



Carbon Market Watch's Submission to the Federal Trade Commission's (FTC) request for public comment on potential revision of its "Green Guides"

General Issues

1. Is there a continuing need for the Guides? Why or why not?

Yes, there is a continuing need for the Guides.

We are in a critical decade for climate change, and rapid and effective climate action must be prioritised. According to the International Governmental Panel on Climate Change (IPCC), "there is a rapidly closing window of opportunity to secure a liveable and sustainable future for all [and] [t]he choices and actions implemented in this decade will have impacts now and for thousands of years¹". Therefore, society must shift to a green economy by decarbonising production and consumption. However, such a colossal shift requires the participation of every segment of society, including governments, consumers and corporations and/or marketers.

If companies / organisations / marketers continue making unsubstantiated and scientifically inaccurate climate-related claims, consumers could continue to struggle to determine which products, services, or companies represent effective climate action. As is pointed out below in the Specific Claims Section question 1d (offsetting), consumer surveys have shown that there is a high level of misunderstanding surrounding climate- or environmental-related claims. Consumers need to be protected from deceptive claims, and more strongly supported to make more sustainable purchasing decisions, so they can decarbonise their consumption. This can only occur if they are provided with accessible and accurate information about the climate impact of their purchases. The Guides can help with this by setting forth stringent climate- and environmental-claim recommendations that companies / marketers can abide by.

The Guides can also play a role in helping businesses reduce their legal liability and reputational risk by providing clearer guidance that companies / marketers can follow². In the context of offsetting marketing, a recent UK survey conducted by the Voluntary Carbon Markets Integrity (VCMI) initiative, and referenced in a report published by the UK's Climate Change

¹Intergovernmental Panel of Climate Change (IPCC): "[Synthesis Report of the IPCC Sixth Assessment \(AR6\): Summary for Policymakers](#)".

² ClientEarth Briefing (2022): "[Legal Risks of Carbon Offsets](#)".

Committee, shows that businesses need more clarity and guidance to help avoid accusations of greenwashing associated with the procurement of carbon credits: “VCMI’s interviews with businesses revealed a common concern around the difficulty involved in assessing the integrity of ‘offsetting’ options, and the potentially high impact of reputational damage for being perceived to have bought poor carbon credits. Interviewees were concerned the presence of greenwashing in general could undermine consumer trust in high integrity claims, regardless of their validity. Research shows consumers’ view of a brand is negatively impacted when its environmental claim is suggested to be ‘greenwash’. There is limited clarity on what responsible behaviour is in terms of level of reliance on carbon credits and which carbon credits to use [...]”³

That said, we recommend that the Guides themselves be enforceable. Please see “General Issues” question 19, below.

3. What modifications, if any, should be made to the Guides to increase their benefits to consumers?

Please see “Specific Claims” questions on offsetting claims, below (questions 1, 1a-f).

a. What evidence supports your proposed modifications?

Please see “Specific Claims” questions on offsetting claims, below (questions 1, 1a-f, particularly question 1b). First and foremost, the FTC should include a list of claims that should be prohibited – or blacklisted – in all circumstances because they are always considered to be deceptive. Such a list should include all claims that imply emissions (or climate harm) have been “offset”, “neutralised”, “cancelled out”, or otherwise compensated through the procurement of carbon credits. This list could include “carbon neutral”, “climate neutral”, “climate positive”, “climate negative”, “CO2 compensated”, “net zero⁴”.

b. How would these modifications affect the costs the Guides impose on businesses, particularly on small businesses?

Providing businesses with clearer guidance on what kinds of claims can and cannot be made (and *how* they should be made) could decrease legal and reputational risks, resulting in decreased related costs. Businesses are under increasing pressure to show they are “part of the solution” to the climate crisis rather than being a part of the problem. As pointed out above in question 1 under “General Issues”, a recent survey has shown

³ UK Climate Change Committee (2022): “[Voluntary Carbon Markets and Offsetting - Climate Change Committee \(theccc.org.uk\)](https://theccc.org.uk)”.

⁴ This recommendation also applies to all claims related to “insetting”, which we consider to be a subsection of “offsetting”. This is covered below in more detail below, and in a 2023 report by NewClimate Institute in collaboration with Carbon Market Watch (2023): “[Corporate Climate Responsibility Monitor: Assessing the Transparency and Integrity of Companies’ Emission Reduction and Net-Zero Targets](#)”.

that businesses have trouble assessing the integrity of offsetting options on the VCM and are concerned about backlash for purchasing poor-quality credits.

