental claims are critical to their effective use, Ireland lags behind other Member States in terms of general consumer protection. The Consumer Information Act, 1978, may not be effective in dealing with claims such as 'environmentally friendly' and this needs to be investigated further. In addition, the burden of proof requirement on persons making complaints against misleading claims (under both the Sale of Goods and Supply of Services Act, 1980 and the Misleading Advertising Regulations, 1988) poses particular difficulties for proving misleading environmental claims where only those making the original claim may have access to the information required. The current low levels of environmental awareness amongst Irish consumers may also be hindering such misleading environmental claims being recognised in the first place.

Section 11 of the ASAI Code of Advertising Standards is the only control mechanism specific to environmental claims currently operating in Ireland but it specifically excludes on-pack claims. Other issues regarding its effectiveness include:

- Less comprehensive than similar guidance in other countries such as the UK, Sweden, Denmark and Finland
- Lack of supporting guidance for environmental claims in specific product groups
- Areas of ambiguity within the Code, in particular Sections 11.1, 11.2 and 11.5
- Potential for misleading claims to be allowed under the Code if presented as advertisers' opinions
- Relatively weak sanctions for misleading claims.

The European Commission's guidelines on making and assessing environmental claims are not currently promoted or used in Ireland, even though they would compensate for the ASAI Code's limited scope with regard to on-pack environmental claims. Key stakeholders in government, business and the non-

government organisation sectors appear to be unaware of the existence of both these guidelines and most of the other statutory and non-statutory mechanisms for controlling environmental claims. There has also been no uptake of the ISO 14021 standard for self-declared environmental claims by Irish companies to date.

Environmental claims on the Irish market

A small-scale survey was conducted of the numbers and types of self-declared environmental claims present on a selection of five product groups: paints, detergents, washing-up liquids, cleaners and polishes, and paper products. A wide variety and amount of environmental claims and labels were identified across all five product groups, with a total of 179 self-declared environmental claims being identified, the majority (91%) comprising factual claims (such as 'recycled' and 'biodegradable') and the remaining 9% being qualitative claims (such as 'environmentally friendly' and 'conserve the environment'). All 179 self-declared factual and qualitative environmental claims were assessed using the 12 criteria contained in the UK's Green Claims Code and rated as Pass, Borderline or Fail. A total of 52% of the 179 claims were assessed as acceptable, 19% as borderline and 29% as failing one or more criteria. Thus, large numbers of unacceptable claims were encountered, spread across the product groups. Far fewer self-declared qualitative claims were identified but there was a high failure rate in this category, particularly as regards the use of subliminal references and imagery to imply non-existent

environmental benefits. Common reasons for claims not meeting the assessment criteria included:

- Claims implying characteristics that are actually standard industry practice
- Use of vague, generalised and unsubstantiated terms or wording
- Failure to qualify claims with data, e.g. recycled content
- Use of unexplained symbols and imagery.

Overall, the results indicate either a lack of knowledge or lack of concern amongst manufacturers regarding misleading environmental claims, pointing to the need for effective guidance and controls in this regard.

Recommendations

The study concludes with the presentation of a number of recommendations as to how the key issues identified in the report (Table 1) might be addressed in order to ensure the effective use and control of environmental claims in Ireland.

Recommendations for improving the policy framework

- Conduct an appropriate stakeholder review process comprising of relevant government departments, business and consumer organisations.
- Provide clarification of responsibility and leadership on sustainable consumption and environmental claims policy.

Table 1. Summary of report recommendations.

	Ireland	Best practice example
Policy	Responsibility for environmental claims, labelling and procurement as related to the development of a coherent sustainable consumption policy should be concentrated with one agency or department rather than spread across several. Review process with stakeholders should be conducted.	In the EC, overall responsibility for consumer affairs lies with the DG for Health and Consumer Protection, which also oversees policy in relation to public health and food safety. Other Member States, such as Denmark, have integrated all state-operated services for consumers, including a consumer ombudsman.
Education and awareness	Further research on education strategies, baseline data on environmental claims in use, credible environmental labelling, accompanying consumer education and information programmes.	UK's <i>A Shopper's Guide to Green Labels</i> ; Nordic Swan Eco-label, with high visibility, credibility and success; German Blue Angel which 80% of consumers recognise.
Legislative	Review current mechanisms and potential for new control and regulation of claims, in particular on-pack and vague claims.	A three-tier system for complaints in Germany, Denmark, the Netherlands where the majority of complaints are resolved informally.
Quality of claims	Ensure that an effective code of practice for environmental claims is in place, consulting with NSAI and business.	EU <i>Guidelines for Making and Assessing Environmental Claims</i> could provide a suitable basis for a new code.

- Examine the potential for the EU Eco-Label or alternative eco-label in the Irish market.
- Develop and implement an environmental product information strategy.
- Increase levels of green public procurement.

Recommendations for information and education

- Obtain comprehensive baseline data on environmental claims.
- Improve consumer awareness of environmental claims.
- Improve company information provision on environmental claims.

Recommendations for improving control mechanisms

- Review the Consumer Information Act, 1978.
- Test current controls on environmental claims.
- Review the Sale of Goods and Supply of Services Act, 1980, and the Misleading Advertising Regulations, 1988.
- Introduce additional control mechanisms, for example publicity, blacklists and scorecards.

Recommendations for improving the standard of claims

- Develop and implement a comprehensive code of practice on environmental claims in conjunction with further research on international best practice and stakeholder involvement.
- Encourage applications for certified environmental product information standards.

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1 Introduction

1.1 Background to the Study

This study aims to provide an initial overview and evaluation of the use and regulation of environmental claims in Ireland and recommendations on how best to manage such claims as an effective means for promoting sustainable consumption.

It is a preliminary desk-based study, with the following specific objectives:

- Outline the current policy and regulatory framework for environmental labels and claims in Ireland, including:
 - Responsible authorities
 - Relevant legislation, policy and guidance (including international standards and guidelines)
 - Information and awareness campaigns for both consumers and producers/retailers.
- Review and assess the quantities, types and standards of environmental claims currently used in Ireland (in particular self-declared factual and qualitative environmental claims).
- Evaluate the effectiveness of the current policy and regulatory framework, including:
 - Level of regulation to date (including number/type of actions taken against bad or fraudulent claims)
 - How the situation in Ireland compares to that in other countries (EU/international best practice).
- Draw conclusions and make recommendations as to how the current system can best be managed to ensure optimum use of environmental claims as a means of promoting sustainable consumerism in Ireland.

The main sources of data for the study were:

- Published and non-published literature in the areas of:
 - Sustainable consumption
 - Environmental claims and labels

- Consumer policy and education
- Regulation of advertising and marketing claims
- A small-scale survey of selected product groups carried out specifically for this study
- Informal consultation with selected key stakeholders from the government, business and non-government organisation (NGO) sectors:
 - Department of Enterprise, Trade and Employment – Environment Unit
 - Department of the Environment, Heritage and Local Government – Environment Policy Section
 - National Standards Authority of Ireland (NSAI)
 - Irish Business and Employers Confederation (IBEC)
 - Friends of the Earth Ireland
 - Advertising Standards Authority of Ireland.

Both the Office of the Director of Consumer Affairs (ODCA) and the Consumers' Association of Ireland (CAI) were also contacted on several occasions: no response was received from the CAI and the ODCA stated that they have no remit in the area of environmental claims.

Given that the study is primarily aimed at policy makers, it is intended to disseminate the findings in the following manner:

- Issuing of press releases and copies of the study publication to key stakeholders (both those consulted during the study and a selection of other key policy makers, bodies and individuals)
- Publication of article outlining key study findings for the *Irish Times* newspaper
- Publication of more detailed paper for inclusion in a national consumer journal.

This report will also be available on the EPA's website and a link to this provided from the research page of the website of the Department of Planning and Environmental Policy in UCD (www.ucd.ie/gpep/gpepinfo/research).

This chapter introduces environmental claims and traces their development within the context of sustainable consumption. Key issues affecting their use and effectiveness are also outlined. Chapter 2 presents an overview of current policy and practice in Ireland with regard to the areas of consumer policy, sustainable consumption and environmental claims. Awareness-raising and guidance activities in the area of environmental claims are also investigated, in addition to consumer awareness of environmental issues in general and environmental claims in particular. Chapter 3 provides an outline of the current regulatory framework for environmental claims in Ireland, identifying the key relevant statutory and non-statutory control mechanisms available and the bodies responsible for their implementation. The results of an initial small-scale survey of the types and quantities of environmental claims across five product groups on the Irish market are presented in Chapter 4, together with an evaluation of their quality against specified criteria. Chapter 5 draws together the main findings of the study, identifying the key issues affecting the effective use and regulation of environmental claims in Ireland at present and presenting recommendations as to how issues of concern in the Irish context might be addressed. Finally, additional background information relating to environmental claims and labels is contained in the Appendices. The experience of other countries, both within Europe and internationally, is also discussed where relevant throughout the study.

1.2 What are Environmental Claims?

Sustainable consumption may be defined as *“the use of goods and services that respond to basic needs and bring a better quality of life, while minimising the use of natural resources, toxic materials and emissions of waste and pollutants over the life cycle, so as not to jeopardise the needs of future generations”* (OECD, 2001a, p. 9). It fundamentally requires that consumers have the ability to make more sustainable purchasing choices but, to do so they require information to enable them to differentiate between the environmental impacts of competing products (Department of the Environment, 1997). Environmental claims found on products and their packaging have a key role to play in this regard, as they are a primary source of information for consumers at the point of sale. This study consists of an initial evaluation of the use and regulation of such claims in Ireland, in order

to identify how they may be most effectively used to promote sustainable consumption. In addition to an analysis of the Irish situation, reference is also made to experiences and best practices in other countries, with a view to identifying necessary action(s) required to maximise the effectiveness of environmental claims in promoting more sustainable consumption.

Environmental claims, labels or declarations are terms used to describe *“information appearing on a product, its packaging or in related literature or advertising material, which can be taken as saying something about the product’s environmental aspects”* (UK Department of Environment, Transport and the Regions, 2000). They are often referred to as ‘eco-labelling’ and can take the form of text, symbols or graphics that are usually intended to indicate that a product has certain environmental benefits or causes less environmental damage than a competing product. There is a very wide range of environmental product information types in existence at present and they can be categorised in a number of ways, depending, for example, on whether they are voluntary or mandatory, self-declared or third-party certified, single-issue or life-cycle based, amongst other criteria. Figure 1.1 provides one such classification, giving an overview of the most common types of environmental claims and labels, which are:

- Self-declared product-related claims and labels (e.g. ‘Recycled’, ‘Biodegradable’)
- Self-declared corporate-related labels and claims (e.g. ‘Proceeds donated to...’)
- Third-party/Certified environmental labels and claims (e.g. EU Eco-Label).

There is low uptake of third-party/certified environmental labels in the Irish market and thus the small survey part of this report deals mainly with **self-declared product-related environmental claims** – those made by manufacturers/retailers for their products but not subject to independent certification or verification. They are primarily found on products and/or product packaging and can be sub-divided into two main types:

1. Self-declared factual environmental claims (e.g. ‘Biodegradable’, ‘Recyclable’)
2. Self-declared qualitative environmental claims (e.g. ‘Environmentally Friendly’, images of nature).

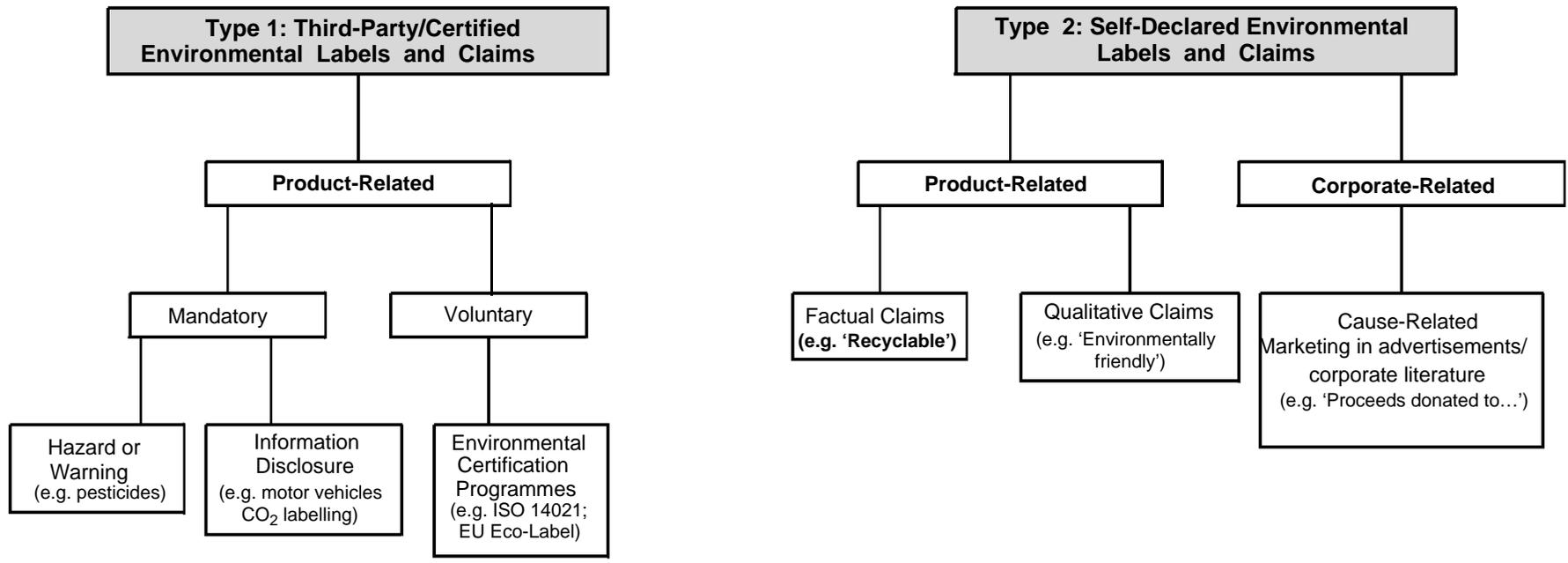


Figure 1.1. An illustrative classification of environmental labelling. (Adapted from *Environmental Labelling Issues, Policies and Practices Worldwide*, US Environmental Protection Agency, 1998, p. xv.)

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For the purposes of this study, the term 'environmental claim' refers to these self-declared factual or qualitative environmental claims (including logos and symbols). Reference will also be made, where relevant, to other types of environmental product information such as third-party certified environmental labels as they occur in Ireland.

1.2.1 Self-declared factual environmental claims

ISO 14021:1999 defines a self-declared environmental claim as "an environmental claim that is made, without independent third-party certification, by manufacturers, importers, distributors, retailers or anyone else likely to benefit from such a claim" (International Organization for Standardization (ISO), 1999a, p. 2). Factual self-declared claims are usually of a scientific or quantified nature, referring to characteristics of the product, its production process, use or disposal and include claims referring to level of recycled content, product biodegradability and chlorine usage, amongst others. Two commonly encountered examples of this type of claim – the Möbius Loop and Material Identification Marks – are described in detail in [Appendix B](#).

1.2.2 Self-declared qualitative environmental claims

These forms of self-declared claims usually consist of less specific statements than factual claims. ISO 14021 contains an illustrative list of such claims (ISO, 1999a, p. 4) as follows:

- environmentally safe
- environmentally friendly
- earth friendly
- non-polluting
- green
- nature's friend
- ozone friendly.

Certain phrases or statements also fall into this category, such as "paper made from environmentally managed forests", "low energy", "this greeting card is made from the soft wood pulp of sustainable Scandinavian forests" and "for every tree cut down at least one more is planted" (ECOTEC, 2001, p. 31).

A related type of claim concerns the use of unsubstantiated or unverified environmental logos and symbols such as illustrations of trees, dolphins, lakes and other natural objects. "Natural objects are considered to be environmental claims because they allow a potential consumer to associate the object with an environmental benefit. They should be easily distinguishable from other symbols and relevant to the claims being made" (Commission of the European Communities, 2000, p. 12). According to ISO 14021, "natural objects shall be used only if there is a direct and verifiable link between the object and the benefit claimed" (ISO, 1999a, p. 6).

1.3 Development of Environmental Claims and Labels

The roots of product eco-labelling can be found in growing global concern for environmental protection on the part of governments, businesses and the public. Every product we buy consumes often-limited natural resources and may result in under-utilised waste products. According to the UN, "runaway growth in consumption in the past fifty years is putting strains on the environment never before seen" (UNDP, 1998). Moving from unsustainable patterns of production and consumption that cause pressures on natural resources and ecosystems is widely recognised as being a key element in achieving sustainable development. For example, Principle 8 of the 1992 Rio Declaration on Environment and Development (UNEP, 1992a) aimed to achieve sustainable development and a higher quality of life for all people, calling for action by states to reduce and eliminate unsustainable patterns of production and consumption, whilst Agenda 21, also agreed at Rio, contained a specific chapter on *Changing Consumption Patterns* (UNEP, 1992b).

At EU level, sustainable consumption and production issues are pursued across a variety of policy areas. For example, the Sixth Community Environment Action Programme stresses the importance of informed and empowered citizens in achieving changes in unsustainable consumption patterns and the need for quality information that they can use and understand (Commission of the European Communities, 2001a, p. 20). The EU Consumer Policy Strategy 2002–2006 also contains specific actions to promote sustainable consumption and production patterns (Commission of the European Communities, 2002a). In addition, some specific non-legislative approaches, such as the Integrated Product Policy (IPP), have been developed to

reduce the negative environmental impacts of products across their life cycle, including production, use and disposal (Commission of the European Communities, 2003). Part of the IPP looks at ways in which the market can encourage the adoption of greener products and services through the use of policy tools such as labelling and product declarations (such as the EU's Eco-Label and energy labelling of household appliances) and greening public procurement (discussed in more detail in [Section 2.3.1](#)). Similarly, the Environmental Technologies Action Programme (ETAP) has identified numerous ways in which environmental technologies can reduce the negative environmental impacts of production and consumption (Commission of the European Communities, 2004b).

While manufacturers have long made claims about the superiority of their products or services over those of competitors, the specific promotion of information about a product or service's environmental impact has really only emerged in the last 25 years. This has been fuelled by increased awareness of sustainable consumption and environmental issues, and industry's desire to capture niche markets for more environmentally friendly goods and services. As businesses have come to recognise that environmental concerns may be translated into a market advantage for certain products and services, various environmental claims, labels and declarations have emerged for both products and services in the marketplace (e.g. natural, recyclable, eco-friendly, low energy, recycled content, etc.). While these have attracted consumers looking for ways to reduce adverse environmental impacts through their purchasing choices, they have also led to some confusion and scepticism on the part of consumers (Global Ecolabelling Network, 2004).

In general, the overall aim of environmental claims is "...to encourage the demand for and supply of those products and services that cause less stress on the environment...through communication of verifiable and accurate information, that is not misleading, on environmental aspects of products and services...thereby stimulating the potential for market-driven continuous environmental improvement" (ISO, 2000, p. 1). Education in the form of trustworthy labelling can promote behaviour change to achieve more sustainable consumption. Such information is "one response to the assumption that obstacles to environmentally conscious behaviour are in part due to a lack of consumer knowledge, perceptions of

cost or complexity or inertia through habit" (OECD 2001b, p. 15). In one of the first studies to examine purchasing data related to eco-labelling, it was found that such labelling has helped boost sales of certain consumer products in Denmark and that, for example, there is a 'willingness to pay' 10–17% more for eco-labelled toilet paper and detergents (AKF, 2002).

