

Summary of a memorandum in marketing law:

Environmental claims concerning climate compensated products and products with carbon offsets in marketing

It has become increasingly common for companies to state they have compensated for any climate impact generated by the products they are advertising, for example by making claims that a product is carbon neutral, climate compensated/carbon offset or has a net zero carbon footprint. Just like any other environmental claims, marketing using such terms must meet the requirements stipulated in the Swedish Marketing Act, which requires good marketing practice and bans any misleading marketing claims.

The Swedish Consumer Agency believes that claims such as carbon neutral, climate compensated/carbon offsets, net zero and similar are unclear and undefined (vague). When such claims are made without a prominent specification or explanatory statement consumers risk being misled about a product's environmental credentials. The average consumer cannot be expected to understand what these claims mean, nor can the average consumer take an informed transactional decision based on these claims. For example, it might be difficult for the consumer to understand that these claims refer to a particular company having purchased emission reduction units in projects abroad. Furthermore, it is impossible for consumers to know which projects are behind the claim. Nor is it entirely certain that the consumer will understand that the product will still have an environmental negative impact caused by the emissions it actually generates.

Vague and undefined claims concerning products with carbon offsets must be supplemented by prominent specifications or explanatory statements in order to be used. The Swedish Consumer Agency is unable to provide any general information about what this specification and explanatory statement must include, individual assessments must be made in each case, that consider which project the emission reduction units are assigned.

Even climate compensation claims that are supplemented by prominent specifications or explanatory statements and which a company can prove can also be deemed misleading. In other words it's not good enough to be able to prove the environmental advantages of the product according to the literal claim in the marketing, marketers must provide evidence that covers the consumers overall impression of the claim. Claims with a factual basis can also be misleading, depending on the overall impression generated by the way the product is marketed. The Swedish Consumer Agency also wishes to underline the importance of not omitting material information in the marketing regarding a product's environmental performance. A fair, balanced and complete picture must be presented. Marketing may be misleading if a product's environmental aspects are emphasised, whilst other negative environmental aspects are omitted. When determining whether marketing has omitted material information, the product's life cycle must be taken into consideration and, whether the marketing claims made have significant environmental aspects in sight.

The Swedish Consumer Agency does not intend to determine the value of climate compensation as a phenomenon, or its impacts on the climate. The Agency's task is to supervise and assess whether – and under which circumstances – marketing of products with carbon offsets is compliant with the Swedish Marketing Act.