As previously pointed out, businesses are increasingly opening themselves up to legal liability when they claim to be carbon neutral, for example, due to the misleading and deceptive nature of such claims. Larger companies have more resources to navigate reputational and legal risk, if necessary, but SMEs do not. In this regard, banning deceptive claims could level the playing field and give SMEs a better chance to compete in the market. This kind of prohibition will also send a clear message about what is allowed and what is not; SMEs, in particular, would benefit because they would have far more clarity about what kinds of claims constitute unlawful greenwashing and what kinds of claims do not. Businesses would know what to do: communicate on emission reductions and on contributions to projects, rather than being misled into making dubious claims that their purchase of carbon credits erases their harmful climate impact.

c. How would these modifications affect benefits to consumers?

Suggested modifications (found below in questions 1, 1a-f under “Specific Claims”) would increase the benefit to consumers because they would be significantly more protected against false, misleading, and deceptive climate-related claims. This would allow them to exercise more control over their purchasing decisions as they would be able to access accurate information about the climate impact of their purchases.

7. Please provide any evidence that has become available since 2012 concerning consumer perception of environmental claims, including claims not currently covered by the Guides. Does this new information indicate the Guides should be modified? If so, why, and how? If not, why not?

Please see question 1d under “Specific Claims”, below.

10. What modifications, if any, should be made to the Guides to increase their benefits to businesses, particularly to small businesses?

Please see questions 3b under “General Issues” and questions 1, 1a-f under “Specific Claims”.

12. What modifications, if any, should be made to the Guides to reduce the costs imposed on businesses, particularly on small businesses?

In the context of climate claims, one of the ways to potentially reduce costs imposed on businesses is to provide more clarity on what claims they should and should not make. In doing so, businesses could significantly reduce legal liability and reputational risk, both of which can be costly (legal fees and reputational harm resulting in lower consumer confidence and a decrease in sales). This is covered in “General Issues” question 3b. Our proposed modifications and related evidence can be found in the “Specific Claims” questions 1, 1a-f.

15. What potentially unfair or deceptive environmental marketing claims, if any, are not covered by the Guides?

Please see question 1a under “Specific Claims”.

18. Are there international laws, regulations, or standards with respect to environmental marketing claims the Commission should consider as it reviews the Guides? If so, what are they? Should the Guides be modified to harmonise with these international laws, regulations, or standards? If so, why, and how? If not, why not?

The FTC should consult the following Standards during revision of the Guides.

- [The International Organization for Standardization \(ISO\) Net Zero Guidelines \(2022\)](#).
- [VMCi Provisional Claims Code of Practice \(2022\)](#).
- [UN HLEG ON net-zero guidance \(2022\)](#).
- [SBTi Corporate Net Zero Standard \(2023\)](#).

19. Should the Commission initiate a proceeding to consider a rulemaking under the FTC Act related to deceptive or unfair environmental claims?

Yes. Specifically, the section “Carbon Offsets and Climate Change” 16 CFR 260.5, along with our proposed modifications found in the below “Specific Claims” section in questions 1, 1a-f.

The Guides can contain useful advice to companies so that consumers can be better protected from deceptive or unfair claims and help consumers better navigate green claims to make more sustainable choices. However, this is merely a starting point toward more stringent, compulsory regulation, which is necessary to maximise the chances of achieving the aforementioned objectives, and to adhere to the commitments set forth in the Paris Agreement in order to limit global warming to 1.5C. Companies may need more regulation, and a compulsory FTC Act could be beneficial in this regard. In addition, incorporating the aforementioned offsetting section (along with our proposed modifications) into a rule would also indirectly provide some much-needed oversight of a currently unregulated voluntary carbon market (often described as the “wild wild west” where “anything goes⁵”).

a. If so, which principles set out in the Green Guides should be incorporated into a rule? For each suggested provision, explain why and provide any evidence that supports your proposal.

We recommend that the Green Guides as a whole be incorporated into a rule, especially the section addressed below, under “Specific Claims” (“Carbon Offsets and Climate Change” 16 CFR 260.5). This includes our suggestions for modifications, below, contained in the “Specific Claims” questions.

⁵ The Financial Times (2022): [“Critics take aim at ‘wild west’ carbon offset market”](#).

Specific Claims

The Commission seeks comments on specific issues that have generated increased attention and interest over the last several years. The following questions are designed to facilitate comment on those issues, and the inclusion or exclusion of any topic does not indicate that specific modifications to the Guides are currently under consideration.