Governments have also become involved in the development of certified environmental labelling schemes as a way to initiate behaviour change in favour of more sustainable consumption choices. The number of product labelling schemes has been increasing rapidly; in 1999 there were about 20 national OECD programmes and several developing country proposals (Nadaï, 1999). Examples in the EU include the EU's own Eco-Label, which was launched in 1992 under the assumption that the product supply chains could be 'greened' by consumers exercising purchasing choices. The Blue Angel in Germany was started in 1977 and was the first national eco-labelling programme, with 80% of Germans familiar with the label (Müller, 2002, p. 17). In Scandinavia, the Nordic Council of Ministers started the Nordic Swan in 1989, and in Sweden the Swedish Society for Nature Conservation (NGO) runs the Environmental Choice labelling scheme. Other examples of certification programmes include the French NF Environment label and the Dutch Milieukeur label (OECD, 1997). However, deficiencies still exist in relation to such schemes. For example, a recent review of the EU's Eco-Label scheme found that, while the label is frequently able to produce improvements in the environmental performance and market share of products and processes, certain barriers still persist, such as procedural and organisation problems and costs for those applying for the label and lack of recognition and knowledge of the label by consumers, public purchasers, intermediate customers and retailers (IEFE *et al.*, 2005, p. 7). In addition, a project to promote the take-up of this label in Ireland reported a low demand in the Irish market for eco-labelled products in general and the EU Eco-Label in particular (Certification Europe and Drury Communications, 2003, p. 22).

The northern European labelling schemes have presumably been the most successful (Sternier, 2003). However, few if any schemes have been evaluated scientifically in a satisfactory manner, thus 'successful' refers to the range of use and to the market share and popularity attained. The two most common labels in Sweden (Environmental Choice and Nordic Swan)

together had the following approximate market shares in 1996:

- Facial and bathroom tissue: 100%
- Laundry detergent: 65%
- Other detergents and cleaning: 50–70%
- Soap and shampoo: 1–10%.

One reason cited for the success of eco-labelling in Sweden is the presence of strong environmental NGOs and thus consumer demand for green products (OECD, 1997). At least two strong rival labelling programmes exist in Sweden. The EU originally hoped to include all European labelling schemes within the EU scheme, but evidence now indicates that competition between rival schemes is good rather than bad and thus the drive for harmonisation has slowed (Karl and Orwat, 1999). Competition does encourage debate on certification criteria and because the technical and ecological issues are complex, several sources of independent valuation might provide the optimal information input for the consumer.

1.4 Current Issues Affecting Environmental Claims

Studies carried out to date on environmental claims (e.g. Leibuscher *et al.*, 1998a; Allison and Carter, 2000; UK Department of Trade and Industry, 2002) have identified certain key issues influencing the degree of effectiveness of such claims:

- Credibility of environmental claims
- Control and regulation of claims, in particular on-pack and vague claims
- Need for accompanying consumer education and information programmes.

1.4.1 Credibility of environmental claims

Environmental claims can be a powerful marketing tool, whereby producers can promote their particular product or service as being environmentally superior to that of competitors. Inevitably, this can result in misleading claims as well as genuine ones in circulation, particularly in the absence of an effective regulatory framework. Verifiable, evidence-based claims can provide reassurance to consumers as to the validity of the claim. It must also be recognised that the transmission of

information about a product or service's characteristics can often be problematic for producers as well as consumers, given the need to distil and process complex information in order to arrive at claims that are easily understood.

In some Member States, “*understanding of green issues related to consumption remains low and falsified ‘green’ claims abound (so-called ‘greenwash’), leading to a lack of recognition for valid claims, loss of credibility and consumer confusion*” (Allison and Carter, 2000). Furthermore, non-credible environmental claims can also “*deprive genuine eco-products of their fair market share*” and “*undermine the market incentive for industry to innovate production and product technology*” (Leibuscher *et al.*, 1998a). The presence of some form of verification or monitoring to maintain the credibility of claims can play an important role in addressing this situation.

1.4.2 Control and regulation of environmental claims

To be effective, environmental claims must be “*clear, true, specific and not misleading*” (UK Department of Environment, Transport and the Regions, 2000). Without guiding standards and investigation by an independent third party, consumers may not be certain that the companies’ assertions guarantee that each labelled product or service is an environmentally preferable alternative. This concern with credibility and impartiality has led to the introduction of legislative and other controls on environmental claims:

- At international level, the ISO has also developed a set of standards for two types of environmental claims on goods and services – third-party certification (Type 1) and self-declarations (Type 2) (ISO, 1999a,b).
- At EU level, DG Health and Consumer Affairs has funded studies on the need for verification and control systems for environmental claims (Leibuscher *et al.*, 1998a) and has issued guidelines to assist in the understanding and implementation of self-declared claims (Commission of the European Communities, 2000). These are discussed in more detail in [Chapter 3](#).
- Several Member States have also developed national guidance for both manufacturers and consumers on environmental claims, such as the Green Claims Code, developed by the UK’s Department of

Environment, Food and Rural Affairs and Department of Trade and Industry (UK Department of Environment, Transport and the Regions, 2000).

The introduction of legislation such as the EU Directive on Misleading Advertising has gone some way towards regulating misleading marketing claims, including environmental ones, made by advertisers. However, there is evidence to suggest that the main problem area has shifted away from advertising claims to more general and vague on-pack environmental claims made or implied by manufacturers rather than advertisers (Leubuscher *et al.*, 1998a; Allison and Carter, 2000). Examples of such claims include images of pristine nature, statements of environmental friendliness or naturalness and 'environmental' colours and, by their nature, are more difficult to verify and control than more explicit factual-based claims. Symbols and logos are particular problems as they largely escape regulation under existing regulatory systems. Manufacturers and retailers are also extending these 'implicit' claims even further, to imply environmental friendliness and/or sustainability on behalf of their entire product ranges or the company itself (Leubuscher *et al.*, 1998a, p. 13). Some of these extended claims are backed up by credible criteria, but others remain unverified.

1.4.3 Need for accompanying consumer education/information programmes

The presence of an environmental claim on a product or service may not in itself result in changed consumer behaviour; research has shown that in order for any kind of labelling scheme to be effective, the customer must "*notice and read the label, understand the implications and take action*" (UK Department of Trade and Industry, 2002). This understanding requires relevant education, whether through advertising or other information campaigns and, in this regard, "*consumer education and*

awareness is a prerequisite to the success of most environmental labels" (Allison and Carter, 2000). Recent research found that 42% of people in Ireland pay attention to labelling when making purchases (Drury Research, 2000); however, other surveys have shown a low interest amongst Irish consumers in sustainable consumption issues and a low level of trust in on-pack information, indicating a need for more effective public education initiatives in this regard (see [Section 2.2.1](#) for a more detailed discussion of this issue).

1.5 Summary

- Environmental claims, labels or declarations are terms used to describe information appearing on a product, its packaging or in related literature or advertising material, which can be taken as saying something about the product's environmental aspects. They include:
 - Self-declared product-related claims and labels
 - Self-declared corporate-related labels and claims
 - Third-party/Certified environmental labels and claims.
- This study consists of an initial evaluation of the use and regulation of self-declared product-related environmental claims in particular in Ireland, in order to identify how they may be most effectively used as a means to promote sustainable consumption.
- Certain key issues influence the degree of effectiveness of such claims:
 - Credibility of environmental claims
 - Control and regulation of environmental claims, in particular on-pack and vague claims
 - Level of consumer and business education and awareness programmes.

Table 1.1. Sample international environmental labels.

Logo	Description
	<p><i>EU Eco-Label</i></p> <p>The EU Eco-Label scheme was established by Council Regulation No. 880/92 to promote the design, production, marketing and use of products that have a reduced environmental impact during their entire life cycle, and to provide better consumer information on the environmental impact of products. The scheme was comprehensively revised in 2000 by Council Regulation (EC) No. 1980/2000. To date, ecological criteria have been agreed for 21 product groups. Producers may apply for the eco-label to the national Competent Body for certification for these products and applicants who fulfil the ecological criteria are permitted to use the official flower logo on their approved product. The National Standards Authority of Ireland is Ireland's national competent body. Over 200 products now carry the EU Eco-Label and, while no Irish companies currently hold the EU Eco-Label for their products or services, several imported products with the label are available on the Irish market.</p>
	<p><i>Energy Star</i></p> <p>Energy Star is a voluntary labelling programme designed to identify and promote energy-efficient products as a means of reducing greenhouse gas emissions. Computers and monitors were the first labelled products and the range now includes office equipment, home appliances and electronics, heating and cooling equipment and lighting, as well as an energy performance rating system for buildings. The label was created by the United States Environmental Protection Agency (EPA) and products must meet strict energy efficiency guidelines set by the EPA and the US Department of Energy. It has recently been formally adopted by the European Commission for use in the EU. For further information, see www.energystar.gov.</p>
	<p><i>Forest Stewardship Council</i></p> <p>The Forest Stewardship Council (FSC) is an international not-for-profit organisation accrediting organisations that certify wood and wood products from responsibly managed forests. Once a forest has been inspected and certified as meeting the internationally agreed FSC Principles for Responsible Forest Management and FSC standards, operations can sell their forest products as FSC certified and gain recognition for their commitment to responsible forestry. In order for products originating from certified sources to be eligible to carry the FSC trademark label, the certified timber or raw material has to be tracked, traced and identified from the forest through all the steps of the production process until it reaches the end user. Only when this process has been independently verified is the product eligible to carry the FSC logo. http://www.fsc.org/en/</p>
	<p><i>Blue Angel</i></p> <p>The Blue Angel is a German label established in 1977 and was the first national eco-labelling programme. Around 3,600 products and services from approximately 580 label users in Germany and abroad are entitled to bear the Blue Angel, and 80% of Germans are now familiar with the label. Label users can advertise their certified products on the Blue Angel's website: http://www.blauer-engel.de.</p>
	<p><i>Nordic Swan</i></p> <p>In Scandinavia, the Nordic Council of Ministers started the official Nordic eco-label, the Nordic Swan in 1989. The Swan logo demonstrates that a product is a good environmental choice and is available for around 60 product groups for which it is felt that eco-labelling is needed and will be beneficial. Everything from washing-up liquid to furniture and hotels can carry the label. Checks are carried out to ensure that products fulfil certain criteria, using methods such as samples from independent laboratories, certificates and control visits. http://www.svanen.nu/eng/</p>
	<p><i>Swedish Good Environmental Choice</i></p> <p>The Swedish Good Environmental Choice labelling scheme is run by the NGO Swedish Society for Nature Conservation (SSNC). The SSNC started eco-labelling in 1988 on laundry detergent and paper and the system currently covers 13 product areas. The eco-labelling also includes the internationally introduced labelling system of TCO '95 and '99 on computers and the SSNC's eco-labelling of electricity delivery contracts commenced in 1996. http://www.snf.se/bmv/english.cfm</p>
	<p><i>French NF Environnement mark</i></p> <p>The French NF Environnement mark was founded by the French government and AFNOR (French standardisation organisation) in 1991. It is the official French ecological certification and is awarded to products that have a reduced effect on the environment while offering an equivalent performance. To be issued the NF Environnement mark, the product must comply with ecological and fitness for purpose criteria. These criteria are the result of negotiations between representatives of manufacturers, consumer, environmental protection and distributor associations and public authorities. The mark has been awarded to a wide range of products and services throughout France. http://www.marque-nf.com/</p>
	<p><i>Dutch Milieukeur label</i></p> <p>The Dutch eco-label, Milieukeur, covers both food and non-food products. The number of Milieukeur (eco-label) businesses marketing approved products (food and non-food) has risen sharply since the early 1990s, and there are over 850 companies (excluding agriculture) certified with the label. The label is managed by an independent organisation in which consumers, manufacturers, retail, government and environment organisations participate. When a product has been awarded the Milieukeur, it is considered to be less damaging to the environment compared to most similar products. Ecological criteria are determined on the basis of a study carried out by a specialised research institute. http://www.milieukeur.nl</p>

Table 1.1. *Contd.*

Logo	Description
	<p><i>Austrian Umweltzeichen Baume</i> The Austrian eco-label, Umweltzeichen Baume, emulated the German Blue Angel and adopted many of its standards without modification. It was established by the Ministry of Environment in 1991 and covers a variety of product groups, including wood and paper products. Tourism services and schools can also apply for certification to the label and labels are valid for one year. http://www.umweltzeichen.at/</p>
	<p><i>Spanish Medio Ambiente</i> The Spanish Medio Ambiente eco-label was established in 1991 by the Spanish Association of Standardisation and Certification (AENOR), a privately run organisation that also acts as the Spanish competent body for the EU Eco-Label. It aims to promote the production of environmentally friendly products and, in future, the label will only consider product groups separate from those covered by the EU Eco-Label. http://www.aenor.es/desarrollo/inicio/home/home.asp</p>
	<p><i>Polish eco-label</i> The Polish Centre for Testing and Certification (PCBC) manages the national eco-label scheme. There is no website available yet for the national scheme; some information is available at: http://www.pcbc.gov.pl.</p>
	<p><i>Hungarian eco-label</i> The Hungarian Environmental Protection and Regional Development Ministry founded the Hungarian Eco-Labeling Organisation (HELO) in 1993, which is responsible for the co-ordination and operation of the Hungarian eco-label certification system. The label certifies the 'environmentally friendly' nature of products, technologies, and services. To date, award criteria have been developed for 47 product groups, and 29 products and services have been certified with the label. http://www.kornyezetbarát-termék.hu/angism.htm</p>
	<p><i>Czech Republic eco-label</i> The Czech Republic environmental labelling programme was established in 1994. To date, criteria have been developed for approximately 17 product groups and labels have been awarded to almost 200 products. Criteria are revised every two years. http://www.ekoznacka.cz</p>
	<p><i>Slovak Republic's Environmental Friendly Products mark</i> The Slovak Republic's National Programme of Environmental Assessment and Eco-Labeling (NPEHOV) was established by the Ministry of the Environment of the Slovak Republic in 1996, with technical support provided by the Slovak Environment Agency. The programme's logo is the Environmental Friendly Products mark. To date, award criteria have been developed for 21 product groups and 24 products have been certified.</p>

2 Policy Framework for Environmental Claims

As a policy issue, environmental claims are part of the wider area of consumer policy, usually linked with sustainable consumption and/or product labelling policies. As far as can be identified, there are no specific policies or initiatives on environmental claims active in Ireland at present. However, there are some existing policy areas that are relevant to environmental claims, as well as some promotional activities where environmental claims feature in a small way and these are outlined below. The information in this chapter was obtained from EU and national government literature and supplemented by interviews with the key stakeholders outlined in [Section 1.1](#).

2.1 Policy Background

2.1.1 General consumer policy

Consumer policy covers a number of fields, including the legal framework, institutional support to consumers and consumer protection. Until recently, there has been a lack of any formal consumer policy strategy in Ireland, a situation that is now in the process of being rectified with the publication in May 2005 of the Consumer Strategy Group's (CSG) report *Making Consumers Count: A New Direction for Irish Consumers* and the subsequent establishment of the National Consumer Agency (NCA) to advise and make recommendations for the development of a national consumer policy strategy. One of the findings of the CSG's report was that Ireland "*shows considerable gaps in policy and in the State institutions that support consumers (and)...lags behind other countries in recognising the important role that empowered and confident consumers can play*" (Consumer Strategy Group, 2005, p. iii). In Ireland to date, no single government department has had overall responsibility for consumer policy; rather, individual departments have been responsible for the protection of consumers in those areas for which they have direct responsibility.

The Consumer Policy Unit of the Department of Enterprise, Trade and Employment is responsible for general consumer legislation and policy issues, and views its role as being "*to initiate, inform and promote the development and enforcement of a regulatory framework at EU and national levels that will advance the rights and*

interests of consumers and generate confidence in purchasing goods and services, domestically and in other Member States of the European Union" (Department of Enterprise, Trade and Employment website, 2005, <http://www.entemp.ie/commerce/consumer/role.htm>). An agency of the Department, the Office of the Director of Consumer Affairs, is responsible for the enforcement of general legislation on consumer information, product safety and consumer rights, as well as the promotion of consumers' interests. However, it does not intervene or become involved in individual issues or disputes between consumers and sellers of goods or service providers. The Department of Health and Children is responsible for consumer protection in the field of public health, while its agency, the Food Safety Authority of Ireland, has responsibility for consumer protection issues relating to food safety. Finally, the Department of Transport is responsible for areas such as public transport safety.

The Irish situation contrasts to that existing at EU level and in other Member States. In the European Commission, overall responsibility for consumer affairs lies with the Directorate General (DG) for Health and Consumer Protection, which also oversees policy in relation to public health and food safety. Its policy in relation to consumer affairs focuses on policy to safeguard consumers' interests, including legislation on misleading and comparative advertising, sale of goods and unfair contract terms. The main strategy document is the EU Consumer Policy Strategy 2002–2006, which has the three key objectives of (i) ensuring a high common level of consumer protection, (ii) effective enforcement of consumer protection rules, and (iii) proper involvement of consumer organisations in EU policies (Commission of the European Communities, 2002a). DG Health and Consumer Protection also deals with issues of consumer safety, public health and the environment and has a scientific committee to provide it with advice on consumer products, while the food safety side aims to ensure a high level of food safety, animal health, animal welfare and plant health within the European Union. This three-pronged approach aims to give increased priority to consumer policy, and to ensure a more effective and co-ordinated approach to consumer interests. In this regard, it provides the DG with a degree of cohesion that is not

replicated in the Irish situation, where individual departments and agencies deal with different aspects of consumer issues.

Other Member States adopt a more integrated approach, such as Denmark, which has integrated all state-operated services for consumers, including a consumer ombudsman, within a single structure known as the 'Consumer House', under the authority of the newly established Ministry of Consumer and Family Affairs (Consumer Strategy Group, 2005, p. 54). The Danish Consumer Council has also set up a scheme, financed by the Ministry of Trade and Industry, offering consumers financial support and guidance in taking consumer cases. This is to promote judicial decisions in cases of particular interest to consumers, including those that may be of importance to the development of legislation in the consumer area (www.fbr.dk/english/legalaid/).

Also, even those Member States that have a somewhat fragmented approach to consumer policy have other features lacking in the Irish situation: for example, the General Consumer Council of Northern Ireland (GCCNI) is an independent (but state-funded) organisation that has established a strong role as an independent voice for consumers and has had particular success in intervening on their behalf in areas such as banking, gas supply and public transport (Consumer Strategy Group, 2005, p. 131). This is in contrast to the Republic's consumer representative organisation, the Consumers' Association of Ireland, which primarily provides information and advice services to its members and is not represented on the board of the newly established NCA.

2.1.2 Sustainable consumption policy

As with general consumer policy, no single government department has overall responsibility for the area of sustainable consumption and explicit policy goals and objectives on it have been limited to date. Indeed, sustainable consumption as a specific policy area does not currently feature in the work of any department and only two instances could be identified where some specific objectives or actions do exist – the 1997 National Sustainable Development Strategy and the Department of Enterprise, Trade and Employment's Sustainable Development Strategy 2003–2005.

Firstly, the 1997 National Sustainable Development Strategy – *Sustainable Development: A Strategy for Ireland* – contained a section on sustainable

consumption, where the Government's view was that "*the end consumers of goods and services can create a major impetus for sustainable development by informed and aware choices*" and stated that "*the Government will ask the Director of Consumer Affairs to consider new arrangements for providing full and authoritative environmental information to consumers*" (Department of the Environment, 1997, p. 158). However, no work has been undertaken in this regard to date and, when contacted for the purposes of this study, the ODCA stated that they have no remit in the area of environmental claims.

Secondly, the 2003–2005 Sustainable Development Strategy from the Department of Enterprise, Trade and Employment recognised that "*we, as consumers, can signal our demand for sustainable development to manufacturers and service providers through the choices we make regarding the products and services we purchase*". It contains an action to "*explore the potential for further work on green consumerism*" (Department of Enterprise, Trade and Employment, 2003, p. 30) to be carried out by the Department's Environment Unit and the NSAI, in consultation with the Department's Competition and Consumer Policy Unit. In response to a query regarding progress on this action, the Department stated that it "*has been considering the issue of green consumerism in the context of the EU Environmental Technologies Action Programme (ETAP)*" in which "*...raising consumer awareness is a key action...with a particular emphasis on product labelling so as to ensure consumers have the necessary information to make informed choices*" (Republic of Ireland, 2005). However, no specific actions on the broader area of green consumerism have been undertaken to date.

