COMBATING CORPORATE GREENWASHING THROUGH REGULATION

Policy implications of the 2023 Corporate Climate Responsibility Monitor

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INTRODUCTION

In the context of increasing pressure on companies to act on the climate crisis, this year's annual edition of the Corporate Climate Responsibility Monitor ("CCRM"), a report produced by NewClimate Institute in collaboration with Carbon Market Watch, analyses the transparency and integrity of 24 global corporations' climate plans. All of these companies have set some form of "net-zero" target and consider themselves to be "climate leaders". However, the findings confirm that nearly all of these companies' current climate claims or future net-zero targets are exaggerated, false and misleading. Given the growing magnitude of this problem, we need urgent action to end this greenwashing.

Regulators must act to protect people from these false claims and to ensure that only true climate leaders are able to claim that mantle. If this is not appropriately addressed, people will continue to be misled by false climate claims and they will effectively be denied the opportunity to decarbonise their consumption and/or investment and play their part in limiting global warming to 1.5°C. Thus, it is imperative that policymakers, both at the EU and global levels, urgently act to remedy this pervasive problem of greenwashing.

The trouble with carbon neutrality and net zero

The Corporate Climate Responsibility Monitor finds that the aggregate absolute emissions reduction pledge from the 24 assessed companies amounts to only a cut of 36% of their combined emissions by the target year, which ranges from 2030 to 2050. This is despite all of these companies claiming to have set net-zero targets, and most of them promoting their plans as being in line with the scientific consensus. The gap between what is communicated by these companies and the reality of their pledges is enormous. Moreover, the strategies with which these companies plan to reach their targets are problematic. This is due to an overreliance on carbon offsets, a lack of clarity on addressing full value chain emissions, the use of low-quality constructs to source renewable energy, and the lack of shorter term ambition and action.

Too much offsetting and insetting

Companies' climate plans still rely heavily on the use of carbon credits to "compensate" for their emissions. Of the 24 companies assessed in the CCRM, only one - Walmart - explicitly states that it will not rely on offsets to meet its net-zero target, but that goal covers only 10% of its total value-chain emissions. For the 23 other companies, carbon offsets are generally set to play a major role in their climate strategies.

This is despite the poor quality and the questionable climate benefits of the offsetting credits currently available on the voluntary carbon market. In fact, the two most popular offset types (avoided deforestation and renewable energy credits), which together make up around two thirds of the market, have both been associated with major quality deficiencies. As much as 90% of existing credits from avoided deforestation projects do not represent real climate benefits, according to a recent article based on three academic papers.[1] As for renewable energy credits, they have largely been recognised as inferior because most of the projects that generate these would run regardless of the sale of the associated carbon credits, rendering these redundant.[2] In fact, the two main standards which certify carbon offsets have now banned new renewable energy projects from registration, except in a few least-developed countries.

The purchase of carbon credits by companies also does not necessarily lead to major financial flows towards climate action projects on the grounds, as intermediaries have been accused of hoarding a significant share of the money paid by companies to acquire credits,[3] and an astonishing level of secrecy and opacity remains in the domain of carbon market-related financial transfers, as highlighted by new research commissioned by Carbon Market Watch.[4]

In parallel to the strong reliance on offsets in corporate climate strategies, the findings from the CCRM confirm the increased use of so-called "insetting" - a repackaged version of offsetting whereby companies compensate their emissions through the creation of projects within their own value chain. For example, an agricultural company would implement regenerative practices that boost the carbon storage of soil as a way of compensating its transport emissions. This is, at best, a version of offsetting that bypasses the existing third-party auditing processes which exist on the voluntary carbon market. At worst, it is a blatant case of double counting, for example, if a company reduces its indirect emissions (upstream and downstream, also referred to as "scope 3") and uses this to compensate for its direct emissions (scope 1), thereby counting the reduction in both its scope 3 and its scope 1.