1. Carbon Offsets and Climate Change, 16 CFR 260.5. The Guides currently include guidance relating to carbon offsets. Should the Commission consider revising this section or provide additional guidance addressing other types of advertising claims related to carbon offsets and /or climate change?

Yes, the Commission should consider revising and providing additional guidance on section 16 CFR 260.5 - “carbon offsets and climate change”. This section should be updated in order to reflect current marketing or advertising practices related to the use of offsetting, in addition to ensuring this section is aligned with the goals set forth in the Paris Agreement. The latest revision of the Guides was conducted over a decade ago – pre-Paris Agreement – and does not currently align with the 1.5C global heating limit, nor does it comprehensively address current offsetting / VCM activity, and associated marketing practices.

Recommended Action 1:

- Delete the existing section that permits offsetting and draft a new section *clearly* banning *all* climate-related neutrality / compensation claims, including claims related to the concept of “insetting” (please see below for a non-exhaustive list).

Rationale:

Shortcomings of current section

The *current* version of section 260.5 of the Guides inappropriately deals with offsetting claims, so we provide more suggestions below to fundamentally revise the guidance. However, we also take this opportunity to flag specific shortcomings of the current criteria.

First, the guidance requires that “sellers should employ competent and reliable scientific and accounting methods” to quantify claimed emission reductions. But there is a lack of detail about what this means. Current methodologies used to quantify the issuance of carbon credits (aka offsets) on the voluntary carbon market lack integrity, as has been pointed out by numerous scientific papers⁶. The requirement to have reliable scientific methods is therefore not met by any of the credits on the market today.

⁶ Haya et al (2023): “[Pervasive overcrediting from cookstove offset methodologies](#)”, West et al. (2020) “[Overstated carbon emission reductions from REDD+ projects in the Brazilian Amazon](#)”, Carbon Credit Quality Initiative (2023): “[CCQI presentation on new scores release on 31 January 2023](#)”.

Second, the guidance requires that the seller should not sell the same reduction more than once. This is important, but covers only part of the problem. It could be that a seller is not selling the same reduction twice, but that the reduction is still *claimed* multiple times. For example, if the country where the emission reduction occurred counts it towards its climate target, while at the same time a private company sells the reduction to a carbon credit buyer. Another example would be if a project issues multiple credits for one single reduction, and sells it to different re-sellers. The re-sellers would then sell one single credit to the final buyer, and yet multiple buyers would be claiming multiple credits for the same reduction. A third example could be if two projects overlap (for example a project that aims to reduce deforestation through direct conservation activities, and a project that aims to reduce deforestation by distributing more efficient cookstoves to local communities). Both projects might be capturing the same climate benefits (because they measure impacts using satellite data of forest loss, and their project area overlaps). They could hence issue one credit per project, even though these are actually tied to the same reduction. The guidance should hence focus on avoiding that the same reduction is *claimed* more than once, by any entity, rather than *sold* more than once.

Third, section 260.5(b) which focuses on requiring disclosure in cases where carbon offsets are associated with impacts that will materialise in more than two years, is inappropriate and slightly puzzling. Carbon credits on the voluntary carbon market are virtually always issued ex-post. No credit is issued for emission reductions that are yet to happen (except in certain cases, and these are then clearly flagged as a separate type of carbon credit). Credits should only be issued to *achieved* reductions or removals, ex-post, and not to any projects that are planning to deliver reductions in the future (whether these are planned for the next two months or the next 10 years should be irrelevant).

Fourth, the requirement in section 260.5(c) is good, but oddly specific in that it limits the usual “additionality” requirement to only a test of whether a project is required by law or not. It could be that a project is not required by law, but is common practice, or is economically attractive, and hence does not need revenues from the sale of carbon credits to operate. The guidance should hence broaden its approach to additionality to require that claims are only made if the carbon credits are associated with emission reductions that would not have happened without the revenues from the sale of the credits. Being additional to existing laws and regulations should only be one part of this.

For these reasons, we believe that a fundamental change to this section is necessary, as outlined below.

New section

Any *new* section on climate-related claims should first begin with a list of all offsetting-related claims that should be prohibited – or blacklisted – because they are always deceptive. These claims include, *inter alia*, “carbon neutral”, “climate neutral”, “climate positive”, “CO2

compensated” and “net zero” (which includes present “net zero” neutrality claims *and* future “net zero” neutrality claims). Such claims give the *false* impression that emissions – or harmful climate impact – can simply be “neutralised”, “cancelled out” or “compensated” by the procurement of carbon credits on the VCM, for example, which is a flawed concept that is not scientifically sound.