The Department also referred to the consumer education, awareness, information and advice functions of the new NCA. It remains to be seen, however, whether green consumerism will emerge as an area of focus for the Agency, given that there are no specific references to sustainable consumption or environmental claims in the 2005 Consumer Strategy Group's report on key national consumer issues (Consumer Strategy Group, 2005), which recommended the establishment of the NCA. In addition, the report cites just one example – the plastic bag tax – of encouraging behaviour change among consumers (Consumer Strategy Group, 2005, p. 143). The NCA's website (www.irishconsumer.ie), meanwhile, does not currently contain any specific information on

environmental labelling of products and services, while there is only a brief general reference to standards for product labelling on the Government's Oasis public information website (http://www.oasis.gov.ie/consumer_affairs/product_safety_and_labelling/standards_for_product_labelling.html). The portal's section on Standards for Product Labelling makes a very brief reference to potentially misleading environmental labels on products and also refers to the EU's Eco-Label. Furthermore, a study carried out by DG Health and Consumer Affairs on consumer policy in Ireland listed financial services and food safety as the main consumer priorities for Irish authorities – neither sustainable consumption nor ecological labelling were mentioned (Commission of the European Communities, 2002b, p. 23). Finally, sustainable consumption does not currently feature as a policy area for the work of the Department of the Environment, Heritage and Local Government.

Considering the above, sustainable consumption currently appears to be a low-priority issue at central government level (see [Box 2.1](#) below). The apparent lack of leadership and specific policy objectives in the area contrasts with considerable progress by some other Member States and the European Union itself. At EU level, the EU Consumer Policy Strategy 2002–2006, under DG Health and Consumer Affairs, contains actions to promote sustainable consumption and production patterns (Commission of the European Communities, 2002a). The Sixth Environmental Action Programme, under DG Environment, also refers to the need for people, as consumers, “to be given relevant and readily understandable information about a product's environmental credentials if they are to make choices that support environmentally friendly initiatives by companies” (Commission of the European Communities, 2001a, p. 18). DG Environment promotes the EU Eco-Label

Box 2.1. Examples of best practice from Member States on sustainable consumption.

The **UK** Government launched Changing Patterns in 2003. This was a joint initiative between two key departments – the Department for Environment, Food and Rural Affairs (DEFRA) and the Department of Trade and Industry (DTI) – and contains specific proposals to enable consumers to receive more information on products and services. It was followed in 2005 by the selection of sustainable consumption and production as one of four priority areas for action in the Government's new Sustainable Development Strategy, Securing the Future (UK Department for Environment, Food and Rural Affairs, 2005). This includes information and education initiatives for consumers regarding sustainable consumption and the environmental impact of products and services.

In **Sweden**, there is a stand-alone ministry for sustainable development, with a specific policy area on sustainable production and consumption that focuses on issues such as integrated product policy, environmental technologies and waste management (www.sweden.gov.se/sb/d/2972/a/17218). The Swedish national sustainable development strategy, produced in 2003, seeks to promote sustainable consumption patterns through actions such as the development of sustainable consumption action plans and the linking of sustainable development to the national consumer policy strategy (Swedish Ministry of the Environment, 2003, p.18).

The **Finnish** Government appointed a committee in November 2003 with members drawn from a wide range of stakeholder groups and organisations to draft proposals for a National Programme on Sustainable Consumption and Production. The programme is to define the additional goals and environmental policy measure that will have to be adopted for Finland to become a truly eco-efficient society (European Commission, 2004).

The Federal Ministry for the Environment (BMU) in **Germany** started a national process on sustainable consumption and production involving all relevant stakeholders. Their aims include information strategies and promoting ‘quality consumption’ (European Commission, 2004).

The Hungarian Network for Sustainable Consumption is a cross-sectoral partnership composed of stakeholder groups in **Central and Eastern Europe** (Regional Environmental Centre, 2006). This was launched in 2002 and has been further extended during several cross- and intra-sectoral events.

(description on p. 64) and also seeks to promote more sustainable consumption through purchasing by public bodies through its policies on the greening of public procurement.

2.1.3 Product information and labelling policy

As is the case with sustainable consumption, no single government department has specific responsibility for policy in relation to either product labelling in general or environmental claims in particular. Figure 2.1 illustrates how responsibility for various aspects of product labelling, including environmental product information, is spread over a number of departments and agencies.

2.1.3.1 General product information policy

Product labelling information is often the primary means by which a consumer will decide to buy one product over another, and different levels and types of information are required for different products, e.g. clothing, cosmetics, food, etc. As stated, there is no overall responsibility for policy on this issue in Ireland and Fig. 2.1 outlines the division of responsibility between government departments. The Department of the Environment, Heritage and Local Government deals with policy relating to the EU Eco-Label and fuel consumption for new cars, while the Department of Health and Children recently assumed overall responsibility for overall food labelling and also oversees labelling in relation to nutrition, cosmetics and medicinal products. The ODCA, an agency

of the Department of Enterprise, Trade and Employment, has responsibility for the labelling of two non-food products, namely footwear and textile products, and also for enforcement of food labelling legislation under a contract with the Food Safety Authority of Ireland (Consumer Strategy Group, 2005, p. 49). It also carries out inspections of energy consumption labelling of household products under a contract with the Department of Communications, Marine and Natural Resources. Finally, the Department of Agriculture and Food oversees the labelling of organic food produce, alcoholic beverages and quick-frozen food. In general, only those product groups for which specific legislation in regard to labelling exists appear to have been identified for some form of control or enforcement, according to information provided on the Government's Oasis public services information website and on the Consumer Policy section of the Department of Enterprise, Trade and Employment's website: (http://www.oasis.gov.ie/consumer_affairs and <http://www.entemp.ie>).

2.1.3.2 Environmental claims policy

As with product labelling generally, responsibility for environmental labelling is fragmented. While the Department of the Environment, Heritage and Local Government leads on policy relating to the EU Eco-Label, the NSAI, an agency of the Department of Enterprise, Trade and Employment, is the competent body in Ireland for this label, vetting applications from manufacturers who

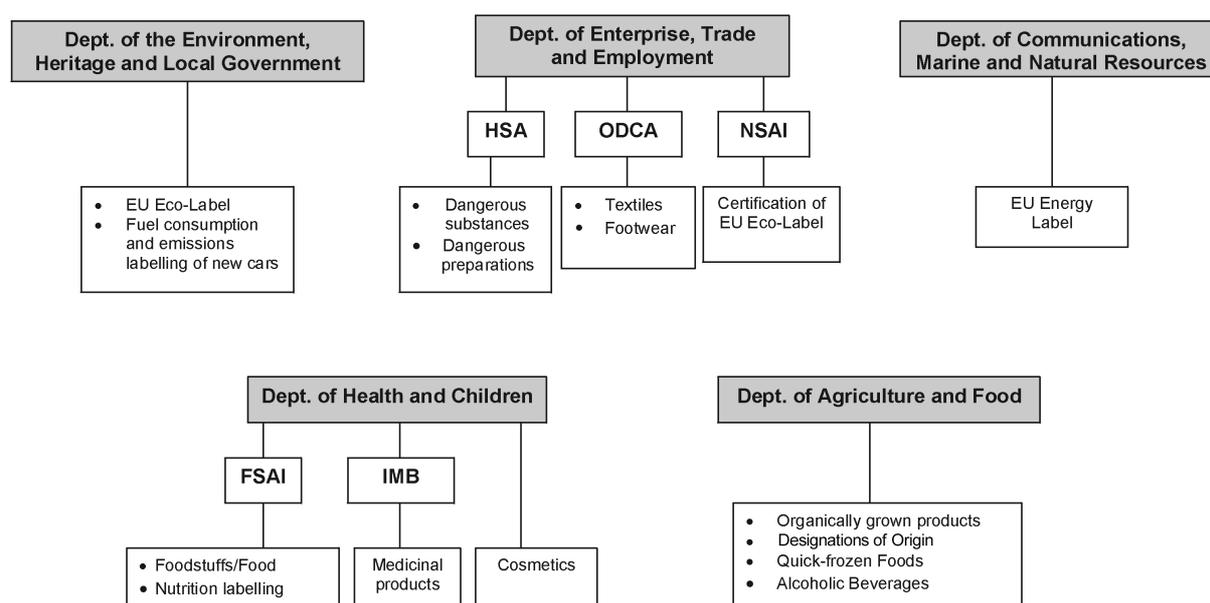


Figure 2.1. Departmental responsibility for product labelling.

wish to obtain the label for their goods or services. It also deals with certification for the ISO's set of standards on environmental claims. The Department of Communications, Marine and Natural Resources oversees energy-efficiency labelling of household appliances (with inspections carried out by the ODCA, as mentioned above) and the Department of Environment, Heritage and Local Government oversees the regulations requiring all new cars displayed or offered for sale or lease to bear a label detailing the vehicle's fuel efficiency and CO₂ emissions (these standards and labels are discussed in more detail in [Section 3.3](#)). As is the case with general product labelling, responsibility for environmental labels that may appear on other product groups has not been assigned unless the product group in question is covered by specific labelling legislation – no such instances for environmental labels or claims have been identified in Ireland to date.

Regarding specific policy actions in relation to environmental claims, little has been done to date in Ireland. As mentioned above, the 1997 National Sustainable Development Strategy contains one relevant action, addressing tasks on environmental claims to the ODCA, requiring a) the consideration of new arrangements for providing full and authoritative environmental information to consumers, and b) the preparation, in consultation with the Department of Enterprise, Trade and Employment, of a Code of Practice on green marketing (Department of the Environment, 1997, p. 158). However, as far as can be ascertained, no specific action has been undertaken on these tasks almost 9 years later and the ODCA's current work programme does not have any reference to either sustainable consumption or environmental claims issues. In addition, the Department of Enterprise, Trade and Employment's Sustainable Development Strategy 2003–2005 contained an objective to “*support sustainable consumer choices through ensuring the provision of accurate and credible social and environmental information on products and services*” (Department of Enterprise, Trade and Employment, 2003) with specific actions to be carried out by the Environment Unit of the Department and the NSAI, in consultation with the Consumer Policy Unit. However, as previously outlined in [Section 2.1.2](#), specific work to date in this area has been limited to the area of environmental technologies.

In the European Commission, labelling of food products is dealt with by DG Health and Consumer Protection (Food

Safety directorate), which is also responsible for cosmetics labelling (Public Health directorate). Regarding non-food products, DG Enterprise and Industry is responsible for the labelling of textile products, footwear, detergents and dangerous preparations; meanwhile, DG Environment deals with the energy consumption labelling of household appliances, fuel consumption and CO₂ labelling of new cars, labelling of dangerous substances, as well as the EU Eco-Label. The specific area of environmental claims is dealt with by the Consumer Affairs Directorate B of DG Health and Consumer Protection, in particular by Unit B3 – “Product and Service Safety. The ‘Securing Consumers’ Safety” section of its website provides information on the Commission's work in the area to date and a copy of the Commission's *Guidelines for Making and Assessing Environmental Claims* (europa.eu/comm/consumers/cons_safe/news/other_en.htm). An overview of the ISO 14021:1999 standard on self-declared environmental claims is also provided. However, there are no references or links to related areas of the Commission's work, such as product labelling, IPP or the EU Eco-Label. Also, while there is a reference to the 1998 study carried out for the European Commission to examine the means used in 15 Member States to control misleading environmental claims (Leibuscher *et al.*, 1998a), the report itself was removed from the website in 2005.

All in all, while there is some fragmentation of responsibility, the overall situation in relation to product labelling at EU level is more coherent than in Ireland, as only three DGs are involved, as opposed to six departments and agencies in Ireland. Other Member States have also made more considerable progress in this area in comparison to Ireland. In the UK, the UK Department of Trade and Industry has overall responsibility for product labelling policy and has produced policy guidelines on the issues to be taken into account when government support for new product labelling proposals is being considered. In addition, a specific element of the UK Department for the Environment, Food and Rural Affairs' work in the area of consumer products and the environment relates to environmental claims, including detailed advice for both business and consumers about the correct use of such claims. In Denmark, Sweden, Finland and Norway, the offices of the Consumer Ombudsmen aim to ensure that trade, business and public enterprises comply with the Danish Marketing Practices Act and the principles of fair

marketing practices in general. They have jointly produced guidelines on the use of ethical and environmental claims in marketing, originally published in 1994 and updated in 2005 to include ethical claims (Nordic Consumer Ombudsmen, 2005). They also provide guidance on environmental marketing in general.

2.2 Consumer Awareness and Education

According to the Environmental Protection Agency (EPA), *“the choice that is made by the householder on goods and services purchased can have varied implications for environmental quality”* and *“government policy must continue to play an active role in directing household action by reinforcing existing policies and implementing additional ones...and promoting environmental education and awareness”* (Environmental Protection Agency, 2004). A well-informed consumer population is essential for any real progress towards more sustainable consumption habits to be made. If people are not aware of the impact of their purchasing choices then they will not be in a position to change them. Industry, too, often requires signals from consumers before they take action on reducing the environmental impact of their products and services. Regarding imported goods which may not be subject to national control mechanisms, consumers who are able to identify misleading claims on such products can refuse to purchase them, thus acting as a control on such claims.

Regarding the provision of information for consumers in general, the situation at central government level is again fragmented, with varying levels of information being provided by the different departments according to their areas of responsibility. For instance, the Office of the Director of Consumer Affairs is responsible for general consumer education and information, while the Food Safety Authority of Ireland is responsible for consumer education and information on food safety (Commission of the European Communities, 2002b, p. 22). The Organic Market Development Group of the Department of Agriculture and Food has produced some guides to organic food and farming explaining organic certification symbols issued by the Organic Market Development Group (no date). While it is appropriate for departments to provide public information on those consumer issues for which they have responsibility, the overall standard of consumer information provision in Ireland has tended to be poor to date, as *“the state system is primarily focused on legal protection and enforcement and unevenly on the*

provision of information; limited effort has been made to provide information on the rights and responsibilities of consumers” (Consumer Strategy Group, 2005, p. xiv). There is also little evidence of departments coming together to work on areas of mutual relevance such as the EU Eco-Label, where both the NSAI and the Department of the Environment, Heritage and Local Government deal with different aspects but have not produced any joint initiatives to date.

2.2.1 Consumer awareness of environmental issues

The need to increase awareness among Irish consumers of environmental issues in general and environmental claims in particular is reinforced by findings from several surveys/studies. In a 1991 survey by Lansdowne Market Research in Ireland, one in four people mentioned the environment as one of the first three issues they were concerned with and 47% of respondents felt poorly informed. A study by Corrigan (1991) found that half the respondents said there was not enough information on packaging and they wanted more. In addition, O'Reilly (1992) found that 85% of people think a product has been officially vetted if they see a reference to it being 'environmentally friendly'. A 1998 study of Irish environmental attitudes and behaviours carried out for the EPA found that only 15% of those surveyed always paid attention to any environmental labelling before deciding to buy a product, while 44% said they never did. In addition, less than 19% claimed they always trusted the labelling of products (Faughnan and McCabe, 1998, p. 23).

More recently, the 2002 Eurobarometer survey (European Opinion Research Group, 2002) on attitudes of Europeans towards the environment found an increase in the level of concern by citizens about a range of environmental problems between 1999 and 2002. However, regarding consumption and the environment, only 18% overall were 'very worried' about environmentally friendly consumption habits, with the figure for Ireland being just 15%. Research carried out for the Department of the Environment in 2000 provided some insights into consumer awareness of environmental labels and claims. There has been some progress on the numbers of people buying more environmentally friendly products, with 68% buying recycled paper/tissue products, compared to 40% in 1991 and 45% buying concentrated products with less packaging (Drury Research, 2000, p. 5). However, *“significant numbers still*

never make these purchases or indeed are not aware of environmental choice within these product categories" (Drury Research, 2000, p. 6).

As for sources of information for consumers, although labelling was acknowledged to be a source of information on the environment, "*only 42% ever pay attention to it when making purchases*", leaving 56% who "*admitted that they never pay attention to environmental labelling prior to purchasing products*" (Drury Research, 2000, p. 14). However, "*78% of people feel that they need clearer labelling on shelves or products in order to help them make more environmentally friendly choices*" (Drury Research, 2000, p. 14). Regarding sources of information, of those who purchase environmentally friendly household appliances, 72% of those surveyed cited product labelling as their source of information, and 36% cited symbols, with only 7% trusting the manufacturer. This lack of trust by consumers in information provided by industry also emerged in another ongoing study into environmental attitudes amongst Irish people, where respondents do not feel they could have much trust in business or industry to give them correct information about the causes of pollution (Kelly, 2003, p. 12). Higher levels of trust were held about radio or television programmes, environmental groups and university research centres (Kelly, 2003, p. 13).

In contrast, the CSG's 2005 report found consensus amongst those making submissions that consumers "*generally assume that all information appearing on labels is correct and truthful*" (Consumer Strategy Group, 2005, p. 113). However, this finding must be interpreted in light of the fact that the majority of submitters were from the public, business and voluntary sectors and that the general public was not surveyed for views on this issue. Its final report was also of the view that "*there is a large emphasis on consumer protection in the current State system to the exclusion of planned regular information campaigns for consumers and advocacy on their behalf. The Food Safety Authority of Ireland is a notable exception in the area of consumer information*" (Consumer Strategy Group, 2005, p. 47).

When interviewed for this study, Friends of the Earth Ireland, an environmental NGO, expressed concern about the lack of information for consumers regarding environmental labels and claims on products for sale. They note that the number of self-declared environmental claims in particular has increased in recent years but that

there has not been an accompanying level of information about such claims for consumers. While the organisation has not received complaints about misleading environmental claims, it is of the view that there is confusion amongst consumers in relation to many claims, especially those dealing with recycled/recyclable products and packaging. For example, the ubiquitous Green Dot means that the company has made a financial contribution for the recovery of its packaging, but it is commonly believed to mean that the packaging itself is recyclable. Friends of the Earth regards self-regulation of such claims as ineffective, particularly when it comes to consumer trust and credibility and feels that there is a need for some form of statutory framework to prevent spurious claims (O. Coughlan, personal communication, 29 May 2006). No response was received from the other NGO contacted, the Consumers' Association of Ireland.

The Department of Enterprise, Trade and Employment considers consumers themselves to act as the main barrier to effective environmental claims, in that they generally lack environmental awareness, but made no reference to the role that the lack of information provision on such claims for consumers to date in Ireland may play in such low awareness levels (S. O'Carroll, personal communication, 5 April 2005). The Department of the Environment, Heritage and Local Government notes that consumers need to be made aware of environmental claims and labels, though no suggestions were made as to who should undertake such awareness raising nor how it should be done (M. Coughlan, personal communication, 30 March 2005). Similarly, IBEC was of the view that "*the public is the big problem*", in that they generally ignore labels and are not willing to pay more for environmentally friendly products and services. It also referred to the need for environmental awareness-raising initiatives for consumers (E. O'Donovan, personal communication, 30 May 2006).

Overall, product labelling emerges as an important source of information for consumers in enabling them to make more sustainable purchasing choices; thus, "*...the key task is to encourage people to pay attention to it and use labelling to help make sustainable choices*" (Drury Research, 2000, p. 28). While it must be acknowledged that awareness on its own does not necessarily translate into behaviour change, there is some evidence that sustained information campaigns can have a positive impact on consumer habits. For example, a study carried out in 2000 concluded that the ongoing energy-

awareness campaigns in Ireland were having an impact on behaviour, with 87% of those surveyed switching off lights when leaving rooms, 83% turning down heating when out and 63% fitting energy-saving light bulbs (Drury Research, 2000, p. 7). However, it can be difficult to identify how much of such behaviour changes are due to specific information campaigns and how much to other factors such as financial circumstances, individual levels of environmental awareness and education.

2.2.2 Education and awareness initiatives on environmental claims

Despite the findings from surveys discussed above, there have been only limited consumer information campaigns or other initiatives to provide Irish consumers with information on environmental labels and claims to date. The measures that have been undertaken are outlined below.

ENFO, the public environmental information service of the Department of the Environment, Heritage and Local Government, has published a short booklet entitled *Shopping and Investment Guide for Sustainable Living*, which aims to provide practical tips to consumers on reducing their environmental impact in areas such as packaging waste, energy consumption and investment decisions. The booklet, which is available on their website, also contains a section illustrating and explaining various labels and symbols for products, services and businesses, including environmental ones such as the recycling triangle, the Green Dot and the EU Energy Label (ENFO, no date). The Department's periodical *Environment Bulletin* has also carried occasional articles on environmental labels such as the EU's Eco-Label.