1 The Guardian (2023): 'Revealed: more than 90% of rainforest carbon offsets by biggest provider are worthless, analysis shows'

2 See, among other resources, Cames *et al.* (2016): 'How additional is the Clean Development Mechanism?'

3 Follow The Money (2023): 'Showcase project by the world's biggest carbon trader actually resulted in more carbon emissions'; Unearthed (2022): 'How middlemen carbon brokers take a cut from money meant to help offset emissions'

4 Carbon Market Watch (2023): 'Secretive intermediaries: Are carbon markets really financing climate action?'

Insufficient tackling of indirect emissions

Several companies continue to exclude a very large portion of their emissions from their net zero targets – such as Walmart, Samsung and Carrefour, which exclude respectively 90%, 85% and 98% of their emissions – while others simply don't provide enough clarity about their target coverage. And while a majority of companies do present plans to address their indirect emissions, they have not yet put forward credible plans to reduce these emissions.

It is perhaps even more problematic that many companies are claiming to be carbon neutral today (as opposed to having set a net-zero target into the future), based on creative accounting that excludes a vast majority of their emissions. This is because such claims are more consumer-facing than the companies' long-term decarbonisation objectives, and can regularly be found on products and direct advertising. Half of the assessed companies made some form of carbon neutrality claim related to their present activities, but these claims covered on average only 3% of their total emissions. For example, Google's carbon neutrality claim excludes 58% of its emissions, Microsoft's excludes 93% of emissions, and Apple's excludes 99% of emissions.

Climate targets that either do not cover, or do not satisfactorily address, indirect emissions, and yet are communicated to consumers and other stakeholders as "net zero" or "carbon neutral" are highly misleading. Consumers, who often lack the time or resources to scrutinise the details of these deceptive claims, could easily be misled and think that the entire harmful climate impact from a company's activities has been cancelled out, as the term "neutral" implies.

Low-quality renewable energy supplies

More than half of the assessed companies (14/24) rely on Renewable Energy Certificates (RECs) to claim that they are using renewable energy to power their operations. This is highly misleading as these certificates do not represent a credible guarantee that additional renewable energy capacity has been developed. Instead, these are created when renewable energy is produced. In virtually all cases, the generation of renewable electricity is completely independent from the revenues from selling these certificates, which means that they have no impact on the total generation of renewable energy.[5]

Companies also rely on "power purchasing agreements" which, put simply, entail a company paying an energy generator to produce renewable electricity. While these are helpful when the buyer and seller are on the same local grid, they are still not sufficient for a company to claim to be using 100% renewable energy. For example, a company that pays for the generation of electricity from a windpark should not claim to be running on renewable energy on windless days.

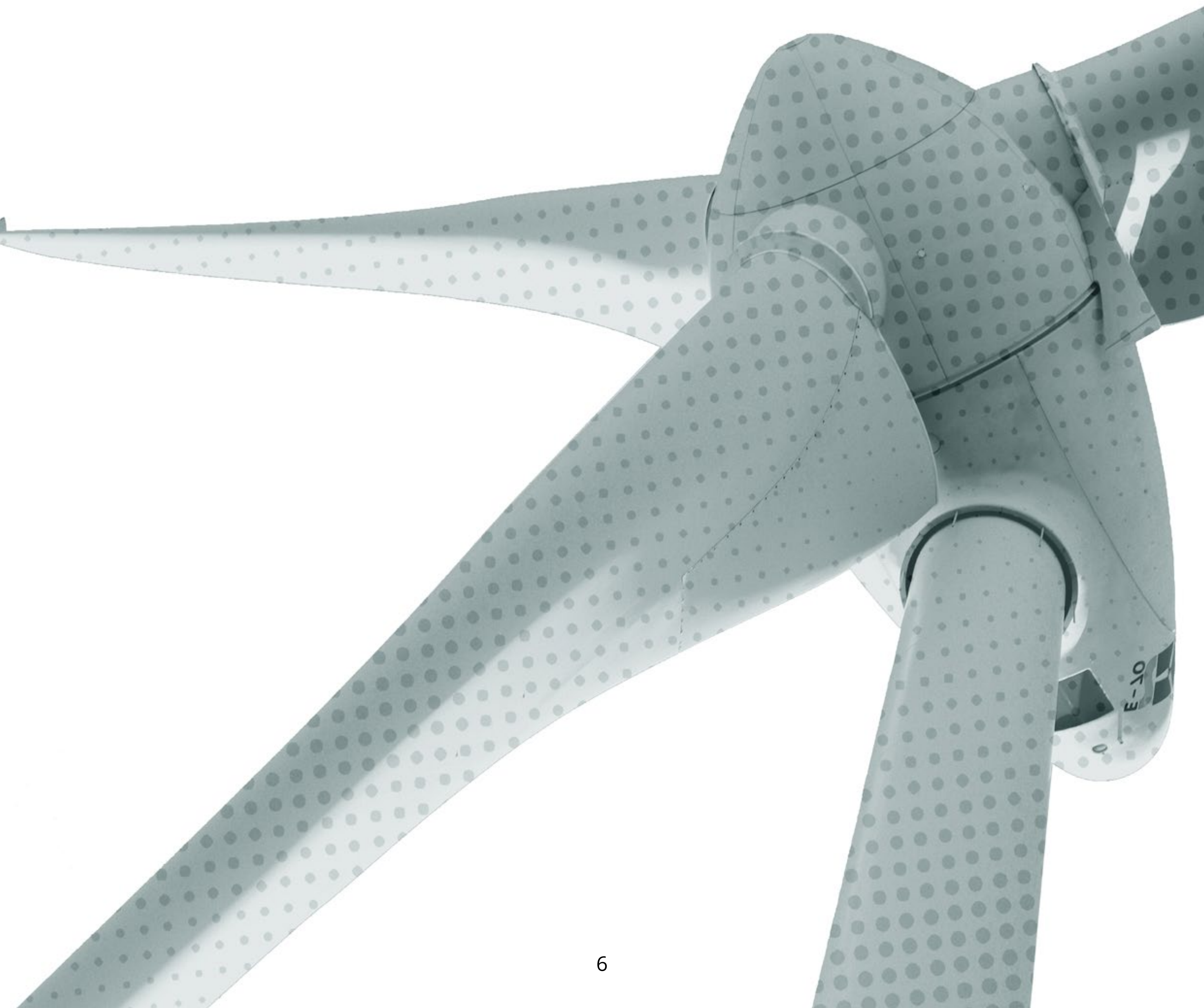
Some companies are putting forward ambitious targets, and developing the tools to meet them, such as Microsoft and Google who have committed to 24/7 matching of their electricity consumption with renewable energy generation.