Problems with quantification and credit quality

First, as touched on above, there is a lot of uncertainty around quantification. It cannot be scientifically proven, and therefore it remains uncertain, that one carbon credit can reliably neutralise or counterbalance one tonne of CO₂ emitted. “Tonne-for-tonne” offsetting is an illusion. For such a concept to be valid, the associated carbon credits would have to be deemed “high quality” by meeting certain criteria. However, there are currently no credits available on the VCM that we consider to be “high quality” enough to counterbalance emissions.

As previously stated, the quality of a carbon credit is dependent on certain criteria, such as permanence, additionality, and accurate baseline estimations (to name only a few). Credits for avoided deforestation, for example, are some of the most widely used on the market, but they lack permanence. Trees and other biological carbon sinks are susceptible to natural disasters, such as wildfires, which can quickly decimate an entire forest-based mitigation project, and release all the stored carbon dioxide back into the atmosphere. This raises strong concerns about the suitability of using these mitigation outcomes to compensate for emissions that will stay in the atmosphere for centuries to millennia.

Mitigation projects must also be “additional”. As stated above, this occurs if the project would not have happened without the revenue from the sale of carbon credits associated with the project. However, again, there is a high level of uncertainty in determining if this criterion has been met for several reasons, including lack of transparency among market players. Many projects currently selling credits on the carbon market are unlikely to be additional, for example large-scale renewable energy projects.

Finally, many projects’ impacts have been grossly overstated, leading to significant overestimation of the issuance of carbon credits.⁷ Using such credits to offset emissions does not lead to appropriate accounting since a tonne of CO₂e will be compensated with credits that represent less than a tonne of CO₂e saved.

Offsetting / neutrality-related claims are communicated as absolute claims and, as such, a high level of certainty about the accuracy should be present. This is not the case here because of all the inherent uncertainties discussed above.

⁷ The Guardian (2023): [“Revealed: more than 90% of rainforest carbon offsets by biggest certifier are worthless, analysis shows”](#): “The threat to forests had been overstated by about 400% on average for Verra projects, according to analysis of a 2022 University of Cambridge study.”

Problems with consumer understanding

These claims can also be considered deceptive because consumers, by and large, don't sufficiently understand them. This can be seen in various consumer surveys which are referenced below in question 1d under "Specific Claims". Since there is a high level of misunderstanding surrounding these claims, consumers might lack motivation to change their purchasing behaviour that could include more climate-friendly products or services because they assume what they are currently doing is enough: why purchase locally when there is "carbon neutral" overseas shipping available?; why take a train when your flight is "CO2 compensated"? Since we need consumer purchasing behaviour to massively shift in order to stay Paris aligned, failure to ban climate-related neutrality / offsetting claims could put our ability to maintain a habitable planet in jeopardy. These claims are mitigation deterrents to real climate action.

Exclusion of indirect emissions in footprint

A real world example of yet another reason that these claims can be misleading / deceptive can be found with Carbon Trust's explanation of their requirements to be certified "carbon neutral"⁸. It states "[c]arbon neutrality has a minimum requirement of covering Scope 1 and 2 emissions, while Scope 3 [indirect emissions] is encouraged". Therefore, any organisation bearing Carbon Trust's "carbon neutral" label, may not have even taken into account its indirect emissions when claiming to have "neutralised" the same emissions. This is even more problematic if the majority of emissions are determined to be scope 3, which is often the case. Therefore, any associated claims lack integrity and are highly deceptive. This also incidentally demonstrates the importance of having strong regulatory measures in place, and not simply relying on external third-party certification, as these labels and certifications can be misleading.

Problematic "insetting"

Finally, the guidance should also address the issue of insetting, which is essentially a rebranding of the existing practice of offsetting. "Insetting" is a less regulated subcategory of offsetting, and is a highly misleading practice that has gained some recent traction. It is sometimes described as offsetting within the value chain because it is a practice through which companies count emission removals (or reductions) within their value chain as a way to offset their GHG footprint⁹. According to the Corporate Climate Responsibility Monitor, "insetting is a business-driven concept with no universally accepted definition. The approach can lead to low credibility GHG emission offsetting claims and the double counting of emission reductions. The concept of insetting is promoted by some actors as a better alternative to offsetting, mainly for companies with links to agriculture and land-use sectors in their supply chains.

⁸ Carbon Trust website: "[Assurance and labelling: Carbon Neutrality Certification](#)".