The NSAI provides general information on the EU Eco-Label through its website (www.nsaie.ie), as well as links to the EU Eco-Label website, its catalogue of Eco-Labelled products and the Eco-Label helpdesk. The Department of the Environment, Heritage and Local Government's website (www.environ.ie) also contains some information on the EU Eco-Label. An information leaflet was produced for Irish businesses in 2002 as part of a European Commission programme to promote awareness of and demand for the EU Eco-Label (*The EU Flower*, 2002). Finally, the CAI has published two articles on environmental labels and claims in its *Consumer Choice* magazine. The first of these, *Green Products and Eco-Label* (Consumers' Association of Ireland, 1996) looked at some common environmental claims, such as

'biodegradable', 'recyclable' and 'CFC free' and also introduced the EU Eco-Label, as did the second article, *Ecolabels* (Consumers' Association of Ireland, 1999), which also addressed consumer protection against misleading claims. However, there is no accompanying guidance for Section 11 of the Code of Advertising Standards as there is in the UK, nor is there any evidence that the ODCA has ever addressed the area of environmental claims on behalf of consumers. Thus, it is not surprising that the 1998 study on environmental claims control in 15 Member States reported poor consumer information on environmental claims in Ireland (Leubuscher *et al.*, 1998a).

These same problems apply to the broader area of sustainable consumption and it is difficult to see how any significant progress in encouraging consumers and businesses to make the shift to more sustainable lifestyles and methods of production can be made in the absence of concerted attempts to educate and inform both groups. This issue has also been identified in relation to consumer education in general; for example, the CSG refers to the "heavy emphasis on consumer protection and the absence of planned, regular programmes of consumer information, of research into the needs of consumers and advocacy on their behalf" (Consumer Strategy Group, 2005, p. 84). It also mentions that "...the State provides no services in research, advocacy, and in education and awareness. These are central pillars of consumer policy and their absence from State support to the consumer in Ireland reflects the low priority that has been given to consumer interests up to now" (Consumer Strategy Group, 2005, p. 85).

In addition to consumer interests being damaged by a lack of information and guidance on environmental claims, the market for products and services with genuinely lower environmental impact can also be affected by both poor consumer education and ineffective regulation, as mentioned previously in [Section 1.4.1](#). For instance, the real effort being made by some firms manufacturing products with lower environmental impact can be undermined by the use of unregulated and unsubstantiated claims by competing firms seeking to benefit from a perceived environmental superiority without their product actually conveying this benefit. This issue has been highlighted by the European Commission, which considers that "the use of clear, truthful and relevant environmental claims should be promoted... to protect honest claimants against unfair competition by

ruling out false, unclear and misleading claims" (Commission of the European Communities, 2000, p. 3). Concern over the potential for misleading claims to undermine valid claims being made by competing companies and to hinder innovation by industry in the area of environmentally friendly products has also been expressed by several research studies (Leubuscher *et al.*, 1998a; Allison and Carter, 2000; UK Department of Trade and Industry, 2001).

Interestingly, none of the stakeholders interviewed for this study expressed concerns regarding potential negative impacts of misleading environmental claims on genuinely greener products and services, despite the findings from a small-scale survey carried out for this project which indicate the presence of a significant amount of potentially misleading claims on selected products for sale in Ireland (these findings are discussed in more detail in [Chapter 4](#)). The lack of comprehensive data on the level of proliferation and validity of environmental claims on the Irish market is a likely contributory factor to this situation, since if there is no evidence of a problem, people will not be inclined to address it. Similarly, if companies do not perceive existing sanctions for misleading claims to constitute a meaningful threat, then they are likely to continue making such claims – this issue is discussed further in [Chapter 3](#). Finally, without adequate information on what constitutes good or bad environmental claims, consumers will not be in a position to support those companies generating genuinely lower-impact products. There is anecdotal evidence that some Irish companies producing genuinely environmentally friendly products are concerned about misleading claims being made by their competitors but there has been no comprehensive examination of this situation to date.

Apart from an apparent lack of political interest in the area, lack of resources in both government and non-government sectors may also be contributing to the virtual lack of information campaigns on sustainable consumption and environmental claims in Ireland. The CSG has identified that "*the ODCA is keen to develop a role in the area of consumer advocacy, but work here is presently at a low level due to staff shortages*" (Consumer Strategy Group, 2005, p. 43). In addition, the CAI, for example, provides a range of information and advice services to its members but it is a voluntary organisation and, as such, "*...with limited resources, cannot fill the existing gaps in consumer policy in Ireland*" (Consumer Strategy Group, 2005, p. 47).

2.2.3 *The European and international experience*

In the UK, the Department of the Environment, Food and Rural Affairs provides comprehensive guidance and information for consumers and industry through the *Consumer Products and the Environment* section of www.defra.gov.uk/environment/consumerprod/index.htm. Its initiatives to help UK businesses and consumers understand more about environmental claims and green labels include the following:

- *Shopper's Guide to Green Labels*: this is a credit-card-sized leaflet explaining the meaning of some of the green labels and logos commonly found on products
- A series of fact sheets highlighting a particular green label to complement the *Shopper's Guide* (e.g. EU Energy Label and VOC label)
- Detailed sector-specific guidance on making environmental claims
- Regularly updated news on environmental labelling for consumers and businesses.

There are also plans to launch a new environmental information service for consumers in late 2006. Called *Environment Direct*, it will provide simple information and advice about the impacts of goods and services. As the majority of these initiatives are relatively recent, no information is available on their effectiveness to date.

Internationally, other examples of information initiatives in the area of environmental claims include the work of the US Fair Trade Commission (FTC). This organisation provides services for consumers in 16 key areas, such as products and services, credit, e-commerce, identity theft and telemarketing, with specific services in the area of Energy and Environment including (www.ftc.gov/bcp/online/edcams/eande/index.html):

- *Appliances, plumbing and heating*
Information on the FTC's Appliance Labelling Rule which covers energy efficiency of household appliances and water-use labelling for certain plumbing products, such as:
 - A short guide to the labelling rule
 - A variety of consumer education booklets on energy efficiency

- Guidance on appliance labelling for manufacturers and businesses
- Enforcement cases taken by the FTC on energy-related consumer issues.
- *Environment*
 - A general guide for the use of environmental marketing claims
 - Consumer education on recycling terms and symbols and green advertising claims
 - Business education information on complying with the Environmental Marketing Guides, an overview on environmental marketing claims and tips for making environmental marketing claims on mail
 - Enforcement cases taken by the FTC on environment-related consumer issues.
- *Home insulation and energy efficiency*
 - Information for businesses and consumers on insulation labelling requirements (The 'R' Value Rule) and energy efficiency.
- *Fuels and automotive products*
 - Information on the various rules for labelling and advertising fuels, oils, and cars
- Consumer education on labelling and efficient driving
- Guidance for businesses on how to comply with the labelling and advertising rules.

2.3 Other Initiatives

2.3.1 Green public procurement

A related area to that of product labelling and sustainable consumption is green public procurement, where public authorities are encouraged to integrate environmental considerations into all stages of their equipment and supplies purchasing process. Central and local government and state agencies are large consumers of a variety of products and services annually and by using environmental performance as one of their purchasing criteria, they can play a key role in 'greening' the marketplace and increasing demand for more environmentally friendly products and services (see [Box 2.2](#) for international examples). Spending by public bodies accounts for up to 16% of EU GDP and greening their purchasing patterns has been singled out as a major pillar of a future integrated product policy. In this regard, trustworthy environmental labels and claims are an important tool to assist public authorities in identifying such alternatives – for example, authorities can specify in tender documents that the products to be supplied must possess particular environmental characteristics as

Box 2.2. International examples of green procurement efforts

The Eco-Efficiency Action Programme in **Austria** is implemented under a number of Ministries as well as the Federation of Austrian Industry and the Chambers of Agriculture and includes actions towards green procurement.

In **Norway**, all national government institutions were required to introduce environmental management as an integrated part of their management systems by the end of 2005, including an emphasis on procurement.

All federal procurement officials in the **United States** are required by law to assess and give preference to those products and services that are environmentally preferable. The US EPA runs the Environmentally Preferable Purchasing (EPP) initiative (www.epa.gov/epp), which provides services such as purchasing information for specific product categories, information for suppliers on how to develop accurate and legal environmental marketing claims, and a number of web-based tools.

Green Public Procurement as an instrument is incorporated into the **Dutch** National Strategy for Sustainable Development.

Japan's Ministry of the Environment (MOE) has created a database of information about green purchasing activities that governmental agencies and corporations have posted on their own websites.

defined by the specifications prepared for such products by the EU's Eco-Label or energy labelling for appliances, amongst others. With this in mind, the European Commission has published several guidance documents for Member States, including the *Handbook on Environmental Public Procurement* (Commission of the European Communities, 2004a) and *Guidelines on Greening Public Procurement By Using the European Eco-Label Criteria* (Commission of the European Communities, 2001b). It also maintains an online database (<http://europa.eu.int/comm/environment/gpp/index.htm>) on environmental aspects of products and services. The Irish branches of the Euro Info Centre Network, who provide small businesses with information, assistance and advice in all EU-related areas (www.eic.ie), promote these EU guidelines.

In Ireland, the National Public Procurement Policy Unit of the Department of Finance has responsibility for public procurement policy and issues and, through the website www.etenders.gov.ie, provides information on all aspects of public procurement including guidance and clarification for public bodies on green public procurement, including the EU Handbook referred to above. However, there are no data on whether the information available has resulted in changes to procurement behaviour. One study states, for example, that while the Government Supplies Agency (GSA) – the organisation that purchases in bulk for items common across all government departments – has “*been endeavouring to encourage purchase of environmentally friendly goods where possible*”, it indicated that “*...environmental criteria come into play only where products are very close in terms of price and quality*” (Certification Europe Ltd and Drury Communications, 2003, p. 12). It is not unrealistic to assume that this is also the situation with other organisations.

2.4 Summary

- In Ireland, responsibility for consumer protection and information is spread across several government departments and policy development in the area has been limited to date, notwithstanding the recent publication of the Consumer Strategy Group's 2005 report *Making Consumers Count* and the establishment of the NCA.
- Responsibility for sustainable consumption policy, general product labelling and environmental product information and claims is also dispersed, with very limited initiatives being undertaken to date, in contrast to the more streamlined structures and concerted actions that exist in other Member States such as Sweden, Denmark, Finland and the UK.
- At European level, actions to promote sustainable consumption policy and effective environmental product information are more widespread and numerous, in policy areas such as the current EU Consumer Policy Strategy, the cross-sectoral Integrated Product Policy (IPP), the Sixth Environmental Action Programme 2002–2012 (with its emphasis on the need for the provision of more accurate product and services information for consumers) and work to promote the EU Eco-Label and green public procurement.
- Various studies have shown that awareness amongst Irish consumers of environmental issues and the impact of their purchasing choices has been, and remains quite low, with the majority of consumers never paying attention to environmental labels or product information. A large proportion of Irish consumers also assume that information appearing on product labels and claims is true.
- Despite the low levels of awareness, there have been very few initiatives in Ireland to educate either consumers or businesses about environmental labels and claims and none of a comprehensive, integrated nature as found in other countries such as the UK and the USA.
- While resource constraints may be a factor in the low level of activity on environmental claims to date, the continued lack of policy and action may have impacts in areas such as competition between firms in addition to that of consumer choice and decision making.
- The public procurement process has the potential to promote the use of trustworthy environmental labels and claims and increase the demand for environmentally preferable products and services but attempts to harness this potential in Ireland appear limited to date.

3 Regulatory Framework for Environmental Claims

This chapter presents an outline of the current regulatory framework for environmental claims in Ireland, identifying the key relevant statutory and non-statutory control mechanisms available and the bodies responsible for their implementation.

3.1 Statutory and Non-Statutory Control Mechanisms

In an ideal market, environmental claims would “provide relevant and accurate environmental information on products and services as a means to promote environmentally sustainable consumption and production” (OECD, 2001b, p. 1). In tandem with the globalisation of product markets, there has been a trend towards the internationalisation of environmental claims, both in their sources and the media used to deliver them; systems of control, however, remain national (Leubuscher *et al.*, 1998a, p. 36). A lack of regulation of misleading environmental claims can affect the market for products and services with genuinely lower environmental impact. Specific controls on their use generally fall into one of two categories:

1. *Statutory controls* such as national and European legislation and regulations
2. *Non-statutory controls* which include codes of practice, best practice guidelines, voluntary agreements.

Statutory controls are essentially official rules to accomplish specific goals and include statutory laws, regulations, common law, constitutional law, European directives, etc. They set out what is permissible in relation to the issue involved and what the consequences of non-compliance will be – for example, fines, legal action or imprisonment. While such controls can set out precise objectives to be achieved and ensure equity by requiring the same standard of behaviour from all actors concerned, they cannot be sensitive to all individual and contextual differences that may occur on the ground. In addition, while the threat of legal action may provide a serious incentive for compliance and legislation often being used in the past to control advertising (e.g. Misleading Advertising Regulations 1998), formal court

procedures are increasingly unsuitable “for controlling a large number of constantly changing messages using dozens of print media, billboards and sponsoring (and, more recently, radio/TV)” (Leubuscher *et al.*, 1998a, p. 27). The legal systems in Member States, such as the UK and Ireland, also mean that “even false claims may be admissible if it cannot be proved ‘beyond reasonable doubt’ that the advertiser intended to deceive” (Leubuscher *et al.*, 1998a, p. 27).

In this regard, there has been a gradual development of a variety of non-statutory control mechanisms to complement or provide an alternative to statutory controls. These include codes of practice and guidance documents for industrial sectors/producers, voluntary agreements between industry and government and quality standards such as the ISO’s set of standards for self-declared environmental claims. Such mechanisms may be favoured as being speedier to implement and enforce than legislation and provide more flexibility in how the desired outcomes may be achieved. Particularly in relation to the control of advertising, the need to ensure consumer protection and safeguard taste and decency – two relatively new areas of concern – often means that non-statutory control mechanisms can be preferable, primarily because “values change more rapidly than laws, and magistrates are not necessarily the best judges in such cases” (Leubuscher *et al.*, 1998a, p. 27). Certain quasi-statutory controls, such as the Nordic Consumer Ombudsmen, can also deal with transgressions outside the courts through the provision of mediation, arbitration and sanctions, while still retaining the power to take test cases to the Courts. However, as many non-statutory controls lack a legal basis and, in many cases, are voluntary, they may require strict application of realistic sanctions, regular monitoring and/or the threat of the introduction of subsequent legislation to ensure their effectiveness.

3.2 Control of Environmental Claims across Europe

Table 3.1 presents an overview of both statutory and non-statutory instruments for controlling environmental claims in the 15 core EU Member States, as identified in a 1998

Table 3.1. Instruments for controlling environmental claims in the 15 core EU Member States.

Member State	Statutory controls		Non-statutory controls	
	Specific law	Official code	Self-regulatory code	
Austria	None	None	Advertising Guidance (<i>Werberat</i>) subsections on (1) environment and (2) motorcars	
Belgium	Environment mentioned in 84/450 transposition, Loi de 1991	Code for logos planned Self-regulatory code foreseen under Loi 91	JEP green code since 1998	
Denmark	Environment Act of 1994 (Section 8 on green marketing)	Nordic Ombudsmen's Green Code (1994; revised in 2005)	3-tier system (see below)	
Finland	None	Nordic Ombudsmen's Green Code (1994; revised in 2005)	None	
France	None	Official request for BVP code	Bureau de Verification de la Publicité (BVP) 1990 Code of environmental ethics (code de déontologie environm.)	
Germany	3-tier system (see below)	3-tier system (see below)	3-tier system (see below)	
Greece	Market regulation 1998 concerning use of word 'eco'	None	Appendix III of voluntary advertising code	
Ireland	None	None	Section 11, Code of Advertising Standards	
Italy	Packaging information law of 1991	None	None	
Luxembourg	Packaging regulations 1992	None	Code of Environmental Ethics 1998	
Netherlands	3-tier system (see below)	Environmental Advertising Code	Environmental Advertising Code	
Portugal	Art. 7 of Consumer Protection Act Art. 22 A on motor vehicles ads	None	Code of Practice for Environmental Advertising	
Spain	None	None	None	
Sweden	3-tier system (see below)	Nordic Green Code (1994; revised in 2005)	3-tier system (see below)	
United Kingdom	None	Department of Environment Green Claims Code (1998; revised in 2000) DTI Voluntary Code on non-advertising green claims (1994)	Section 49 of the Advertising Standards Authority Codes	

Adapted from Leubuscher *et al.*, 1998a, p. 7.

study carried out for the European Commission (Leubuscher *et al.*, 1998a). The study found that there were no instruments of control specific to environmental claims in Ireland and no sanctions in place for misleading claims. The only instrument being used is Section 11 of the Advertising Standards Authority of Ireland's Code of Advertising Standards but, as discussed in more detail in [Section 3.4.1](#), this explicitly excludes claims on product packaging, wrappers, etc., a primary vehicle for self-declared environmental claims. While Ireland was not the only country in this situation, as can be seen in [Table 3.1](#), the fact remains that 11 of the 15 Member States surveyed had either a piece of legislation or other statutory control specifically relating to environmental claims. No subsequent cross-comparison studies have been carried out by the Commission or any other body, as far as can be ascertained; however, we have updated

[Table 3.1](#) to reflect any changes identified during the course of this study.

Since 1998, the situation has developed somewhat, with the European Commission's Directorate General for Health and Consumer Protection undertaking several initiatives to examine how to ensure the reliability of environmental information and claims. These included the 1998 study mentioned above and the establishment of an expert group on green claims, which culminated in the production of guidelines on making and assessing environmental claims (Commission of the European Communities, 2000); however, there is no evidence that these guidelines are currently being promoted or used in Ireland. Indeed, none of the stakeholders consulted during this study made any reference to the existence of the guidelines, despite the Department of Enterprise,

Trade and Employment and the Department of the Environment, Heritage and Local Government both having been represented on the EU expert group. In addition, of the ten statutory and non-statutory instruments discussed below that can be used to control various forms of environmental claims, only one was mentioned, that being the Department of the Environment, Heritage and Local Government's reference to the ASAI Code of Advertising Standards, even though this Department has responsibility for another of the mechanisms, the Fuel Economy and CO₂ Emissions Regulations (I. Keating, personal communication, 30 March 2005). Similarly, several of the statutory mechanisms come under the aegis of the Department of Enterprise, Trade and Employment and its agency, the ODCA, but none were mentioned. In addition, although the NSAI is a certification body in Ireland for the ISO 14021:1999 standard on self-declared environmental claims, non-statutory control mechanisms were not mentioned during the interview (P. Hayes, personal communication, 1 April 2005).

As discussed in the previous chapter, Ireland has no dedicated consumer affairs structure responsible for permanent monitoring of all products and services (Commission of the European Communities, 2002b, p. 11); instead, individual government departments are responsible for consumer protection policies and measures in those areas for which they have direct responsibility. Similarly, those controls that do cover environmental claims are spread across government departments, agencies and NGOs, as outlined in the following sections. In addition, it is worth noting that there is no explicit reference to environmental claims in many of the control mechanisms discussed.

In contrast to the Irish situation, certain other Member States have developed more comprehensive systems for controlling advertising in general and environmental claims in particular. For example, Norway, Sweden and Denmark, the Netherlands and Germany have chosen to approach the control of environmental claims as a 'hard' issue, i.e. a matter for government and its appointed agents, instead of going down the self-regulatory route. These countries all have a three-tier system, consisting of:

1. *Top level*

The Courts (instance of last resort but test cases are an important source of reference points for lower levels)

2. *Middle level*

Quasi-courts – usually staffed by professional lawyers and representatives of other sectors of society (e.g. Nordic Consumer Ombudsmen, Dutch Complaints Board)

3. *Bottom level*

Informal warning system (e.g. German 'Abmahnung'/Cease and Desist order', letters from Nordic Consumer Ombudsmen).

The largest number of cases, mostly unseen and unpublicised, take place at the lowest level, with the fewest going to formal litigation. Court cases can be comparatively numerous when new rules are tested but "*once benchmarks for behaviour and the basis for threatened sanctions have been established, however, the lower levels of control can act swiftly and confidently*" (Leubuscher *et al.*, 1998a, p. 5). According to the 1998 cross-European study, this three-tier system has been instrumental in enabling the control of environmental claims in those countries that have adopted it.