5 Benchimol, A., Gillenwater, G., and Broekhoff, D. (2022). "Frequently Asked Questions: Green Power Purchasing Claims and Greenhouse Gas Accounting."

2030 Inaction

Disappointing short- and medium-term targets show that many companies featured in the CCRM lack a critical sense of urgency on climate action. According to the CCRM findings, 2030 pledges "fall well short of the economy-wide emission reductions required to stay below the 1.5°C temperature limit". In fact, the median absolute CO2 emission reduction target by 2030, compared to 2019, for the 24 companies assessed in the report is only 15%. This is well short of the approximately 50% reduction needed to limit the global temperature increase to 1.5°C.

Setting distant net-zero goals, while failing to set in motion ambitious short-term targets, risks misleading consumers into thinking that companies are working to reduce their carbon footprint here and now, when, in reality, they kick the ball years, even decades, down the road.



Hoodwinking consumers

The PR terminology surrounding green claims is undeniably confusing and the lack of accessible and accurate information exacerbates the problem. There are many ways for companies to express their climate plans and hide the fact that these rely on offsetting. For example, claims such as "carbon neutral", "climate neutral", "climate positive", "climate negative", "carbon compensated" or "neutralised" are frequently seen. It is extremely difficult for consumers to navigate this green terminology and understand what kind of product they are buying and what effect this has on the climate or the environment.

Recent surveys have shown the lack of understanding among consumers when it comes to offsets and carbon neutrality claims. For example, one survey found that less than half of consumers in the Netherlands understood the difference between CO2 reductions and CO2 offsetting,[6] while another survey conducted in Germany found that only 13% of respondents clearly linked "carbon neutral" claims to the practice of offsetting.[7] Another, qualitative, survey of consumers in the UK, similarly concluded that consumers tend to mistake carbon neutral claims for absolute emission reduction claims.[8]

6 Dutch Authority for Consumers and Markets (2022) : "Consumers find claims regarding carbon offset unclear"

7 NRW Verbraucherzentrale (2022): "Klimaneutrale Produkte: 89 prozent für klare Regeln und geprüftes Siegel"

8 UK ASA (2022): "Climate Change and Environment - Consumer understanding of environmental claims"

How to protect consumers from greenwashing

Public regulation of false and misleading green claims

Self-regulation has proved to be ineffective at deterring misleading green claims which affect consumers and businesses alike. There is clear evidence that these claims are not understood by consumers, and that they are stretching reality beyond breaking point. It is now high time for governments around the world to act with the requisite sense of urgency by putting in place robust regulations that combat greenwashing and misleading green claims.