⁹ NewClimate Institute in collaboration with Carbon Market Watch (2023): "[Corporate Climate Responsibility Monitor: Assessing the Transparency and Integrity of Companies' Emission Reduction and Net-Zero Targets](#)".

Recommended Action 2:

- Add a new section to the Guides providing guidance on forward-looking climate-related claims / targets.

Rationale:

Corporations have been under increasing pressure to take effective climate action. As a result, many businesses have unveiled ambiguous or vague future climate-related pledges or targets or strategies (e.g., “net zero by 2050”). Providing clear guidance on these claims, including how to properly substantiate them, could be beneficial for all stakeholders because many future climate targets have been found to be unsubstantiated, and therefore deceptive or misleading.¹⁰ As briefly outlined above, organisations should not make forward-looking “net zero” targets since “net zero” can be a misleading term when describing *both* the current practices of an organisation and when used in the context of future targets. It is also not appropriate to use the concept of “net zero” at organisational level, as this concept should only be applied at global level¹¹. This is further covered in greater detail in “Specific Claims” question 1a, below.

Recommended Action 3:

- Add a new section to the Guides covering “contribution” claims.

Rationale:

Claims based on a “contribution” model are not deceptive because they don’t inaccurately imply that emissions have been “neutralised” or “compensated”. A more detailed description of these kinds of claims can be found directly below in “Specific Claims” question 1a, below.

a. Are there any specific claims related to carbon offsets not currently addressed by the Green Guides that are appropriate for further consideration during the review?

Yes, there are specific claims related to carbon “offsets” that are not currently addressed by the Green Guides that should be added in a new version of the Guides.

Inclusion of a *clear* ban on all neutrality-related claims

First, it is unclear whether the current version of the Green Guides intended to address *all* claims related to offsetting because specific terminology is not provided. This would include all claims that imply emissions have been “offset”, “neutralised”, “cancelled out”,

¹⁰ NewClimate Institute in collaboration with Carbon Market Watch (2023): “[Corporate Climate Responsibility Monitor: Assessing the Transparency and Integrity of Companies’ Emission Reduction and Net-Zero Targets](#)”.

¹¹ Ademe (2021): “[Les Avis de l’Ademe: La neutralité carbone](#)”.

or otherwise compensated through, for example, the purchase of carbon credits on the VCM. A non-exhaustive list of examples could include “carbon neutral”, “climate neutral”, “climate positive”, “climate negative”, “CO2 compensated” and “net zero”. As elaborated on above, all of these kinds of claims should be *clearly* listed - and prohibited in - the Guides because they are inherently deceptive.

Contribution claims

“Contribution” claims are specific claims that are related to carbon credits – as opposed to “carbon offsets” – and that should be addressed by the Guides. These kinds of claims are based on the “contribution” claim mode¹². Such claims are an alternative to compensation claims, and the Guides should provide guidance to companies / marketers, so they can make a shift away from the offsetting / compensation model. Doing so would significantly decrease the amount of deceptive offsetting-related climate claims on the market.

Contribution claims have recently emerged on the market and are gaining traction. The main difference between a contribution claim and an offsetting claim is that, with the former, the company purchasing carbon credits does not claim to have compensated its own climate impact. Contribution claims are related to, among other things, the procurement of carbon credits, but the credits are not used to “offset” emissions and subsequently claim that harmful climate impact has been “cancelled out”. Companies can communicate to consumers and shareholders that they have made a financial contribution towards – or an investment in – a particular mitigation project or “towards global climate action”, for example. Contribution claims are not deceptive because they are truthful and *accurately* reflect the action taken by a particular company, without falsely claiming that this same action has “neutralised” its climate harm.

Below are a few recent examples of market players who have recently made the switch to the contribution claim model or are openly promoting the shift:

- [MyClimate](#): Now uses the label "Engaged for Impact".
- [ClimatePartner](#): They appear to have replaced their neutrality label with a "Climate Partner certified" label which references "financing climate projects".
- [Compensate](#), an intermediary acting as a broker of carbon credits.
- [Klarna](#) levies money on a per-tonne basis on its own emissions, and uses the funds to finance mitigation projects.
- Spotify recently made an investment in the same contribution finance fund (Milkywire).
- [Provamel](#) has stated that: “Our decision to reduce carbon emissions at the roots instead of offsetting them, doesn’t mean we will stop supporting WeForest. Au contraire. We want to continue investing in these kinds of initiatives and projects, but no longer for the sake of offsetting. We want to do it for the planet and everything living on it.”