3.3 Statutory Controls on Environmental Claims in Ireland

The first four control mechanisms discussed below fall into the category of generic consumer protection, while the subsequent two mechanisms relate specifically to environmental labels.

3.3.1 *Consumer Information Act, 1978*

The Consumer Information Act, 1978 makes it an offence to make certain false or misleading claims about goods, services and prices. All types of communications aimed at promoting products or services to the consumer are covered. The Act defines 'trade descriptions' as including "*any description, statement or other indication, direct or indirect... (c) as to the mode of manufacturing, producing, processing, reconditioning, repairing, packing or preparing for sale of any goods, or... (e) as to the material of which any goods are composed, or... (g) as to the fitness for any purpose, strength, performance, behaviour or accuracy of any goods, or (h) as to any physical characteristic of any goods not referred to in the preceding paragraphs of this definition*" (Article 2 (1)). Also, "*the use of any figure, word or mark which, according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act*" (Article 2 (1)). In this regard, both textual claims and logos/symbols

referring to the environmental characteristics of a product or service are covered by this Act.

The Act generally does not confer rights on a consumer who has suffered loss because of a false description but does set out action and penalties that can be taken in response to misleading trade descriptions, merchandise marks and advertisements of goods and services; these include fines and/or imprisonment (Article 17). Under the Act, the Director of Consumer Affairs has the power to prosecute offences in breach of the legislation and is also empowered to apply to the High Court for an Order compelling a trader to comply with a request. For example, the Director can request that misleading advertisements be withdrawn or amended and if this is not done a High Court Order can be sought to compel compliance with the request. However, according to the CAI, "*the Director of Consumer Affairs...has never made any prosecutions about false or misleading 'green' claims on any products on the Irish market*" (Consumers' Association of Ireland, 1999, p. 378). In this regard, the ability of this Act to effectively control misleading environmental claims has yet to be proven.

In the UK, difficulty has been encountered in applying similar legislation – the Trade Descriptions Act, 1968 – to vague and non-specific claims such as 'environmentally friendly'. This is because "*such a claim does not have a clear positive meaning and therefore it is also equally impossible for it to be proved false*" (Nuij and Carter, 2001, p. 7). It could be assumed that similar difficulties may apply in Ireland and, as such, it would limit the effectiveness of the Consumer Information Act in controlling claims of this type.

3.3.2 Sale of Goods and Supply of Services Act, 1980

This legislation governs contracts for the sale of goods and supply of services to consumers. The Act provides that goods must be of merchantable quality, fit for their purpose and as described. Sections of the Act most relevant to environmental claims include Article 10, which states that "*where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description*" and also that "*a reference to goods on a label or other descriptive matter accompanying goods exposed for sale may constitute or form part of a description*".

Also, in defining what is meant by a 'fair and reasonable' term being applied to a product or service, the Act states that regard must be had to "*...the circumstances which were, or ought reasonably to have been, known to or in contemplation of the parties when the contract was made*", as well as to "*...(a) the strength of the bargaining positions of the parties relative to each other*" and "*...(c) whether the customer knew or ought reasonably to have known of the existence and extent of the term*".

In this regard, the Act could, in theory, be used in cases where specific misleading environmental claims such as 'not tested on animals' can be proven to be false. However, the burden of proof lies with the consumer/prosecution to provide such proof, while only the manufacturer/person making the claim is likely to know whether or not such a claim is true and have access to the necessary evidence. Therefore, the Act may only provide a limited regulatory function against such claims where evidence may be difficult to gather or where there is a poor level of understanding amongst consumers regarding what constitutes a misleading environmental claim. In addition, the Act is unusable in the case of vague claims that are difficult to disprove. Under the Act, the Director of Consumer Affairs has the power to prosecute offences in breach of the legislation; however, there is no evidence of any action or cases having been undertaken in this regard to date.

3.3.3 European Communities (Misleading Advertising) Regulations 1988

These Regulations transpose EU Directive 84/450/EEC on misleading advertising (as amended by Directive 97/55/EEC so as to include comparative advertising). They provide a legal means for the control of misleading advertising and empower the Director of the Office of Consumer Affairs to request any person engaging or proposing to engage in advertising that is misleading to discontinue or refrain from such advertising. An individual consumer can also take legal proceedings against an offending advertiser for compensation.

Under the Regulations, advertising is defined as "*the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations*" (Article 3). Misleading advertising is defined as "*any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it*

reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor” (Article 2).

Article 3 states that in determining whether advertising is misleading, “account shall be taken of all its features, and in particular of any information it contains concerning (a) the characteristics of goods or services, such as their availability, nature, execution, composition, method and date of manufacture or provision, fitness for purpose, uses, quantity, specification, geographical or commercial origin or the results to be expected from their use...”. Claims referring to particular environmental characteristics of the product or service being advertised (e.g. energy efficient, made from recycled materials, etc.) are covered in this regard. The Director of Consumer Affairs has the power to take legal action against misleading advertisements and any person can apply to the High Court for an Order prohibiting the publication of misleading advertising. However, as with the Sale of Goods and Supply of Services Act, 1980, the burden of proof lies with the consumer and it is not incumbent by law on the party making an environmental claim to provide supporting evidence.

A further complication is that consumers have to be sufficiently educated so as to be able to identify misleading advertisements in the first place, which can be more difficult where there are low levels of environmental awareness amongst the public. Also, in this regard, the European Court of Justice ruled that, in relation to misleading claims, “in order to know whether a label is misleading, one needs to consider what the expectations of the average consumer would be” (Leubuscher *et al.*, 1998, p. 61). Recent changes to similar laws in Australia and New Zealand have shifted the burden of proof from one of ‘fault’ to one of ‘veracity’, whereby “...the law now requires factually accurate messages to be sent” and “...if a claim cannot be substantiated, it will not be permitted” (Leubuscher *et al.*, 1998, p. 62).

3.3.4 European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000

These Regulations transpose EU Directive 93/13 on Unfair Terms in Consumer Contracts into Irish law. The Regulations are designed to introduce a greater degree of fairness by, for example, promoting the use of simpler language in consumer contracts that is easier to

understand by all parties, especially the consumer. Although the main focus is written consumer contracts, some have argued that there could be interesting implications for textual claims as well, whereby “the purchase of a product on the basis of a green claim can be seen as a contractual agreement between the producer or supplier – whose claim sets out the ‘terms’ of his part of the contract – and the consumer, who accepts those terms by buying the product” (Leubuscher *et al.*, 1998a, p. 55). Additional relevance is contained in the stipulation that “contract terms be drafted in plain intelligible language, and that the legislation applies to terms which have been drafted in advance (i.e. where the consumer has not been able to influence their elaboration)” (Leubuscher *et al.*, 1998a, p. 56). Finally, the Annex of terms which may be considered unfair may also be relevant to environmental claims, where point (q) refers to “unduly restricting the evidence made available to the consumer or ‘imposing on him a burden of proof which, according to the applicable law, should lie with another party to the contract’” (Leubuscher *et al.*, 1998a, p. 56). This could have relevance for claims such as ‘not tested on animals’, where only the product manufacturer can know whether such a claim is true or not. However, the information regarding these Regulations available on the ODCA website does not contain any reference to their possible applicability to environmental claims. The potential applicability of the Regulations in Ireland is thus far untested and does not seem to provide an unambiguous mechanism for the control of such claims.

3.3.5 Council Directive 92/75/EEC

The Council Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances is designed to allow consumers to choose more energy- and resource-efficient appliances by means of labelling and product information concerning consumption of energy, water and other essential resources. It is now mandatory for certain categories of domestic white goods including refrigerators, washing machines, dryers and dishwashers to be tested against a set of criteria, given a rating for energy efficiency and labelled accordingly. The goods are graded according to their energy efficiency, with an ‘A’ rating being the most efficient and a ‘G’ rating the least efficient (Fig. 3.1). An associated product information notice carries information on other resource use such as water. The Regulations place the onus for the accuracy of

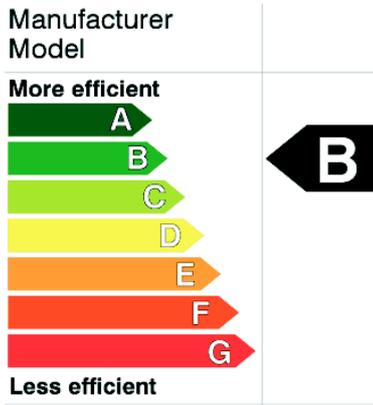


Figure 3.1. EU Energy Label.

the label and product information on the manufacturers, who are also required to establish technical documentation sufficient to enable the accuracy of the information contained in them to be assessed. The Department of Communications, Marine and Natural Resources has overall responsibility for the implementation of this Directive, while the Office of the Director of Consumer Affairs has been given responsibility for inspections of appliance retailers to ensure that the Directive is properly implemented.

3.3.6 EC Regulations 2001 (SI No. 339 of 2001)

The European Communities (Consumer Information on Fuel Economy and CO₂ Emissions of New Passenger Cars) Regulations 2001 (SI No. 339 of 2001) give effect to Council Directive 1999/94/EEC relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars. They require all new cars displayed or offered for sale or lease to bear a label detailing the vehicle's fuel efficiency and CO₂ emissions, with the aim of allowing consumers to include environmental and fuel-savings factors to inform their new car purchases. Posters detailing this information for all new cars must be displayed in a prominent position at all points of sales and the Society of the Irish Motor Industry (SIMI) is required to publish an annual consumer guide detailing the fuel efficiency and CO₂ emissions of all new car makes and models, to be made available centrally and at all points of sale. The Regulations state that promotional literature and material must also include relevant consumer information and may not contain information that may confuse customers. The Department of the Environment, Heritage and Local Government has overall responsibility for the implementation of these Regulations

3.4 Non-Statutory Controls on Environmental Claims in Ireland

As mentioned in Section 3.1 above, Ireland currently operates only one non-statutory instrument relating to environmental claims and this is discussed in more detail below, along with three other relevant mechanisms, which are international in origin.

3.4.1 Code of Advertising Standards

The Advertising Standards Association of Ireland (ASAI) is an independent self-regulatory body set up and financed by the Irish advertising industry. It operates and enforces a Code of Advertising Standards for Irish advertisers that applies to commercial advertisements in all Irish-based media, i.e. paid-for communications addressed to the public or a section of it through some communication medium. The Code aims to ensure that advertisements do not mislead or cause general offence.

Section 11 of the 2001 edition of the Code deals specifically with 'Environmental Claims', the only specific form of control for such claims currently in use in Ireland. These specific rules were added to the Code in 1995 in response to a 'sizeable increase' in the number of green claims being made (Leubuscher *et al.*, 1998b, p. 5).

It contains seven principles as follows:

1. Environmental claims should not be used without qualification unless advertisers can provide convincing evidence that their product will cause no environmental damage.
2. Qualified claims and comparisons may be acceptable if advertisers can demonstrate that their product provides an improvement in environmental terms either against their competitor's or their own previous products.
3. The basis of any claim should be explained clearly and should be qualified where necessary. Unqualified claims may mislead if they omit significant information.
4. Where there is a significant division of scientific opinion or where evidence is inconclusive this should be reflected in any statements made in the advertisement. Advertisers should not suggest that their claims command universal acceptance if this is not the case.

5. If a product has never had a demonstrably adverse effect on the environment, advertisements should not imply that the formulation has been changed to make it safe. It is legitimate, however, to make claims about a product the composition of which has been changed or has always been designed in a way that omits chemicals known to cause damage to the environment.
6. The use of extravagant language should be avoided, as should bogus and confusing pseudo-scientific terms. If it is necessary to use a scientific expression, its meaning should be clear.
7. Symbols may imply environmental claims in themselves. They should be simple and used in such a way that they do not convey false impressions about the characteristics of goods or services (www.asai.ie).

Complaints received from individual consumers or competitors regarding potential breaches of the Code are examined initially by the ASAI Secretariat, which prepares a recommendation for its Complaints Committee and also send a copy to both the complainant and advertiser for further comment. Advertisements found by the Committee to be in breach of the Code must be amended or withdrawn and, if the Committee's decision is ignored, disciplinary action in the form of fines and/or suspension of ASAI membership may be imposed. Decisions on complaints are published in Case Reports, which are issued to the parties involved and released for publication in print and on the ASAI website. The Code is currently being reviewed and submissions were invited from interested parties by the end of July 2005.

As regards the scope of these principles, the ASAI's strategy statement explicitly states that **the Code does not apply to "packages, wrappers, labels and tickets unless they advertise another product or a sales promotion or are recognisable in an advertisement"** (www.asai.ie). Following clarification from the ASAI, any claims appearing on such packaging or wrapping are also excluded from the Code's scope unless they too meet the above conditions (O. Twomey, personal communication, 12 December 2005). Thus, as regards on-pack environmental claims – the main focus of this study – the Code has no jurisdiction. Nevertheless, as the Code is the only control instrument to specifically deal with environmental claims in other media, such as

advertisements, it is worth highlighting the following areas of potential weakness, which are discussed in more detail below:

- Scope
- Lack of supporting guidance
- Areas of ambiguity
- Open to misuse
- Effectiveness in controlling misleading environmental claims
- Sanctions.

3.4.1.1 Scope

The Irish Code is less comprehensive than similar non-statutory codes in other countries – as it stands, environmental claims form just one of 11 sections of the wider Code of Advertising Standards. This is in contrast to the UK, for example, where there is a dedicated code of practice – the Green Claims Code – containing 12 guiding principles in clear, simple language accompanied by examples of good and bad practice for each principle (UK Department of the Environment, Transport and the Regions, 2000). There are fewer guidelines in the Irish code, expressed in more complicated language and without the benefit of examples.

3.4.1.2 Lack of supporting guidance

There is a lack of supporting guidance in the ASAI Code on how the Code applies to specific sectors and/or product groups. In the UK, in contrast, a series of guidance documents has been produced for product groups such as cleaning products, growing media, greeting cards, decorative coatings and aerosols, together with practical guidance on how to make a good environmental claim (UK Department for Environment, Food and Rural Affairs, 2003b,c,d,e,f,g). In addition, the ASAI Code makes no reference to the additional useful guidance on environmental claims provided by the EU and the ISO 14021:1999 standard, again in contrast to the UK guidance documents and also the Nordic Consumer Ombudsmen's guidelines on Ethical and Environmental Marketing Claims (Nordic Consumer Ombudsmen, 2005).

3.4.1.3 Areas of ambiguity

There are a number of areas of ambiguity or subjectivity within the ASAI Code which potentially reduce its

effectiveness and consistency of application to environmental claims as follows:

- Articles 11.1 and 11.5 refer to environmental claims made about products which “*cause no environmental damage*” or have “*never had a demonstrably adverse effect on the environment*”, respectively. According to one study, these provisions illustrate “*the limited understanding of environmental processes underlying the ASAI Code*” (Leubuscher et al., 1998b, p. 5), as most products tend to have some degree of impact on the environment during their manufacture, use or disposal.
- Article 11.2 further undermines the flawed protection provided by Article 11.1 in that it appears to permit qualified claims and comparisons even if the product in question has had an adverse environmental impact. This potential loophole was identified in the individual country report on Ireland that accompanied the 1998 cross-country study carried out for the European Commission, which concluded that, as a result, “*an environmentally damaging product may advertise itself as environmentally friendly as long as it presents the claim in a comparative form (Article 11.2), using a more damaging product as the basis for comparison*” (Leubuscher et al., 1998b, p. 6).

3.4.1.4 Open to misuse

The 1998 study cited above also contended that application of the Code is open to potential misuse, as a result of a ruling by the ASAI Complaints Committee regarding a newspaper advertisement for a particular pesticide product. In this regard, the Committee ruled that the Code “*...permits advertisers to state an opinion about their products or services provided it is clear that what they are expressing is their own opinion and that there is no likelihood of consumers being misled about any matter that is capable of objective assessment*” (Leubuscher et al., 1998b, p. 6). However, the study contends that this, in effect, would “*...allow any producer to make any misleading claim under the rubric of opinion*” and that “*...only an agricultural environmental specialist (in this instance) – but certainly not an average consumer*” could “*judge whether the assertions in question were ‘objective’ or not*” (Leubuscher et al., 1998b, p. 7).

3.4.1.5 Effectiveness in controlling misleading claims

As the Code does not apply to on-pack claims, it is ineffective in controlling a significant category of

environmental claims; in addition, there is a limited evidence base as to the overall effectiveness of the Code in controlling misleading environmental claims in general. In this regard, there have been very few judgements on environmental claims since the section on environmental claims appeared in 1995. Up to 1998, a total of six such complaints were identified, three of which were upheld and the advertisements in question found to be misleading (Leubuscher et al., 1998b, p. 7). Since then, only one other environmental complaint has been identified (Duncan Grehan Partners, 2001), whilst the current ASAI case reports archive contains no instances of any complaints relating to environmental issues from 2003 to date (www.asai.ie). It is unlikely that this situation is due to an absence of misleading claims of this type; rather, it is more likely due to a poorly informed consumer body as to what constitutes a good or bad environmental claim. In addition, there have never been any studies on the effectiveness of the Irish Code, unlike in the UK, where two follow-up studies on its Green Claims Code were commissioned by the Department for Environment, Food and Rural Affairs in 1999 and 2001 (National Consumer Council, 1999; ECOTEC, 2001). In addition, the UK Code itself was revised in 2000 and supplemented by the specific guidance documents referred to in [Section 3.4.1.2](#) above. Recent revisions have also been made to the Nordic Green Claims Code, in order to expand its remit to include ethical claims (Nordic Consumer Ombudsmen, 2005).

3.4.1.6 Sanctions

As described above, failure to comply with the ASAI Complaints Committee’s decisions regarding advertisements found to be in breach of the Code may result in possible fines and/or suspension of ASAI membership; however, according to the ASAI, there have been no fines/membership suspension issues in recent years as the adjudications of the Complaints Committee are complied with. No data were available on the number or level of fines previously imposed. There is also limited use of publicity as a sanction, where the Committee’s decisions on complaints are released for publication in print and on the ASAI website. The lack of imposition of fines or suspensions may be viewed as evidence that the Code is effective; however, even if advertisements are amended or withdrawn as requested, the fact remains that they will still have been initially viewed by the target audience who are unlikely to subsequently become aware of their misleading nature. In this regard, the value of

publicity in, firstly, acting as a deterrent to other advertising practitioners and, secondly, in educating and informing the public as to what constitutes unacceptable claims should not be underestimated. Similarly, the requirement to amend or withdraw the misleading advertisement has its weaknesses, as research is of the view that *“desist orders...are sanctions only if changing an advertising campaign is costly”* and *“...light fines are a symbol of transgression but cannot be considered an important deterrent”* (Leubuscher *et al.*, 1998a, p. 29). The European Commission is also of the view that *“cessation of a misleading advertisement does not, in general, represent a sufficiently dissuasive means”* (Commission of the European Communities, 1999). In Scandinavia, the Netherlands, Belgium and Italy, in contrast, transgressors have to pay for publicity admitting and rectifying misleading claims. In addition, desist orders also rely on the threat of further sanctions such as court proceedings (Leubuscher *et al.*, 1998a, p. 29), whereas the ASAI Code has no statutory back-up.

Overall, the effectiveness of the Irish code in controlling environmental claims in Ireland needs to be questioned, given the weaknesses identified above and the contrast with approaches in other countries such as Scandinavia, the Netherlands, Belgium and Italy, where those breaching the rules on green claims have to pay for mandatory publicity where they admit and rectify their misleading claims. In addition, in the UK, Italy, France, Portugal, Belgium and Germany, prison sentences are, in theory, a possible sanction against misleading claims, while Austria, Finland, France, Portugal, Spain, Sweden and the UK all use the threat of heavy fines as a deterrent (Leubuscher *et al.*, 1998a, p. 30). There are also disadvantages to controls such as the Irish code which are based on a complaint procedure, where effectiveness *“...is hampered by the substantial efforts and resources involved in taking systematic action, the fact that individual consumer damage is small (and therefore difficult to prove) and by the quantity and speed of production and change of claims made”* (Commission of the European Communities, 1999).