In the European Union, steps are already afoot. The EU institutions are in the midst of updating EU consumer protection legislation to better protect consumers against these pervasive greenwashing practices and prepare them for a green economy. However, the proposals do not go far enough to put an end to these kinds of deceptive claims. Thus, EU policymakers should adopt a complete prohibition on all claims of climate or environment-related neutrality or related variations, such as "carbon neutral", "CO2 neutral", "CO2 compensated", "climate positive", "net zero", etc., as such claims are inherently misleading.

Consumers deserve at least the same level of protection as the EU has proposed to give to shareholders in the draft European sustainability information disclosure standards. These standards require, for example, a clear separation between companies' absolute reduction targets and any offsetting they might want to engage in. A similar firewall should apply to prevent companies from communicating one single "net" number or target to their consumers.

Litigation actions to enforce consumer protection laws

Businesses and other organisations are opening themselves up to legal liability when they claim to be carbon neutral or make unsubstantiated net-zero claims.

Some recent examples include complaints filed (by Carbon Market Watch and others) against FIFA's misleading carbon-neutrality claim for its 2022 World Cup; a greenwashing lawsuit against KLM; a lawsuit against TotalEnergies for its allegedly misleading net-zero advertising; and a German court case that resulted in a ruling condemning a company for having marketed its activities as carbon neutral despite having excluded its indirect emissions from its accounting scope. Many more examples exist, as regulators and national courts are increasingly being called upon to rule on greenwashing cases that involve climate-related "neutrality" pledges.

However, most of these cases have been brought by civil society organisations. This is not a sustainable solution, and it should not be up to NGOs to work for the enforcement of existing laws. Public regulators and agencies must be more proactive in enforcing regulations, including by taking companies to court when necessary.