¹² Carbon Market Watch (2020): “[Above and Beyond Carbon Offsetting](#)”.

- Gold Standard, the second largest voluntary carbon market standard, is now openly promoting a shift towards the contribution approach.
- In addition, 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.

Future climate-related claims / targets

Forward-looking climate-related claims / targets - *which should include a ban on “net zero” targets* (as opposed to other kinds of future climate targets) - should also be addressed by the Guides. As pointed out above in “Specific Issues question 1, organisations should not make future “net zero” targets because this term is misleading. Alternative ways of communicating climate targets are addressed below.

As the FTC revises the Guides and considers whether to include guidance on future climate claims, it should take into account the following (non-exhaustive) essential elements on how to improve the quality of future climate claims / targets.¹³

Accurate target setting and footprint calculation

First, ensuring accurate target setting is a very important part of an organisation’s climate strategy, and can result in an increase in the transparency and integrity of an organisation’s climate goals / claims / targets. One of the first steps in setting targets includes the calculation of an organisation’s emissions (footprint). This would entail inclusion of all direct and indirect emissions across the entire value chain (scope 1, 2, 3 upstream and downstream). Since indirect scope 3 emissions can be more difficult to determine, an estimated range should, at a minimum, be provided and included in the calculation. Complete exclusion of indirect emissions should be avoided in all circumstances, as this significantly decreases the integrity of the claims, and increases the chance that they will be deceptive or misleading. Several examples of scope 3 exclusion or distortion are contained in the 2023 Corporate Climate Responsibility Monitor¹⁴, previously referenced above.

Mitigation Hierarchy

Any guidance on future climate targets should also reflect the fact that, in order to demonstrate climate leadership in a credible way, a company should also apply the concept of “mitigation hierarchy” which means that it should first prioritise deep decarbonisation by committing to a significant reduction of its value-chain emissions (i.e.,

¹³ In addition to consulting other “net-zero” standards, such as SBTi’s [“Corporate Net Zero Standard”](#) (2023).

¹⁴ NewClimate Institute in collaboration with Carbon Market Watch (2023): [“Corporate Climate Responsibility Monitor: Assessing the Transparency and Integrity of Companies’ Emission Reduction and Net-Zero Targets”](#).

a reduction of at least 90% of 2019 emissions across the entire value chain by 2050 or earlier). A company must have credible, science-based plans in place to back its climate commitments (which includes setting both near- and long-term targets). This should also include a timetable, so a company can be held accountable to a specific timeline, and cannot make unsubstantiated commitments in perpetuity.

Communication of climate targets

To further improve the quality of future climate targets, actual emission reductions within a company's value chain must be clearly separated from beyond value chain mitigation (purchase of carbon credits, etc.), and each one should be addressed and communicated differently. Instead of using, e.g. "net zero by 2050", organisations can simply communicate their "headline" climate targets as their planned emission reductions, e.g. "we have committed to a GHG emissions reduction of at least 90% across our entire value chain by 2050, compared to 2019". An organisation should only plan to engage in beyond value chain mitigation action to address residual or "unabatable" emissions (which should not be higher than 5-10% by the target year, and for some companies should be zero, depending on the sectors). For these remaining emissions, a company could plan on pricing their remaining emissions and investing them in mitigation projects, but *not* on a tonne-for-tonne basis that would result in a claim that emissions will be "offset". If this company then wanted to communicate about its planned investment or contribution, it should instead follow the recommended "contribution" model, e.g. "will positively contribute to global climate action by 2050".

It should be noted that "unabatable" is not a permanent state, so a company should also simultaneously commit to continue investing in research & development to try to push the decarbonisation frontier, and increase the chances that what is currently unabatable becomes abatable in the future.

b. What, if any, evidence is there of deceptive claims related to climate change in the market?

There is a growing body of evidence showing deceptive climate-related claims in the market.

- The **2023 Corporate Climate Responsibility Monitor** thoroughly analyses 24 global corporations who portray themselves as market "climate leaders"¹⁵. Their claims involve future net-zero targets as well as carbon neutrality claims. The report found evidence of widespread greenwashing, as most claims were found to be deceptive, exaggerated and/or false. The **2022 Corporate Climate Responsibility Monitor** contains similar findings¹⁶.

¹⁵ NewClimate Institute in collaboration with Carbon Market Watch (2023): "[Corporate Climate Responsibility Monitor: Assessing the Transparency and Integrity of Companies' Emission Reduction and Net-Zero Targets](#)".