3.4.2 European Commission Guidelines for Making and Assessing Environmental Claims

These informal guidelines were produced in 2000 by the European Commission's Directorate General for Health and Consumer Protection (Commission of the European

Communities, 2000). They are intended as *“a tool to facilitate the understanding and implementation”* of the ISO standard 14021:1999 on self-declared environmental claims (Commission of the European Communities, 2000, p. 4) and aim to give guidance to anyone making environmental claims and also to any authority wishing to evaluate existing claims. The guidelines consist of four guiding principles covering the following areas:

1. General guidance (avoiding general or vague claims, need for truthful and accurate claims that can be substantiated, need for updating of claims)
2. Use of symbols (natural objects, Möbius Loop, etc.)
3. Use of comparative claims
4. Guidelines for specific environmental claims (compostable, recyclable, degradable, reusable and refillable, etc.).

The guidelines were one important outcome from an expert group on green claims convened by DG Health and Consumer Protection to assist the Commission in identifying needs and possibilities for Community action in the area of environmental claims and preparing appropriate initiatives and proposals. Ireland was represented on this group by the Department of Enterprise, Trade and Employment and the Department of the Environment, Heritage and Local Government. While these guidelines have no legal force, they do provide clear and useful guidance on environmental claims; however, as far as can be ascertained, there has been no attempt to disseminate or promote these guidelines in Ireland to date, even though there is a particular need for such guidelines, given that they cover the category of environmental claims excluded by the ASAI Code of Advertising Standards.

In contrast, reference is made to the guidelines in the current Nordic Consumer Ombudsmen's official guidelines on Ethical and Environmental Marketing Claims (covering Sweden, Norway, Finland and Denmark) and they are taken into consideration when evaluating the legality and validity of environmental claims pursuant to Nordic marketing law. The guidelines themselves are available on the Nordic Consumer Ombudsmen's websites. The UK also promotes the guidelines, referencing them as a source of further detailed information in the sector-specific guidance documents on environmental claims produced by the UK

Department for Environment, Food and Rural Affairs (discussed in Section 3.4.1.2 above). No studies have been carried out to date on the effectiveness of the guidelines. The guidelines are available on the DG Health and Consumer Protection website (http://europa.eu.int/comm/consumers/cons_safe/news/green/guidelines_en.pdf).

3.4.3 ISO Standard 14021:1999

The ISO Standard 14021:1999 on Environmental Labels and Declarations – Self-Declared Environmental Claims (Type II Environmental Labelling) sets out requirements for self-declared environmental claims on products, describing commonly used terms in such claims and conditions for their use (such as recyclable, recycled material, compostable). Conditions for the use of symbols and graphics such as the Möbius Loop are included, along with a general methodology for evaluating and verifying self-declared environmental claims. This standard came into effect in Ireland at the end of 2001. There are several organisations involved in the area of standards certification in Ireland; however, as far as can be ascertained, no Irish company has yet been certified to ISO 14021. While it is a relatively new set of standards, the lack of interest to date could be an indication that no real need for such certification is perceived amongst Irish businesses. This may well be due to the fact that the issue of misleading environmental claims does not appear to figure highly with policy makers and thus businesses may feel that it would not be worth their while obtaining such certification if no real action is perceived to be taken against unacceptable claims in any event.

The ISO has two other standards relating to environmental labels:

1. ISO 14020:2000 (Environmental Labels and Declarations – General Principles) sets out guiding principles for the development and use of environmental labels and declarations, both certified labels and self-declared claims.
2. ISO 14024:1999 (Environmental Labels and Declarations – Type 1 Environmental Labelling: Principles and Procedures) deals with the principles and procedures for developing voluntary, multiple-criteria-based third-party environmental labelling programmes, including the selection of product categories, compliance assessment, etc., as well as certification procedures for awarding such labels. As

with ISO 14021, no Irish company has yet been certified to ISO 14024, as far as can be ascertained.

3.4.4 ICC International Code of Environmental Advertising

This is an informal, voluntary code of practice produced by the International Chamber of Commerce (ICC). It applies to any form of advertising in which explicit or implicit reference is made to environmental aspects of goods or services and covers environmental claims made in any medium, including labelling, point-of-sales materials and product literature (International Chamber of Commerce, 2001, p. 1). It is an extension of the ICC International Code of Advertising Practice and contains 12 articles on the use of environmental claims, covering honesty, truthful presentation, use of scientific findings, making of comparative claims, use of signs and symbols, and substantiation of claims, amongst others. Guidance on selected claims often appearing in environmental advertising is provided in an Annex to the Code, based on Section 7 of ISO standard 14021:1999.

According to one study, the ICC does not formally monitor adherence to the Code by its member companies (Leubuscher *et al.*, 1998a, p. 43). Thus, there is no way of knowing if companies signing up to the Code are actually complying with it, which does have implications for the credibility of the Code. The study also argues that “...*the mere act of signing on to the ICC code, if a company or institute does not intend to comply, is a type of misleading advertising*” in itself (Leubuscher *et al.*, 1998a, p. 43). As far as can be ascertained, this code is not actively promoted in Ireland, either by the Irish Chambers of Commerce or any other organisation and there appears to be no reference to the Code on chamber websites or in publications.

3.5 Summary

- To be effective, environmental claims must be properly regulated and controlled.
- The Consumer Information Act, 1978 may not be effective in dealing with claims such as ‘environmentally friendly’ and this needs to be investigated further.
- The burden of proof requirement on persons making complaints against misleading claims under both the Sale of Goods and Supply of Services Act, 1980 and the Misleading Advertising Regulations 1988 poses

particular difficulties for proving misleading environmental claims where only those making the original claim may have access to the information required. In addition, the current low levels of environmental awareness amongst Irish consumers may be hindering such misleading environmental claims being recognised in the first place.

- Section 11 of the ASAI Code of Advertising Standards is the only control mechanism specific to environmental claims currently operating in Ireland but it specifically excludes on-pack claims. Other issues regarding its effectiveness include:
 - Less comprehensive than similar guidance in other countries such as the UK, Sweden, Denmark and Finland
 - Lack of supporting guidance for environmental claims in specific product groups
 - Areas of ambiguity within the Code, in particular Sections 11.1, 11.2 and 11.5
 - Potential for misleading claims to be allowed under the Code if presented as advertisers' opinions
 - Relatively weak sanctions for misleading claims.
- The European Commission's guidelines on making and assessing environmental claims are not currently promoted or used in Ireland, even though they would compensate for the ASAI Code's limited scope with regard to on-pack environmental claims.
- Key stakeholders in government, business and the NGO sectors appear to be unaware of the existence of most of the statutory and non-statutory mechanisms for controlling environmental claims.
- There has been no uptake of the ISO 14021 standard on self-declared environmental claims by Irish companies to date.

4 Assessment of Environmental Claims on the Irish Market

This chapter contains information on the specific kinds of self-declared product-related environmental claims currently found on the Irish market. It presents the results of an initial survey of such claims across a selection of product groups, together with an evaluation of their quality against specified criteria. The claims evaluated belong to two main categories, as described in [Section 1.2](#), namely:

1. Self-declared factual environmental claims
2. Self-declared qualitative environmental claims.

Additional information on the most common third-party/independently certified environmental labels in Ireland, along with other European labels, is presented in [Appendix A](#).

4.1 Structure of Survey and Assessment

As there is no evidence that any detailed survey has previously been conducted on the kinds of environmental labels and claims to be found on products for sale in Ireland, a small-scale survey was undertaken for a limited number of product groups to provide an indication of the range and quality of self-declared environmental claims on the Irish market. Five product groups were chosen for the survey:

1. Paints
2. Laundry detergents
3. Washing-up liquids
4. Household cleaners and polishes
5. Paper products (including toilet paper, tissue and office paper products).

These groups were selected for the following reasons:

- It was assumed that they would provide a good range of different kinds of environmental claims and labels, as they were of a type mentioned in other surveys reviewed for this project (e.g. National Consumer Council, 1999; ECOTEC, 2001).
- They were readily available for sale in Ireland.

- They comprised both Irish and imported individual product brands.
- They were small items and would be easy to survey, given the scope, nature and limited time frame of the study.

For each group, all available products offered for sale in selected retail outlets (three supermarket branches, two DIY/hardware stores and one stationery outlet) in the Dublin area were examined. The retail outlets were chosen on the basis of the following criteria:

- They provided access to a good variety of different product types within the product groups selected for the survey.
- They were readily accessible for carrying out the survey.
- As the outlets are all part of countrywide retail chains, they were assumed to be representative of product ranges available across Ireland.

Each individual product within each of the five product groups was carefully examined for the presence or absence of environmental claims and labels, with details of all labels, claims or symbols found being noted. Any environmental claims made in relation to product packaging were also noted. All relevant claims identified were then classified as either:

- Self-declared factual claims; or
- Self-declared qualitative claims or unverified environmental logos and symbols.

Only self-declared claims, which pose the greatest difficulty for regulation and control, were assessed against a set of criteria listed below. For speed and convenience, given the small-scale nature of the survey being undertaken, it was decided to use the criteria contained in the UK's *Green Claims Code* (UK Department of the Environment, Transport and the Regions, 2000) as the basis for assessing the claims identified. These criteria represent a concise standard which 'good' environmental claims could achieve and, while overlapping in some respects with criteria in the ASAI Code, provide more

detailed guidance on their practical application than that available in the ASAI Code. While the ISO 14021:1999 standard for self-declared environmental claims and the EU *Guidelines for Making and Assessing Environmental Claims* also provide criteria and guidance for quality environmental claims, they are both lengthy, detailed documents and were not regarded as appropriate for the purposes of this survey, which was not intended to be an exhaustive examination of Irish environmental claims but rather to be an initial illustration of some of the kinds of claims currently on the market. The UK *Green Claims Code* itself covers the key points contained in both of these documents and was updated in 2000 to specifically take account of the ISO standard.

The UK *Green Claims Code* was developed jointly by the UK Department of Trade and Industry and the Department of the Environment, Food and Rural Affairs and contains 12 criteria/principles on what constitutes a 'good' environmental claim, setting out that such claims –

1. Should be truthful, accurate and able to be substantiated
2. Should be relevant to the product in question and the environmental issues connected with it
3. Should be clear about what environmental issue or aspect of the product the claim refers to
4. Should be explicit about the meaning of any symbol used in the claim
5. Should be in plain language and in line with standard definitions (such as those contained in ISO 14024:1999)
6. Should not be vague or ambiguous (for instance by simply trying to give a good impression about general concern for the environment)
7. Should not imply that it commands universal acceptance if there is actually some significant doubt or division of scientific opinion over the issue in question
8. Should not imply more than it actually covers
9. Should not make comparisons unless the comparison is relevant, clear and specific
10. Should not imply that a product or service is exceptional if the claim is based on what is standard

practice anyway

11. Should not use language that exaggerates the advantages of the environmental feature the claim refers to
12. Should not imply that the product or service is endorsed or certified by another organisation when it has not been.

A rating of Pass, Fail or Borderline was assigned to each claim following assessment according to the selected criteria, drawing on guidance contained in the UK Code itself and a survey of environmental labels and claims carried out in the UK for the Department of Environment, Food and Rural Affairs (ECOTEC, 2001). The claims were assessed separately by two researchers to ensure a high degree of accuracy and consistency. In this regard, it is important to note that the criteria used are open to interpretation and the assessment arrived at does not claim to be absolute; rather, the aim was to provide some sense as to the quality of environmental claims on the Irish market so as to inform subsequent evaluation of policy and regulatory approaches to the control of environmental claims in Ireland. A claim was classified as failing if it was found to be clearly in breach of one or more of the criteria (e.g. use of a symbol not accompanied by any explanation of its meaning, as per Criterion 4) and as borderline if it technically complied with the relevant criteria but could be improved in some way (e.g. 'biodegradable' claims requiring more information as to why the product's biodegradability is an important feature, as per Criterion 2). Throughout the assessment, reference was made to two previous evaluations carried out on the UK Code (National Consumer Council, 1999; ECOTEC, 2001), in order to ensure the reliability of the interpretations being made for the Irish situation.

4.2 Summary of Survey and Assessment Findings

4.2.1 Survey findings

In total, 163 products were surveyed, with all but five of these carrying some form of environmental label or claim; 40% of the products surveyed were paints, 28% were cleaners and polishes, 17% were paper products, 9% were detergents and 6% were washing-up liquids. [Table 4.1](#) outlines the number and type of claims identified for the product groups surveyed. Given that some products carried more than one type of claim, the total number of claims identified (179) is greater than the total number of

Table 4.1. Number and type of environmental claims identified.

Product group	No. of products	Self-declared factual claims	Self-declared qualitative claims	Totals
Paints	65	70	2	72
Detergents	15	13	3	16
Washing-up liquid	10	17	6	23
Cleaners and polishes	45	39	1	40
Paper products	28	23	5	28
Totals	163	162	17	179

products surveyed (163). Additional details concerning the number of environmental labels encountered during the survey, which did not form part of the subsequent assessment, are included in [Appendix A](#).

As can be seen, the largest type of claim identified was **self-declared factual environmental claims**, which accounted for 91% of all self-declared claims identified. Claims in this category covered a wide range of environmental aspects such as product recyclability, ingredients and manufacturing processes. As shown in [Table 4.2](#), the proportion of products within each product group carrying some kind of environmental claim varied. All products surveyed in the paints, laundry detergents, washing-up liquid and paper product groups carried at least one environmental claim or label, with some carrying more than one. All except one product in both the cleaners and polishes and paper products groups likewise carried some form of claim or label, with the majority of products in the cleaners and polishes group also carrying some claim. In total, all but five products carried some form of claim or label, suggesting that the promoting of a product’s environmental benefits or credentials is

regarded by manufacturers as a useful marketing tool, although the degree of importance they may attach to this may vary, along with the quality and legitimacy of any such claims made.

4.2.2 Assessment of survey findings

The overall assessment results for all self-declared environmental claims identified are shown in [Fig. 4.1](#) below.

From a total of 179 self-declared claims (both factual and qualitative), 53% were assessed as acceptable under the selected criteria (96 claims), 30% as failing (53 claims) and 17% as being borderline (30 claims). Thus, a significant percentage of claims (47%) did not pass the assessment standard for ‘good’ environmental claims. Regarding individual product groups, paint products fared the worst, with 41 of their claims (57%) failing the selected criteria, while at the other end of the spectrum, washing-up liquid products had no failed claims and detergents only one. The results for each of the two categories of self-declared environmental claims are analysed in more detail below.

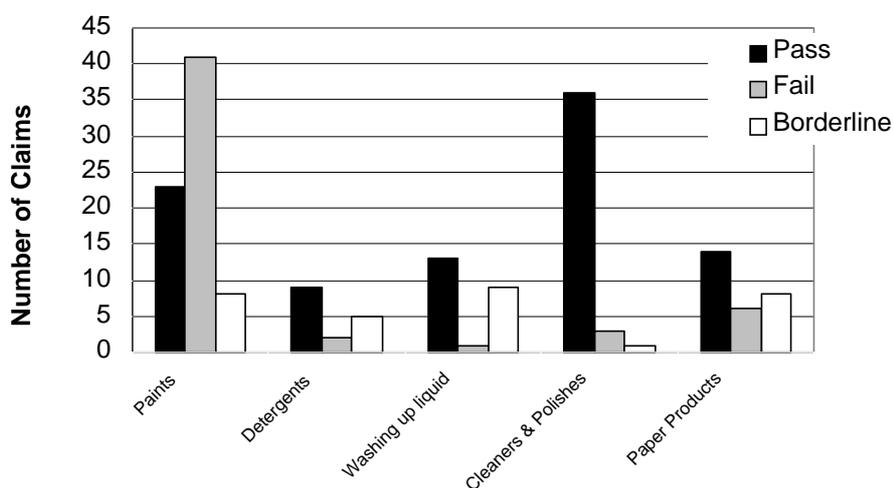


Figure 4.1. Assessment results for self-declared environmental claims.

Table 4.2. Assessment of self-declared factual environmental claims.

Product group	Claim wording	Assessment	No. of claims
Paints	Recyclable steel – with magnet symbol	Pass	3
	No lead added/Contains no added lead/Free of lead hazards	Fail	39
	Water based	Pass	11
	Low odour	Pass	3
	Low odour – with flower symbol	Borderline	8
	Virtually odour-free range	Pass	6
Detergents	Recyclable	Pass	4
	This carton is made from 95% recycled cardboard – with Möbius Loop denoting recyclability	Borderline	1
	Made from 80% recycled board	Pass	1
	Based on plant and mineral ingredients	Borderline	1
	Minimum impact on aquatic life	Fail	1
	Enzyme/Fragrance/Phosphate free	Pass	3
	Suitable for septic tanks	Fail	1
Washing-up liquid	Optimum level of biodegradability – far exceeds legislative requirements	Borderline	1
	Use of biodegradable surface-active agents/cleaning agents	Borderline	5
	Optimum level of biodegradability – far exceeds legislative requirements	Borderline	1
	Plastics material identification marks	Pass	10
Cleaners and polishes	Vegan	Pass	1
	Plastics material identification marks	Pass	30
	[Brand name] bottles are designed to be refilled where facilities exist	Fail	1
	Steel container. Recycle when empty	Pass	1
	Recycled packaging: This packet is made from over 80% recycled material	Pass	1
	Not tested on animals	Pass	2
	Harmful to aquatic organisms, may cause long-term adverse effects in the aquatic environment	Borderline	1
	No CFCs	Fail	1
	No silicone/Silicone free	Pass	2
	Paper products	No chlorine is used to bleach [product name] tissues/ECF	Borderline
Chlorine is not used in the manufacturing process		Pass	1
Only biodegradable glues are used in the manufacturing process/The glues used in this product are biodegradable.		Pass	2
Contains recycled de-inked pulp/This toilet tissue is made from recycled paper		Fail	2
This packaging uses a minimum of 75% recycled board		Pass	1
The packaging is made from PE (polyethylene) and can be disposed of through waste collection or recycled if such facilities exist/This polythene wrapper is recyclable where facilities exist		Borderline	2
Plastics material identification marks		Pass	9
Paper identification mark (PAP21)		Borderline	3
'Sustainable Wood Forest' text with tree logo		Fail	1
Total			

4.3 Results for Self-Declared Factual Claims

The total number of factual claims amounted to 162. A large variety of this category of claim was present across all product groups surveyed; however, the most common were claims relating to product ingredients and packaging material. The product group with the most factual claims was paint products (70 claims), the most common of which was a claim to be lead free (39 instances). The product group with the least number of factual claims was detergents, with 13 claims. Table 4.2 details the different kinds of self-declared factual claims identified, along with the assessment results (further details on the basis for the assessment are contained in Appendix C). No instances of outright false claims were identified; however, of the 162 factual claims identified, only 91 were deemed acceptable according to the criteria – a pass rate of 56% – while 46 were rated as failing (28%) and a further 25 deemed borderline (16%).

4.3.1 Acceptable claims

Claims in this category assessed as being acceptable were those that complied with one of more of the relevant assessment criteria. An example of one such 'good' claim in this category is one stating "*This packaging uses a minimum of 75% recycled board*". This is because the level of recycled content is relevant for paper and cardboard products; the claim specifies what aspect of the product the claim refers to (i.e. carton/packaging) and it also specifies the percentage of recycled material contained therein.

4.3.2 Failed claims

The most common type of failed claim was that of paint products claiming not to contain lead (39 claims). This claim was failed under Criterion 10, because lead has been banned in paint products for several years now and its omission is therefore classed as standard practice, whereas the claim implies that the product is exceptional in being lead free. The UK-recommended practice is that claims such as these should not be made at all. Interestingly, the 39 paint products that carried the 'lead-free' claim are all manufactured in Ireland, suggesting that the manufacturers are either not aware of best practice in relation to claims such as these or are not concerned about possible sanctions for making a misleading claim of this kind. While the introduction of guidance on making environmental claims in the UK in 1999 did result in a fall in instances of claims such as these, a subsequent survey

in 2001 revealed a persistence of these claims, suggesting a possible lack of effectiveness of non-statutory sanctions against them (ECOTEC, 2001, p. 16).