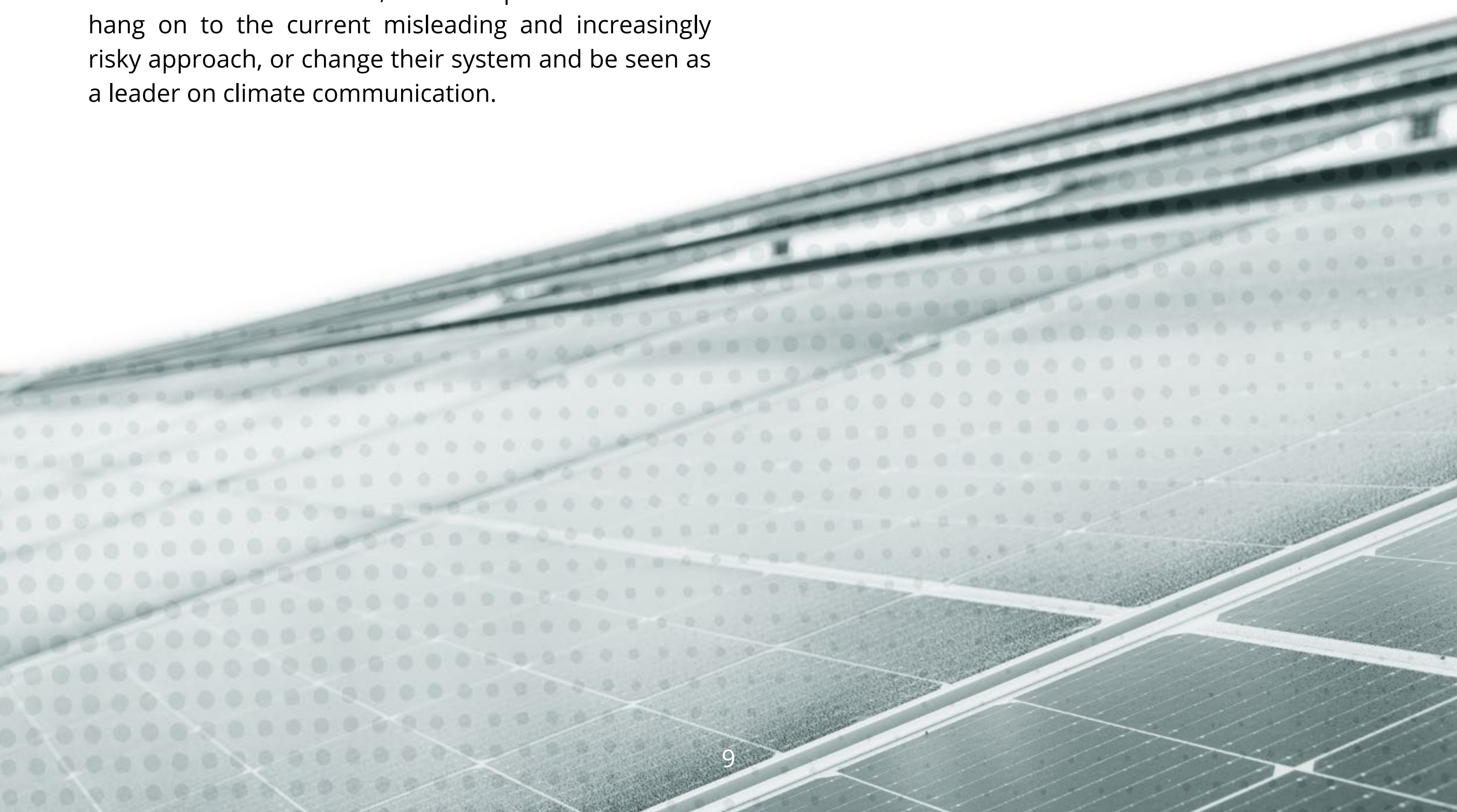
Integrity in corporate advertising

Companies should be encouraged and supported to continue to invest in mitigation projects, such as forest conservation projects. However, this cannot be used to falsely portray companies as taking sufficient action to tackle the climate crisis. Given that support for climate mitigation is urgently needed from the private sector, the most straightforward solution is to continue encouraging companies to finance positive projects, while shifting their communications.

This can mean, in practical terms, ending the practice of claiming to have a neutral impact on the climate, and instead using the financial support provided to projects as a way of showcasing a company's contribution towards the achievement of a global climate target. For example, companies can communicate to consumers and shareholders that they have made a financial contribution towards a particular reforestation project (as opposed to claiming this same financial investment essentially erases their harmful climate impact). These kinds of "contribution" claims take the focus away from company-level accounting tricks and shift it towards the need for everyone to contribute to climate action.

As offsetting claims must be banned, companies should, therefore, switch to this alternative contribution claim model. It will protect them from both litigation and reputational risks, and will reinforce their credibility with consumers and investors who, when they understand what offsets entail, tend to be quite sceptical of the practice. Slowly but clearly, the market is moving towards this new model, and companies can either hang on to the current misleading and increasingly risky approach, or change their system and be seen as a leader on climate communication.

At COP27, governments agreed to create a "contribution unit" as part of the establishment of new carbon markets under the Paris Agreement - a clear sign of support for this evolution in claims. Many market players have heard the call, and have shifted their approach to one that promotes the contribution model. This includes the Gold Standard, the second largest voluntary carbon market standard, which openly promotes a shift towards the contribution approach; Atmosfair, a project developer; Compensate, an intermediary acting as a broker of carbon credits; and MyClimate another intermediary and consultancy. Buyers of carbon credits are also increasingly moving away from the offsetting approach, including EasyJet who stopped purchasing carbon credits to invest in its own decarbonisation, or Klarna which levies money on a per-tonne basis on its own emissions, and uses the funds to finance mitigation projects.



CONCLUSION

Based on the findings of the 2023 CCRM - which largely echo those of the 2022 edition - it is clear that companies' climate targets and plans continue to be far below what is needed to limit global warming to 1.5°C, and that their communications are vastly misleading.

Companies need to be encouraged to take climate action, and helped to understand what is impactful and what is not. But the current discourse has focused too much on encouraging action by allowing companies to engage in green PR campaigns, and too little on the impacts that this has on consumers', and ultimately citizens' and voters', willingness to accept the changes needed to avert a climate catastrophe. A course correction is needed, and this will require a combination of three elements:

Stronger consumer protection through a ban on misleading climate-related "neutrality" claims

Better enforcement of existing and future rules by public agencies

Clear guidelines for companies to adopt the right level of ambition and clear communication

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