¹⁶ NewClimate Institute in collaboration with Carbon Market Watch (2022): "[Corporate Climate Responsibility Monitor: Assessing the Transparency and Integrity of Companies' Emission Reduction and Net-Zero Targets](#)".

- A **2023 report published by the Belgian Consumer Protection Organisation** that analysed the integrity of “carbon neutral” products found in Belgian supermarkets. It found such claims to be scientifically inaccurate and misleading.¹⁷
- A **2023 report published by the European Consumer Organisation (BEUC)** on the prevalence of neutrality claims in the food sector, and why these claims are misleading/deceptive¹⁸.
- A **2023 report published by Changing Markets Foundation** on misleading climate-related claims and targets in the food sector, including “net zero” and “carbon neutral¹⁹”.
- A **2023 greenwashing study published by German consumer group vzbv** concluded that sustainability advertising does more harm than good²⁰. It found that “green advertising claims [such as “CO₂-compensated strawberry yoghurt” or “climate-neutral milk”] have considerable greenwashing potential.”
- An **assessment of green claims conducted by national consumer protection authorities and the European Commission** found that the majority of claims lack evidence²¹.
- A **2023 report published by the Environmental Coalition on Standards (ECOS)** on, *inter alia*, misleading carbon neutrality claims²².
- **2022 guidelines by Ademe (The French Agency for Ecological Transition)** advised that carbon neutrality claims “can deceive the public, slow down changes in behaviour and cause negative rebound effects²³”.
- The **Guardian investigation’s of Verra’s forest-related credits** found that “based on analysis of a significant percentage of the projects, more than 90% of their rainforest offset credits – among the most commonly used by companies [in offsetting marketing] –

¹⁷ Test Aankoop (commissioned by Test Aankoop, drafted by Carbon Market Watch) (2023): “[Assessing the Carbon Neutrality Claims of Products in Belgian Supermarkets](#)”.

¹⁸ BEUC, The Consumer Organisation (2023): “[A Climate-Neutral Food Basket: Too Good to Be True](#)”.

¹⁹ Changing Markets Foundation: “[Feeding us Greenwash: An Analysis of Misleading Claims in the Food Sector](#)”.

²⁰ “Zühlsdorf + Partner” and the University of Göttingen on behalf of the vzbv’s food safety project (2023): “[Green Advertising Claims on Food Products](#)”.

²¹ European Commission and National Consumer Authorities (2021): “[Screening of Websites for ‘Greenwashing’: Half of Green Claims Lack Evidence](#)”.

²² Environmental Coalition on Standards (ECOS) (2023): “[Greenwashing, certified? How to ensure new laws and standards do not rubberstamp dubious climate neutrality claims](#)”.

²³ Ademe (2022): “[Use of the « carbon neutrality » argument in communications](#)”.

are likely to be “phantom credits” and do not represent genuine carbon reductions”, and could instead exacerbate the climate crisis²⁴.

- An **expert report on CO2 compensation** for ClientEarth produced in the context of its KLM litigation highlights the flaws with offsetting logic: “[u]se of carbon credits [used for offsetting] cannot reduce the impact of an emitting activity. Carbon credits are more accurately viewed as a contribution to mitigation activities (such as reforestation) that are supplementary to direct decarbonization efforts, not a compensatory measure.”²⁵
- A **Dutch Authority for Financial Markets** report that focuses on voluntary carbon markets and climate claims²⁶.

There are also several recent court decisions or advertising watchdog rulings that demonstrate how green claims can be deceptive:

- A **court in Germany** prohibited a company from marketing itself as “climate neutral” because it failed to include all of its emissions when calculating its carbon footprint. The excluded indirect emissions were found to represent a significant portion of the company’s footprint²⁷.
- A **court in Germany** ruled that TotalEnergies “CO2-compensated” heating oil claim was deceptive / misleading²⁸.
- In 2021, the **Dutch advertising regulator** ruled that Shell’s “Drive CO2 Neutral” campaign (where Shell offered consumers a chance to pay a fee to “offset” the emissions associated with their fossil fuel purchases) was unlawful (unsubstantiated and therefore misleading)²⁹. In 2022, Shell subsequently amended the wording in its advertising campaign to “CO2 compensated”, but the **Dutch Appeals Board** ruled that this slogan was also misleading³⁰.
- The **Dutch advertising regulator** also recently ruled that KLM’s “CO2ZERO” and “CO2-neutral” claims were misleading by giving the false impression that consumers can completely cancel out the emissions from their flight simply by paying a small fee towards a reforestation project³¹.