A similar claim is that of products being free of CFCs, chemicals that contribute to ozone-layer damage. This claim was encountered on one aerosol cleaning product and, as above, fails under Criterion 10 as the sale of aerosols containing CFCs is now prohibited and thus standard, not exceptional practice. Given that many consumers are still concerned about CFCs, the UK government and industry have agreed an alternative wording for such a claim – "*Aerosols do not contain CFCs*" – but it is anticipated that this claim will also ultimately become redundant (UK Department for Environment, Food and Rural Affairs, 2003b, p. 4).

Reasons for other failed claims include:

- Claims that the product possesses exceptional qualities when the issue/practice in question is common practice for that product group (e.g. laundry detergents promoting their suitability for septic tanks)
- Claims being of a vague and/or unsubstantiated nature (e.g. use of the term 'sustainable')
- Use of generalised claims (e.g. use of the phrase 'where facilities exist' in relation to product recycling/refillability – this is prohibited under the ISO 14021:1999 standard)
- Failure to specify the exact amount of recycled content in claims that the product/packaging contains recycled material.

Again, the presence of such claims in Ireland suggests either a lack of knowledge or a lack of concern amongst manufacturers – the absence of specific controls and the lack of guidance on environmental claims, as well as the apparent low levels of complaints about misleading environmental claims are likely contributory factors in this regard.

4.3.3 Borderline claims

Borderline claims were those that, while generally acceptable, could be improved in some way. For instance, while claims regarding biodegradability of appropriate products such as laundry detergents are generally acceptable where the degree of degradability can be related to specific test methods (ISO, 1999a, p. 10), the claims identified contain some vague terms such as

'harmless', 'easily', 'optimum', 'far exceeds' and 'natural processes' that could be improved upon, under the terms of Criterion 6. In addition, only one of the seven biodegradability claims used the phrase "*In common with other manufacturers...*" which prevents the claim implying exceptional characteristics for the product concerned as required by Criterion 10.

Other reasons for borderline claims included claims that were vague or ambiguous, possibly implying more than they actually covered, or lacked clarity as to whether the claim referred to the product, its packaging or both. As with failed claims in this category, there is a need for improved understanding amongst those making these claims as to what is acceptable or not.

4.4 Results for Self-Declared Qualitative Claims

Far fewer self-declared qualitative claims were identified in the product survey – just 17 of 179 total claims (9%). They mostly related to a product's implied environmental 'friendliness' through the use of vague phrases and nature symbols. Table 4.3 below shows the individual types of claims identified, along with the assessment results

(further details on the basis for the assessment are contained in Appendix C).

From a total of 17 claims, only four were deemed acceptable under the criteria – a pass rate of just 24%. Seven failed claims were identified (41%), with a further six deemed borderline (35%). Failed and borderline claims together made up 76% of qualitative/other claims identified, a very high proportion.

4.4.1 Acceptable claims

Claims that were assessed as acceptable in this category were those whose use of references to nature and/or the environment were accompanied by acceptable factual claims as to the product's environmental credentials. For example, the use of a butterfly symbol on one toilet tissue product was accompanied by an acceptable claim regarding the product's manufacturing process, and a reference to 'natural extracts' was made on a washing-up liquid that did indeed contain plant extracts.

4.4.2 Failed claims

The most common reason for claims being rated as unacceptable was due to the use of vague or ambiguous terms or language (cited in six of the seven failed claims – see Appendix D for more details). Phrases such as

Table 4.3. Assessment of self-declared qualitative claims.

Product group	Claim wording	Assessment	No. of claims
Paints	Safe for children's rooms	Fail	1
	'Conserve our environment' text with tree symbol	Fail	1
Detergents	Harnessing the power of nature	Borderline	1
	With added softness from Mother Nature	Pass	1
	Against animal testing	Borderline	1
Washing-up liquid	[Product name] 'Naturals' range (with eucalyptus and tea tree) – " <i>provides a natural antibacterial sensation</i> "	Borderline	2
	Cleaning power with natural extracts	Pass	1
	With environment-friendly surface actives and a super effective germ-control system, you can put your trust in [Product name]	Fail	1
	Harnessing the power of nature	Pass	1
	Against animal testing (also on washing-up liquid)	Borderline	1
Cleaners and polishes	This air-propelled aerosol from [Company name] provides the same performance as a conventional aerosol while respecting the environment	Fail	1
Paper products	[Product name] is still the soft choice for helping nature and here's why: we take great care to ensure that [Product name] is environmentally friendly	Borderline	1
	Letters 'TCI' with tree symbol	Fail	1
	Nature symbols on product packaging	Pass	1
	'Co-existence' text with flower and fish drawing	Fail	1
	Caring for Nature	Fail	1
Total			17

'environment-friendly', 'caring for nature' and 'safe for children's rooms' contravene Criterion 6 in that they are vague and do not give specific information about the benefit being claimed. Some phrases encountered are quite meaningless, such as 'conserve our environment' and 'co-existence' which say nothing about the products themselves. In addition, these two claims were accompanied by symbols of a tree, a flower and a fish whose relevance to the claims was not apparent or explained, another contravention of Criterion 6, which states that "*symbols should not feature natural objects such as trees...unless there is a direct link between the product, the object and the environmental benefit being claimed*" (UK Department of the Environment, Transport and the Regions, 2000, p. 8).

One claim displayed the symbol of an Irish environmental organisation, the Tree Council of Ireland (tree symbol with the letters 'TCI'). Although the manufacturer in question does give some financial support to this organisation and would be entitled to use their symbol on its products, this was not explained on the product, thus contravening Criterion 12. It also leaves the manufacturer open to the implication that the product has been certified or endorsed by this organisation when this is not the case. There was just one instance of a claim failing under Criterion 10, the main cause of failure for factual self-declared claims. This was for an aerosol-based cleaning product, which implied that the product was exceptional by using air as a propellant, whereas in reality no aerosol product is allowed to use the traditional CFC propellant.

4.4.3 *Borderline claims*

In general, the borderline claims involved the use of somewhat vague terms that on their own would be unacceptable but which were accompanied by factual claims that legitimised them somewhat. For example, the claim "*harnessing the power of nature*" appeared on a product that is part of an ecological range using plant ingredients and is thus more acceptable but could still be improved. Likewise, the use of the word 'sensation' in the phrase "*natural anti-bacterial sensation*" that appeared on a washing-up liquid product containing plant extracts with these properties is also a bit vague. The use of nature symbols without explanatory text was also quite common, implying environmental benefits that may not exist for the products in question.

Overall, while fewer claims were identified in the category of self-declared qualitative environmental claims, large

proportions were either unacceptable or borderline, in particular due to the unacceptable use of vague terms. This high level reflects the growing practice internationally of using subliminal references and imagery to imply environmental benefits (that may not exist in reality) for products. From an initial focus on print advertising, there has been a shift by manufacturers and advertisers in Europe and elsewhere towards the use of on-pack information for environmental claims. This is as a result of increased regulation of misleading environmental advertising such as the EU's Directive on Misleading Advertising 84/450/EEC (Council of the European Communities, 1984). Thus, "*in cases where companies do not want to bother basing claims on evidence, but see profit in playing on consumer concern about the environment, on-pack claims have become the cheapest, easiest way to attract consumer attention without any danger of attracting sanctions*" (Leubuscher et al., 1998a, p. 13).

As with the results for factual claims, these findings again point to the need for more comprehensive guidance for consumers and businesses, as well as more effective controls on these types of claims in Ireland.

4.5 Summary

- A small-scale survey was conducted of the numbers and types of self-declared environmental claims present on a selection of five product groups: paints, detergents, washing-up liquids, cleaners and polishes and paper products.
- A wide variety and amount of environmental claims and labels were identified across all five product groups, with a total of 179 self-declared environmental claims being identified, the majority (91%) comprising factual claims (such as 'recycled' and 'biodegradable') and the remaining 9% being qualitative claims (such as 'environmentally friendly' and 'conserve the environment').
- All 179 self-declared factual and qualitative environmental claims were assessed using the 12 criteria contained in the UK's *Green Claims Code* and rated as Pass, Borderline or Fail.
- A total of 52% of the 179 claims were assessed as acceptable, 19% as borderline and 29% as failing one or more criteria. Thus, large numbers of unacceptable

claims were encountered, spread across the product groups.

- Far fewer self-declared qualitative claims were identified but there was a high failure rate in this category, particularly as regards the use of subliminal references and imagery to imply non-existent environmental benefits.
- Common reasons for claims not meeting the assessment criteria included:
 - Claims implying exceptional characteristics that are, in fact, standard industry practice
 - Use of vague, generalised and unsubstantiated terms or wording
 - Failure to qualify claims with data, e.g. recycled content
 - Use of unexplained symbols and imagery.
- Overall, the results indicate either a lack of knowledge or lack of concern amongst manufacturers regarding misleading environmental claims, pointing to the need for effective guidance and controls in this regard.

5 Conclusions and Recommendations

This study set out to research the use and regulation of environmental claims as a means for promoting sustainable consumption in Ireland. Four main areas were addressed:

1. Policy framework
2. Education and awareness
3. Regulatory framework
4. Quality of claims being made.

The main conclusions of the study are summarised below, followed by a set of recommendations as to how the key issues identified in each area could be addressed in order to ensure the effective use and control of environmental claims in Ireland.

5.1 Conclusions

- At international, EU and Member State levels, policy advises increased sustainable consumption. Consumer awareness and education in the form of clear environmental information, credible claims and labelling are deemed an important strand of this.
- Three main issues affect the degree of effectiveness of environmental claims:
 - (i) credibility of claims
 - (ii) control and regulation of claims
 - (iii) level of consumer and business education and awareness on claims.
- Irish policy on consumer protection, sustainable consumption and environmental claims is spread across various government departments and agencies, with an apparent lack of overall responsibility and policy initiatives in the area of environmental claims in particular.
- Current Irish consumer protection systems are largely complaints driven, with the burden of proof falling largely on the consumer in relation to potentially misleading environmental claims in particular.

- The extent to which the Consumer Information Act, 1978 may be effective in dealing with misleading environmental claims appears untested to date.
- Weaknesses also exist in relation to the main non-statutory control, namely Section 11 of the ASAI Code of Advertising Standards which specifically excludes on-pack claims, while an EU guidance document on making and assessing environmental claims appears not to be promoted or in use in Ireland
- Irish consumers' awareness of the impact of their purchasing choices and environmental claims is low and information and awareness-raising activity in Ireland in the area of environmental claims is practically non-existent, comparing very badly with other Member States and internationally.
- The overall incidence of complaints regarding misleading environmental claims is practically non-existent and there is a paucity of baseline data regarding the use and control of environmental claims in Ireland.
- A small-scale survey carried out for this study indicated quite a widespread use of environmental claims across several product groups, in particular the use of self-declared factual environmental claims.
- A significant proportion of self-declared factual environmental claims surveyed (47%) did not meet minimum standards for *good* environmental claims; a higher majority of self-declared qualitative claims (76%) likewise failed to meet minimum standards. This may indicate either a lack of awareness or lack of concern regarding misleading environmental claims on the part of Irish businesses.

5.2 Recommendations

5.2.1 Policy framework

Recommendation 1: Provide clarification of responsibility and leadership on sustainable consumption and environmental claims policy

Clarification is required within the existing policy structure regarding overall responsibility for and ownership of

Table 5.1. Summary of report recommendations.

	Ireland	Best practice example
Policy	Responsibility for environmental claims, labelling and procurement as related to the development of a coherent sustainable consumption policy should be concentrated with one agency or department rather than spread across several. Review process with stakeholders should be conducted.	In the EC, overall responsibility for consumer affairs lies with the DG for Health and Consumer Protection, which also oversees policy in relation to public health and food safety. Other Member States, such as Denmark, have integrated all state-operated services for consumers, including a consumer ombudsman.
Education and awareness	Further research on education strategies, baseline data on environmental claims in use, credible environmental labelling, accompanying consumer education and information programmes.	UK's <i>A Shopper's Guide to Green Labels</i> ; Nordic Swan Eco-label, with high visibility, credibility and success; German Blue Angel which 80% of consumers recognise.
Legislative	Review current mechanisms and potential for new control and regulation of claims, in particular on-pack and vague claims.	A three-tier system for complaints in Germany, Denmark, the Netherlands where the majority of complaints are resolved informally.
Quality of claims	Ensure that an effective code of practice for environmental claims is in place, consulting with NSAI and business.	EU <i>Guidelines for Making and Assessing Environmental Claims</i> could provide a suitable basis for a new code.

sustainable consumption policy in general and environmental claims in particular. Potential benefits include more effective co-ordination of policy and enforcement, consistency of interpretation and implementation, reduced consumer and business confusion. Investigation should be conducted on whether a more streamlined policy and implementation framework would be more effective than the present Irish approach and evidence should be gathered to such effect.

Judging by other Member States with more evolved policy structures, overall responsibility for the development of a specific and comprehensive policy on sustainable consumption needs to be assigned to one key government department or agency, accompanied by appropriate resource provision. Appropriate departments would be either the Department of the Environment, Heritage and Local Government or the Department of Enterprise, Trade and Employment. The Oxford Commission on Sustainable Consumption concluded that consumers cannot be forced or exhorted to consume more sustainably; instead, governments should focus on making it easier for consumers to choose greener patterns of consumption (Oxford Commission on Sustainable Development, 2004, p. 46). A working group should re-examine the potential for the EU Eco-Label or an alternative new or existing eco-label to promote in the Irish market.

Recommendation 2: Develop an environmental product information strategy

Environmental product information policy should be designated as a specific aspect of the sustainable consumption policy area. Initial work on the issue of environmental product information should focus on the development of a long-term product information strategy, to include co-ordination of different forms of product environmental information and a review of exactly what progress, if any, has been made to date on the few existing actions on environmental claims and information. Joint initiatives between environmental and business departments and agencies will be important for a coherent and comprehensive strategy to be developed.

Recommendation 3: Increase levels of green public procurement

Undertake research to determine the effect of increased levels of green public procurement on environmental claims. Such research could help determine the baseline level of GPP in Ireland and how this compares to other countries and whether higher levels elsewhere have translated into better quality and usage of environmental claims and more sustainable production. The EU guidelines on green public procurement should be observed.

5.2.2 *Education and awareness on environmental claims*

Recommendation 4: Obtain baseline information on environmental claims

Fund the undertaking of a comprehensive survey of environmental claims on the Irish market in order to provide comprehensive baseline data on the numbers, types and quality of environmental claims being made across a range of product groups not covered by this study. These data are essential for the development of targeted and effective information and guidance initiatives. Data are also required on the use of environmental claims in other media such as print, TV and radio advertising, promotional literature, websites, etc. Follow-on research from this report would ideally include a stakeholder review process comprising government bodies, business and consumer groups.

Recommendation 5: Improve consumer and business awareness of environmental claims

This research highlights public perceptions of poor information provision and consumer mistrust in environmental claims. As part of an overall environmental product information strategy, specific information and awareness campaigns for Irish consumers on environmental claims and labels need to be developed, in particular for self-declared claims. This may require the gathering of more current and specific data on consumer awareness of environmental claims. This work should be directed by the body given responsibility for sustainable consumption or, in the interim, by the Office of the Director of Consumer Affairs, which has recently carried out other consumer awareness programmes. Useful examples in this regard include the UK's *Shopper's Guide to Green Labels* and its planned 'Environment Direct' environmental information service for consumers. A well-informed consumer population is essential for any real progress towards more sustainable consumption habits to be made. If people are not aware of the impact of their purchasing choices then they will not be in a position to change them. Industry, too, often requires signals from consumers before it takes action on reducing the environmental impact of products and services.

Information and awareness campaigns for businesses on environmental claims also need to be developed and implemented. Examples include the UK's environmental claims newsletter for businesses and detailed sector-

specific guidance on making environmental claims. As part of general guidance to businesses on environmental claims, companies using or intending to make environmental claims should be encouraged to make background information on such claims available to consumers (e.g. by means of advertising, company websites, free telephone numbers and in-store displays, etc.).

5.2.3 *Control mechanisms*

Recommendation 6: Review the existing controls on environmental claims

Carry out an examination of the effectiveness of existing consumer Acts in dealing with certain types of environmental claims such as 'environmentally friendly', as problems have been identified in this regard in the UK equivalent, the Trade Descriptions Act 1968. Examine the feasibility of reversing the burden of proof requirement on complainants in both the Sale of Goods and Supply of Services Act, 1980 and the Misleading Advertising Regulations 1988, given the implications this has for the effective control of misleading environmental claims. In addition, consider amending the Misleading Advertising Regulations so that practical guidance is provided on what 'misleading' means in relation to environmental claims and the Director of Consumer Affairs could require the substantiation of questionable claims.

A useful first step might be to test the effectiveness of current controls including the Consumer Information Act, 1978, the Sale of Goods and Supply of Services Act, 1980 and the Misleading Advertising Regulations 1988, as well as the ASAI Code of Advertising Standards.

Recommendation 7: Introduce additional control mechanisms

In addition to improving existing controls, the use of additional control mechanisms should be considered within an appropriate stakeholder review process, informed by more detailed baseline evidence regarding measures adopted in other Member States and their effectiveness. These might include:

- Increasing the use of publicity as a sanction against misleading environmental claims by funding a consumer/other group to establish annual awards for the best/most truthful environmental claims and also to publicise the most misleading ones.

- Using ‘invisible’ controls to convince advertisers to withdraw offending claims through the threat of refusal of advertising space or of adverse publicity. This approach is already used in Germany, Denmark, Finland, Sweden, Greece, the UK and the Netherlands.
- The creation and publicising of a ‘blacklist’ of terms to be discouraged in environmental advertising of all types.
- The production of annual ‘scorecards’, wherein various environmental claims found on the Irish market are rated according to their reliability. This initiative could be carried out by a government department/agency or a consumer/environmental organisation and would also serve to raise awareness of misleading claims.

5.2.4 Standard of claims

Recommendation 8: Develop and implement a comprehensive code of practice on environmental claims

Ensure that an effective code of practice for environmental claims is in place. This can be achieved by either addressing the weaknesses identified in regard to the existing ASAI Code of Advertising Standards or introducing a new, more comprehensive code of practice, supported by more detailed guidance on its application to different product groups and sectors (as provided in the UK). In this regard, the EU *Guidelines for Making and Assessing Environmental Claims* could provide a suitable basis for a new code, if properly promoted and implemented. Similarly, there are several monitoring and verification systems for food products in Ireland that could serve as models – for example, organic food certification systems and the Q-mark.

A recommendation for follow-on research would be an in-depth analysis of several Member States with best-practice codes and policy in place and how these impact on public awareness, education and consumer patterns.

Recommendation 9: Encourage applications for certified environmental product information standards

Consult with the NSAI and relevant business organisations on how best to undertake promotional activities to encourage companies to apply for certification to the ISO 14021 standard on self-declared environmental claims and the EU Eco-Label scheme.

5.3 Concluding Remarks

In general, the situation in Ireland as regards the use and control of environmental claims is lacking, particularly in comparison with other Member States. In general, based on the interviews and the information gathered in this study, it seems that the situation in Ireland as regards the use and control of environmental claims is lacking, particularly in comparison with other Member States. Very few baseline data exist regarding the use and control of these claims, and as responsibility for the area is spread between a number of departments, this implies low priority as a policy area at government level. This situation has resulted in poorly informed consumers unable to differentiate between those companies offering products and services with genuinely lower environmental impacts and those merely seeking to exploit an increasingly valuable market niche and take advantage of consumer ignorance on the matter. In addition, the failure to adequately address the issues surrounding environmental claims in Ireland would appear to reflect similar failures with regard to the wider area of sustainable consumption. It also represents missed opportunities to date to seriously engage consumers in more informed purchasing choices and to use the increased wealth levels in this country to help achieve a more sustainable use of resources in the longer term, to the benefit of both society and the environment. An appropriate stakeholder review process comprising of relevant government departments, business and consumer organisations would be a first step in finding a direction for the future of environmental claims and labelling as a tool for promoting sustainable consumption in Ireland.

