



Swedish Consumer Agency
Consumer Ombudsman



NEYTENDASTOFA
Icelandic Consumer Agency



18 April 2024

Nordic statement on climate compensation claims in marketing

Several businesses use claims of products and services being “climate neutral”, “climate compensated”, “net zero” or similar. In 2023, the Swedish Patent and Market Court prohibited a dairy producer to use the claim “net zero climate footprint” and other similar claims giving the consumer the impression that the product had no impact on the climate, or that the impact had been fully compensated, when that is not the case.

According to the Nordic consumer protection authorities, the principles set out in the ruling of the Swedish Patent and Market Court should be taken into account by all businesses using climate compensation claims in their marketing to consumers. The ruling clarifies that it is difficult for traders to verify such claims according to Directive 2005/29/EC on unfair commercial practices, as transposed in the Nordic countries.

As a result, the Nordic authorities are encouraging businesses to review their climate compensation claims. Instead of using general claims of climate compensation that most businesses will have trouble proving are true, businesses should describe the concrete actions they are taking to for example bind carbon dioxide.

The background

In 2021, the Swedish Consumer Ombudsman took legal action against a dairy producer for using the claim “net zero climate footprint” in its marketing.

According to the Ombudsman, the claim was misleading since it gave consumers the impression that the product had no impact on the environment or the climate; not before the purchase, at the time of the purchase or after the purchase – which the trader could not verify.

The judgement

The Court stated that the claim gave consumers the impression that the product had no impact on the climate, or that the impact caused by the product had been fully compensated. This is what the trader had to prove in order for the claim not to be misleading.

The trader had invested in climate compensation, for example in projects on tree planting and prevention of de-forestation. The trader's calculation of the compensation was based on the Global Warming Potential metric (GWP 100). It is the most commonly used metric for climate compensation projects. It means that the expected result can be reached, first, in 100 years after the first release of emissions. However, it requires that the projects continue to deliver benefits for the climate for a period of 100 years.

The Court stated that the trader had not proved that the projects would last that long even though the projects were certified according to an established standard with guarantees for 20, and 30 years.

Furthermore, the Court recognised that there were several uncertainties related to *inter alia* the calculations and the permanence of the projects.

Finally, the Court stated that an average consumer would not understand that the expected result could be reached, first, in 100 years. The trader had not been able to verify the claim according to Directive 2005/29/EC, as transposed in Swedish legislation.

Hence, the claim was considered as misleading and unfair, and thus prohibited.

Next steps

The Nordic consumer protection authorities are competent authorities for the enforcement of consumer protection legislation, including environmental claims in marketing directed to consumers.

In line with the ruling of the Swedish Patent and Market Court, the Nordic consumer protection authorities recognise the difficulties to verify claims on climate compensation according to Directive 2005/29/EC on unfair commercial practices.

In addition to the lack of permanence, there are other uncertainties linked to climate compensation such as the risk of double counting and lack of additionality. As a result, businesses are requested to review their claims on climate compensation.

The Nordic consumer protection authorities can initiate enforcement actions to ensure that such claims on climate compensation are compliant.