²⁴ The Guardian (2023): [“Revealed: more than 90% of rainforest carbon offsets by biggest certifier are worthless, analysis shows”](#).

²⁵ Broekhoff, Derik for ClientEarth (2022): [“Expert report by Derik Broekhoff on CO2 compensation”](#).

²⁶ AFM (2023): [“Voluntary Carbon Markets: Supervisory Issues”](#).

²⁷ Werner & Mertz Press Release (2022): [“German court bans advertising with “carbon neutral company” logo from Climate Partner”](#).

²⁸ DUH Press Release (2023): “[translated from German]”: [Consumer deception with supposed ‘climate neutrality’: German environmental aid wins in court against TotalEnergies for allegedly “CO2-compensated heating oil”](#).

²⁹ Advertising Fossil Free (2021): [“Law Students Complaint Upheld - Shell Advertisements with Claim ‘CO2 neutral’ are Misleading.”](#)

³⁰ Advertising Fossil Free (2022): [“Shell Also Loses on Appeal: CO2 Compensation is Misleading”](#).

³¹ Advertising Fossil Free (2022): [“Dutch Advertising Watchdog: KLM Misleads with CO2-Neutral Claim and CO2ZERO Program”](#).

- A **Swedish court** recently ruled that dairy company Arla Foods must stop making misleading climate-related claims which give the false impression that no harmful climate impacts were associated with its activities or that these impacts had been neutralised or compensated. The Court highlighted the difficulties consumers often face in critically evaluating the plausibility of such claims, and pointed out the lack of permanence in forest-based offsetting projects³².
- A **class action lawsuit was filed in New York** against Evian for its carbon neutral claim on its packaging. There has not yet been a ruling on this case³³.

c. If such evidence exists, what specific guidance should the FTC provide to help marketers avoid deceptive claims?

This has been addressed in the above questions (“Specific Claims” questions 1-1a and “General Claims” question 19).

d. Is there any consumer research available regarding consumer perception of climate change-related claims such as “net zero,” “carbon neutral,” “low carbon,” or “carbon negative”?

Yes. There are several recent consumer surveys that show there is a high level of misunderstanding surrounding these kinds of claims. Several examples include the following:

- **United States:** According to a 2022 survey conducted by Morning Consult, “most U.S. consumers don’t know what carbon neutral means³⁴”.
- **Germany:** In a survey from a German consumer protection organisation, only 13% of respondents linked “carbon neutral” claims to the practice of offsetting³⁵.
- **The Netherlands:** “Consumers find claims regarding carbon offset unclear³⁶”.
- **The UK:** Consumers had a tendency to associate “carbon neutral” claims with absolute emission reductions³⁷.

e. Are there any specific deceptive claims related to climate change prevalent in the market?

³² Just Food (2023): “[Swedish Court Bans Arla’s Net-Zero Advertising Claim](#)”.

³³ Warford, David, Energy + Environment Leader (2022): “[Evian Faces Lawsuit over Packaging’s Carbon Neutral Claims](#)”.

³⁴ Morning Consult (2022): “[Most U.S. consumers don’t know what carbon neutral means](#)”.

³⁵ NRW Verbraucherzentrale (2022): “[Klimaneutrale Produkte: 89 Prozent für klare Regeln und geprüftes Siegel](#)”.

³⁶ Dutch Authority for Consumers and Markets (2022) : “[Consumers find claims regarding carbon offset unclear](#)”.

³⁷ UK ASA (2022): “[Climate Change and Environment - Consumer understanding of environmental claims](#)”.

Yes. Claims that imply that emissions (or climate harm) have been “offset”, “neutralised”, “cancelled out”, or otherwise compensated through the purchase of carbon credits. These include “carbon neutral”, “climate neutral”, “climate positive”, “climate negative”, “CO2 compensated”, “net zero”. Some examples include:

- [Evian](#): Claims to be “carbon neutral”.
- [Anheuser-Busch](#): Bud Light NEXT “climate neutral” beer.
- [Allbirds](#): Certain shoes are “carbon neutral”.
- [Reformation](#): Clothing company who has claimed its products had been “carbon neutral” since 2015, and is now “climate neutral”.
- [Neutral Dairy Products](#): Claiming to be “carbon neutral”.

f. If evidence of deception exists, what specific guidance should the FTC provide to help marketers avoid deceptive claims? What evidence supports your proposed revision?

Please see above questions 1, 1a-f under “Specific Claims”.

CONTACT

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