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Abbreviations

ASAI	Advertising Standards Authority of Ireland
CAI	Consumers' Association of Ireland
CFCs	Chlorofluorocarbons
CSG	Consumer Strategy Group
DEFRA	Department for the Environment, Food and Rural Affairs
DG	Directorate General (EU Commission)
DTI	Department of Trade and Industry
ENDS	Environmental Data Services
EPA	Environmental Protection Agency
ETAP	Environmental Technologies Action Programme
EU	European Union
GCCNI	General Consumer Council of Northern Ireland
GSA	Government Supplies Agency
FTC	Fair Trade Commission (USA)
IBEC	Irish Business and Employers Confederation
ICC	International Chamber of Commerce
IMB	Irish Medicines Board
ISO	International Organization for Standardization
NSAI	National Standards Authority of Ireland
ODCA	Office of the Director of Consumer Affairs
OECD	Organisation for Economic Co-operation and Development
SIMI	Society of the Irish Motor Industry
UNEP	United Nations Environment Programme
UNDP	United Nations Development Programme
VOC	Volatile organic compounds

Appendix A Third-party/Independently Certified Environmental Labels

Survey Results

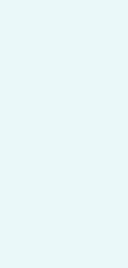
These types of environmental labels are "...made within a scheme or framework run by a third-party organisation" (ECOTEC, 2001, p. 4). They are usually subject to some validation or certification process, carried out by an independent third party or by an internal or industry

validation process. They can be voluntary (e.g. EU Eco-Label) or mandatory (e.g. EU Energy Label), covering multiple or single environmental aspects of the product or service concerned. The number and type of such labels found during the study survey were as follows:

Table A1.1. Number of third-party/independently certified environmental labels identified by project survey.

Product group	No. of products	Type of label				Total no. of labels
		Green Dot	Washright	VOC	UN 500	
Paints	65	23	0	32	0	55
Detergents	15	14	14	0	1	29
Washing-up liquid	10	9	0	0	1	10
Cleaners and polishes	45	25	0	0	0	25
Paper products	28	17	0	0	0	17
Totals	163	88	14	32	2	136

Table A1.2. Description of third-party/independently certified environmental labels identified.

Logo	Description
	<p>Green Dot</p> <p>This is the pan-European symbol found on consumer packaging signifying that the manufacturer of the product/supplier of the packaging has paid a financial contribution towards the cost of recovery and recycling of that material to a national packaging recovery company, in accordance with the principles defined in European Directive No. 94/62. One of the most common environmentally related labels, it does not specifically signify that packaging with a Green Dot is recyclable, will be recycled, or has been recycled. In Ireland, users of the Green Dot symbol make their contributions to Repak, a voluntary compliance scheme established under Ireland's 1997 Waste Management (Packaging) Regulations to co-ordinate the collection, sorting and recovery of used packaging for Ireland. If companies choose not to become members of Repak, they may not use the Green Dot symbol on their products and have to organise the collection and disposal of their packaging waste themselves in accordance with the regulations.</p>
	<p>Washright</p> <p>The Washright logo appears on laundry detergent products and is a voluntary initiative developed in 1998 by the European soap and detergent industry to provide household tips to consumers and to advise them about washing laundry in a more environment-friendly way. As the initiative relates to consumer advice/user information rather than to environmental characteristics of the product in question, it is not strictly an environmental claim by the producer but does deal with environmental aspects of washing such as energy and water use. The logo appears either on its own or with a panel containing consumer/washing tips such as increasing washing loads, relating amount of detergent used to water hardness, reducing wash temperatures and buying refillable packaging.</p>
	<p>VOC label</p> <p>This voluntary label was developed by the decorative coatings industry in the UK to give information on the volatile organic compound (VOC) content of each decorative coating product in order to allow to the public to make an informed choice when purchasing coatings such as paints and varnishes. VOCs are substances containing carbon that evaporate easily at room temperature. They are found in many fuels and can cause irritation to the eyes, nose, and throat or lead to headaches and nausea. Products are classified according to the level of VOCs released, whether very high (>50%), high (25–50%), medium (8–24.99%), low (0.30–7.99%) or minimal (0–0.29%). The label is usually accompanied by the statement “VOCs contribute to atmospheric pollution”. Use of the label is part of an industry scheme to limit the amount of VOCs allowed in decorative coating products and to reduce these limits over the coming years but its use is not regulated either by the industry or any third party.</p>
	<p>UN Global 500</p> <p>The United Nations Environment Programme (UNEP) established the Global 500 Laureate Roll of Honour in 1987 to recognise the environmental achievements of individuals and organisations around the world. Since 1987, over 600 Laureates have received this award. It is granted to individuals and organisations for outstanding achievements in the protection and improvement of the environment. The Belgian ecological cleaning products company, Ecover, has received two awards under this scheme: the Global 500 Roll of Honour Award in 1993 for outstanding achievements in the protection and improvement of the environment and the Environmental Stewardship Award from the Council on Economic Priorities in 1999 for its ecologically sound manufacturing process and its overall commitment to producing environmentally safe products.</p>

Appendix B Other Self-Declared Factual Environmental Claims

Logo	Description
	<p>Möbius Loop</p> <p>The Möbius Loop is a symbol in the shape of three twisted chasing arrows forming a triangle and may apply to a product or its packaging. Each of the three arrows can represent one step in a three-step recycling process that forms a closed loop:</p> <ol style="list-style-type: none"> 1 Collection of materials to be recycled 2 Manufacture of collected recyclable materials into new products for retail or commercial sale 3 Purchase and use of the products made from the recycled materials. <p>There are four main forms of this symbol, each with a different meaning.</p>
	<p>(i) Three-arrow triangle in white</p> <p>This form of the Möbius Loop shows that a product or part of it (e.g. its packaging) can be recycled where facilities are available. The symbol is only supposed to be used on goods that are recyclable and, unless accompanied by a qualifying statement, is interpreted to mean that the entire product is recyclable</p>
	<p>(ii) Three-arrow triangle on a black background</p> <p>This form signifies that the product in question is actually made from a certain percentage of recycled materials. Without a qualifying statement, the symbol is interpreted to mean that the product is made from 100% post-consumer waste.</p>
	<p>(iii) Three-arrow triangle on a black background with percentage</p> <p>This form of the symbol appears with the percentage of recycled content displayed in or beside the middle of the triangle. It should only be used where this figure refers to the entire item; otherwise clarification should be provided.</p>
	<p>(iv) RECY symbol</p> <p>A related symbol is the RECY recycling triangle. It is a German symbol, indicating that the shipping containers and packaging made of paper or corrugated board which carry it contain recycled content, will be accepted for recycling by the German paper industry and are recyclable.</p>
	<p>Material Identification Marks</p> <p>In order to assist those involved in recovery of packaging materials, identification marks have been developed for certain materials. The plastics industry has developed a voluntary code for labelling different plastic packaging materials, indicating the reusable or recoverable nature of the packaging (this code is not independently supervised). There are seven broad categories of plastics under the code, each with a separate number usually displayed inside a triangle made of recycling arrows. The categories are:</p> <ol style="list-style-type: none"> 1 PET: polyethene terephthalate (many food and drink containers) 2 HDPE: high-density polyethene (milk, household chemical containers) 3 V: vinyl or PVCs (detergent and shampoo bottles, clear food packaging) 4 LDPE: low-density polyethene (wire and cable insulation) 5 PP: polypropene (yoghurt containers, medicine bottles, straws) 6 PS: polystyrene (plates, egg cartons, CD covers) 7 Other: including multi-layer (large water bottles, food bottles). <p>Similar voluntary numbering systems exist for paper and cardboard (numbers 20–39), metal (40–49), wood (50–59), textiles (60–69) and glass (70–79), as set out in Annex I of the EU Directive on Packaging and Packaging Waste (94/62/EC), although specific material identification is not required for paper and glass under the Directive. Other material identification marks include the magnet symbol for steel and a symbol for aluminium (text 'alu' inside two chasing arrows).</p>

Appendix C Detailed Assessment of Self-Declared Factual Environmental Claims

Product group	Claim	Assessment	Basis for assessment
Paints	'Recyclable steel' with magnet symbol (on metal paint can)	Pass	Passes Criteria 1 (truthful and accurate) and 4 (use of symbol). However, Criterion 5 requires that the claim should be qualified if collection and/or drop-off recycling facilities for steel paint cans are not widely available in Ireland.
	No lead added/Contains no added lead/Free of lead hazards	Fail	Fails Criterion 10, as the use of lead in paints has been banned for many years now and thus the claim implies exceptional characteristics for the product where none exist.
	Water based	Pass	Passes Criteria 1 and 2 as, in general, water-based paints are regarded as environmentally preferable to enamel or polyurethane paints.
	'Low odour' with flower symbol	Pass	Passes Criteria 1 and 2 when accompanied by a 'water-based' claim, since water-based paints are generally lower-odour as they do not contain evaporating hydrocarbons.
		Borderline	Eight of the 11 instances of this claim on a retailer's own brand of paints fail to meet Criterion 4, as they were accompanied by a flower symbol, whose relevance to a low-odour claim was not made explicit.
	'Virtually odour-free' paint range	Pass	Passes Criteria 1 and 2 regarding water-based paints. However, the term 'virtually' is vague and should be qualified further, as per Criterion 6.
Detergents	'Recyclable' (text only, no symbol)	Pass	Passes Criterion 3 (clear that the claim of recyclability refers to the detergent packaging). Meets Criterion 5 regarding acceptable use of the term 'recyclable', as the packaging is made from cardboard for which collection and/or drop-off recycling facilities are widely available in Ireland.
	'This carton is made from 95% recycled cardboard' with the Möbius Loop symbol denoting recyclability	Borderline	Passes Criteria 1 and 3, being truthful, accurate and clear about what environmental issue is referred to. Fails Criterion 4 regarding incorrect use of the Möbius Loop – if it refers to the 95% recycled packaging, the version of the symbol used should contain the percentage within it; otherwise it denotes recyclability and should be accompanied by text explaining whether this refers to the product or its packaging or both.
	'Made from 80% recycled board'	Pass	The second version of the claim passes all relevant claims, as use of a symbol is optional.
	'Based on plant and mineral ingredients'	Borderline	Meets Criteria 1 and 2 but further information regarding the significance of such ingredients should be provided, as per Criteria 3 and 10, i.e. do they have any potential environmental impacts in their own right/are they exceptional or perhaps actually widely used in detergents?
	Minimum impact on aquatic life	Fail	Fails Criterion 6 as it is a vague claim and no detail is given regarding what constitutes 'minimum' impact.
	Enzyme/Fragrance/Phosphate free	Pass	Assuming these claims are truthful and can be substantiated, they are generally acceptable; however, some explanation as to what the substances actually are and what their environmental impact is would be useful, as per Criterion 3.
	Suitable for septic tanks	Fail	Fails Criterion 10, as in general, normal use of laundry detergents is suitable for septic tanks but this claim implies that the product is exceptional in this regard.
	Optimum level of biodegradability – far exceeds legislative requirements	Borderline	Meets Criterion 1, as claims regarding biodegradability of appropriate products such as laundry detergent are generally acceptable where the degree of biodegradability can be related to specific test methods (ISO 14021). However, this claim still contains vague and unqualified terms such as 'optimum' and 'far exceeds' which could be improved under Criterion 6.

Appendix C contd.

Product group	Claim	Assessment	Basis for assessment
Washing-up liquid	To safeguard the environment, only biodegradable surface active agents are used in this product. These are broken down into harmless materials by sewage treatment and natural processes./Surfactants easily biodegradable/ Biodegradable: The cleaning agents in this product are broken down by natural processes/In common with other manufacturers this product uses only biodegradable surfactants. These break down into harmless materials by sewage treatment and natural processes.	Borderline	All instances of this type of claim identified meet Criterion 1, as claims regarding biodegradability of appropriate products such as laundry detergent are generally acceptable where the degree of biodegradability can be related to specific test methods (ISO 14021). They could, however, fail Criterion 10, since the EU's Regulation 648/2004 now requires a certain level of biodegradability from laundry detergents, thus making it a standard practice but the wording here could be interpreted as implying exceptional characteristics. The use of the word 'safeguard' in the first claim implies environmental protection while the product's biodegradability may merely reduce its environmental impact, not eliminate it, thus making it unacceptable under Criteria 8 and 11. In addition, the various claims contain some vague terms such as 'harmless', 'easily' and 'natural processes' that could be improved upon, under the terms of Criterion 6. All the examples of this type of claim are further undermined by their omission of information on what the ultimate biodegraded elements are and their environmental impact, if any (Criterion 3).
	Optimum level of biodegradability – far exceeds legislative requirements	Borderline	Meets Criterion 1, as claims regarding biodegradability of appropriate products such as laundry detergent are generally acceptable where the degree of biodegradability can be related to specific test methods (ISO 14021). However, this claim still contains vague terms such as 'optimum' and 'far exceeds' which could be improved under Criterion 6.
	Plastics material identification marks	Pass	These claims meet Criteria 1 and 2, being truthful, accurate and relevant.
	Vegan	Pass	As some washing-up liquids may contain animal-derived ingredients, this claim is acceptable in claiming to be free of such ingredients.
Cleaners and polishes	Plastics material identification marks	Pass	This claim meets Criteria 1 and 2, being truthful, accurate and relevant.
	"[Brand name] bottles are designed to be refilled where facilities exist", accompanied by plastics material identification mark.	Borderline	The materials identification part of this claim meets Criteria 1 and 2, being truthful, accurate and relevant. However, the use of the phrase 'where facilities exist' regarding the product's refillability is a generalised one which does not adequately convey the limited availability of such facilities, as required by Criterion 5 (standard definitions) and should therefore not be used.
	Steel container. Recycle when empty	Pass	This claim is acceptable where local facilities exist to accept used aerosol products for recycling.
	Recycled packaging: This packet is made from over 80% recycled material.	Pass	This claim passes all relevant claims and specifies the level of recycled content.
	Not tested on animals	Pass	Assuming this claim is truthful and can be substantiated, it is acceptable.
	Harmful to aquatic organisms, may cause long-term adverse effects in the aquatic environment.	Borderline	While not exactly a claim, use of the term 'may...' is vague and should not be used without more information (Criterion 6).
	No CFCs	Fail	This claim fails Criterion 10, as the use of CFCs in aerosols is no longer permitted but the claim misleadingly implies that their omission makes the product exceptional, rather than being standard practice.
No silicone/Silicone free	Pass	Meets Criteria 1 and 2, as silicone is used in many polish products.	

Appendix C contd.

Product group	Claim	Assessment	Basis for assessment
Paper products	No chlorine is used to bleach [product name] tissues	Borderline	This claim may fail Criterion 8, as it is not clear that the whole manufacturing process and not just the bleaching stage is totally chlorine free and thus it may be implying more than it actually covers.
	ECF	Borderline	As above, the 'ECF' claim refers to the product being 'elemental chlorine free' but is not clear that the whole manufacturing process avoids the use of chlorine and is thus borderline under Criterion 8.
	Chlorine is not used in the manufacturing process	Pass	This claim is acceptable.
	Only biodegradable glues are used in the manufacturing process/The glues used in this product are biodegradable.	Pass	These claims meet Criteria 1 and 2, being truthful, accurate and relevant.
	Environmental information: contains recycled de-inked pulp (toilet tissue)/This toilet tissue is made from recycled paper	Fail	Meets Criteria 1 and 2 (accurate and relevant). Fails Criterion 5, as the percentage of recycled material contained is not specified as required when such claims are being made.
	This packaging uses a minimum of 75% recycled board	Pass	This claim passes all relevant claims and specifies the level of recycled content.
	The packaging is made from PE (polyethylene) and can be disposed of through waste collection or recycled if such facilities exist./This polythene wrapper is recyclable where facilities exist	Borderline	Meets Criterion 2 (relevant claim) and partly meets Criterion 1 (truthful). However, it fails Criterion 5, as the phrases 'where/if such facilities exist' should not be used in situations where the collection/drop-off facilities for recycling the material in question are limited, as they are too generalised and do not adequately convey this limited availability.
	Plastics material identification marks	Pass	These claims meet Criteria 1 and 2, being truthful, accurate and relevant.
	Paper identification mark (PAP21)	Borderline	This claim meets Criteria 1 and 2 (truthful and relevant). Fails Criterion 3, as it is not clear whether the claim refers to the product, its packaging or both.
'Sustainable Wood Forest' text with tree logo	Fail	Fails Criteria 1 and 6, as it is vague and unsubstantiated. Fails Criterion 4, as the tree logo is not explained. Fails Criterion 5, since, as there are no definitive methods for measuring sustainability as yet, claims of achieving sustainability should not be made.	

Appendix D Detailed Assessment of Self-Declared Qualitative Environmental Claims

Product group	Claim	Assessment	Relevant criteria
Paints	'Conserve our environment' text with tree symbol	Fail	Fails Criterion 6, as it is a vague and unsubstantiated claim. Fails Criterion 4, as no explanation of the tree symbol is provided.
	Safe for children's rooms	Fail	Fails Criterion 6, as it is a vague and unsubstantiated claim, particularly regarding the use of the word 'safe'.
Detergent	With added softness from Mother Nature	Pass	As plant extracts have been added to the product to make it 'more sensitive' the claim is generally acceptable in its reference to nature.
	Harnessing the power of Nature	Borderline	On its own this would fail Criterion 6, as it is a vague and unsubstantiated claim. However, as it appeared on a product that is part of an ecological range using plant ingredients, it is more acceptable.
	Against animal testing	Borderline	If one can assume that being against animal testing means that the product is not tested on animals, then this claim is acceptable under Criterion 1; however, a less vague reference would be preferable.
Washing-up liquid	[Product name] 'Naturals' range (with eucalyptus and tea tree) – provides a natural antibacterial sensation	Borderline	Meets Criteria 1 and 2, as the products in question do contain plant extracts. However, the accompanying text describes the benefits of eucalyptus and tea tree oil as providing 'a natural bacterial sensation' which is a vague phrase and could be more specific, as per Criterion 6.
	Cleaning power with natural extracts	Pass	Meets Criteria 1 and 2, as the products in question do contain plant extracts.
	With environment-friendly surface actives and a super effective germ control system, you can put your trust in [brand]	Fail	Fails Criterion 6, as the term 'environment-friendly' is too vague; likewise the phrase 'surface actives' would not be easily understood by consumers.
	Harnessing the power of Nature	Borderline	On its own this would fail Criterion 6, as it is a vague and unsubstantiated claim. However, as it appeared on a product that is part of an ecological range using plant ingredients, it is more acceptable.
	Against animal testing	Borderline	If one can assume that being against animal testing means that the product is not tested on animals, then this claim is acceptable under Criterion 1; however, a less vague reference would be preferable.
Cleaners and polishes	This air propelled aerosol from [Company name] provides the same performance as a conventional aerosol while respecting the environment	Fail	Fails Criterion 10, in that it implies the product is exceptional by using air as a propellant, whereas in reality no aerosol product is allowed to use the traditional CFC propellant. Also fails Criteria 5 and 6, as the wording is also vague, misleading and not in plain language.
Paper products	[Product name] is still the soft choice for helping nature and here's why: We take great care to ensure that [Product name] is environmentally friendly	Borderline	On its own this would fail Criterion 6, as it is a vague and unsubstantiated claim. Even though in this case it was accompanied by two factual claims that give a basis for the qualitative claims to be environmentally friendly, etc., the use of vague terms should be avoided under Criterion 6.
	Letters 'TCI' with tree symbol	Fail	Fails Criterion 12, as no explanation accompanies the logo on the product, even though it is the logo for the environmental organisation, the Tree Council of Ireland, which is sponsored by the product manufacturer. It also fails Criterion 3, as it could be misinterpreted as meaning that the product was actually endorsed by the same organisation but this is not made explicit in the claim.

Appendix D contd.

Product group	Claim	Assessment	Relevant criteria
	Nature symbols (on toilet tissue) accompanied by factual claims	Pass	As the product in question claims environmental benefits through several factual environmental claims (e.g. biodegradable glues, support of environmental organisation), the use of nature symbols is acceptable.
	'Co-Existence' text with flower and fish logo/drawing	Fail	Fails Criterion 6 as it is vague and quite meaningless and Criterion 2 (relevance) as there is no evidence provided for the product having any environmental benefits. It also fails Criterion 4 as it is not explicit about the meaning of the flower/fish logo.
	'Caring for Nature' text	Fail	Fails Criterion 6, being vague. The same product carried a borderline factual claim about being free of elemental chlorine, making this qualitative claim even more dubious.