Carbon Market Watch's Submission to India's Central Consumer Protection Authority request for public comment on its draft guidelines to combat greenwashing

Introduction

Carbon Market Watch welcomes the opportunity to submit input to India's Central Consumer Protection Authority's draft guidelines on greenwashing. The comments below cover a small subset of elements and focus on those items which are closest to our expertise.

"Carbon neutral" and other compensation claims should be banned

We are responding to the following sections of the draft guidelines:

6. Substantiation of Environmental Claims –– All advertisement making Environmental claims shall comply with following obligations:- (a) Generic terms such as' clean', 'green', 'eco-friendly', 'eco-consciousness', 'good for the planet', 'minimal impact', 'cruelty-free', 'carbon – neutral' and similar assertions shall not be used without adequate qualifiers and substantiation and adequate disclosure as provided under clause (9) of the guideline.

7. Adequate disclosures –– (e) Specific environmental claims such as Carbon Offsets, carbon neutral, Compostable, Degradable, Free-of, Sustainability claims, Non-Toxic, 100% Natural, Ozone-Safe and Ozone-Friendly, Recyclable, Refillable, Renewable, and similar assertions must be supported by disclosure about credible certification, reliable scientific evidence, or independent third-party verification.

It is not possible to curb the pervasive problem of greenwashing without banning – as opposed to "substantiating", as these draft guidelines propose – highly misleading "carbon neutral" claims that are based on the problematic practice of "offsetting" or "insetting". Permitting these kinds of claims will result in the continued marketing of "dirty" products or companies as "green", which is detrimental to both consumers and the climate. In fact, these types of claims have come under increasing scrutiny from various stakeholders, including civil society as well as regulators. The reasons for this include investigations[1] or reports[2] which have found that carbon credits purchased to offset GHG emissions do not deliver climate benefits that are equal to the climate damage caused; a continuous flow of legal[3] and regulatory[4] actions over the misleading nature of offsetting / neutrality claims; and a recently agreed EU ban[5] on product-level (goods and services) offsetting claims. **The Central Consumer Protection Authority should therefore explicitly ban all offsetting / neutrality claims.**

Why offsetting claims are misleading and problematic

The main – and fatal – flaw of the draft guidelines is that they continue to allow the use of climate claims that imply that emissions have been "offset", "neutralised", "counterbalanced", or otherwise compensated through, e.g, the purchase of carbon credits on the voluntary carbon market (VCM). Some examples of these kinds of claims could include "carbon neutral", "climate neutral", "climate positive", "climate negative",

[1] The Guardian (2023): "Revealed: more than 90% of rainforest carbon offsets by biggest certifier are worthless, analysis shows".
[2] Test Aankoop/Test Achats (Belgian consumer agency) and Carbon Market Watch (2023): "Assessing the carbon neutrality claims of projects in Belgian supermarkets".
[3] ClientEarth Press Release (March 2024): "Historic win against greenwashing as KLM's advertising ruled illegal" and Just Food (2023): "Swedish court bans Arla's net-zero advertising claim".
[4] Advertising Fossil Free (2022): "Dutch Advertising Watchdog: KLM misleads with CO2-neutral claim and CO2ZERO program".
[5] European Parliament (2023): "EU to ban greenwashing and improve consumer information on product durability".

"CO2 compensated" and "net zero". As previously stated, these claims are highly problematic for a number of reasons, which are explained in more detail below[6].

- **Problems with quantification:** there is a great deal of uncertainty around quantification. It cannot be guaranteed, and therefore it remains uncertain, that one carbon credit can reliably neutralise or counterbalance one tonne of CO2 emitted[7]. This is because it is extremely "difficult to accurately quantify the climate benefits associated with a credit"[8]. When a project generates a large number of credits, there is inevitably some degree of uncertainty with respect to the actual impact, and measuring this "per tonne" is highly unrealistic. For example, projects that have the goal of decreasing deforestation through forest conservation or projects that provide cleaner cookstoves are especially difficult to quantify[9]. The current incentive structure of the VCM pushes all actors to exaggerate the impact of projects, and hence over-issue credits. The existing uncertainty is hence much more likely to lead to overissuance, rather than under-issuance. "Tonne-for-tonne" offsetting is, therefore, an illusion because the carbon credits purchased to offset emissions do not deliver climate benefits that can be considered to be equal to the damages caused.

- **Low Carbon Credit Quality:** The quality of a carbon credit is dependent on certain criteria, such as permanence, additionality, and accurate baseline estimations (amongst others).

  Permanence
  It is difficult to ensure that carbon stored in biological sinks will not be released in several years or decades. Credits for "avoided deforestation" mitigation projects, for example, are some of the most commonly used on the voluntary carbon market, but trees and other sinks are vulnerable to natural disasters, such as floods or wildfires, which can decimate an entire forest-based mitigation project, and release all the stored carbon dioxide back into the atmosphere.

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[6] Many of these ideas can also be found in "*Is offsetting an impossible goal*?" on pgs 11-12 in Test Aankoop/Test Achats (Belgian consumer agency) and Carbon Market Watch (2023): "Assessing the carbon neutrality claims of projects in Belgian supermarkets".
[7] See, for example, "Broekhoff, Derik for ClientEarth (2022): "Expert report by Derik Broekhoff on CO2 compensation".
[8] "*Is offsetting an impossible goal*?" pgs 11-12 in Test Aankoop/Test Achats (Belgian consumer agency) and Carbon Market Watch report (2023): "Assessing the carbon neutrality claims of projects in Belgian supermarkets"
[9] See "*Is offsetting an impossible goal*?" on pgs 11-12 in Test Aankoop/Test Achats (Belgian consumer agency) and Carbon Market Watch (2023): "Assessing the carbon neutrality claims of projects in Belgian supermarkets" and Gill-Wiehl et al. (2023): "Cooking the books: Pervasive over-crediting from cookstoves offset methodologies".

This raises valid concerns about the suitability of using these projects to compensate for emissions that will stay in the atmosphere for centuries to millennia. To be able to compensate for this, an equivalent amount of carbon would need to be stored for the same period of time; however, a reliable system that can ensure that a forest, for example, will remain intact for this time span does not exist. At present, carbon market standards normally guarantee the permanence of the carbon benefits for around 30 years (can go up to 100 years), which is not equivalent to reducing emissions. While channelling finance to forest conservation projects is necessary, "these credits are not equivalent to absolute reductions, and should not be used to claim that 'no net impact' on the climate took place"[10].

Additionality

Mitigation projects must also be "additional". This occurs if the achieved climate benefit 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 various market players. Many projects currently selling credits on the carbon market are unlikely to be additional, for example, large-scale renewable energy projects.

Inaccurate baseline estimations

In addition, many projects' impacts have been grossly overstated, leading to significant overestimation of the issuance of carbon credits.[11] 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.

- **Consumer misunderstanding:** These claims are also misleading because consumers, by and large, don't sufficiently understand them, as highlighted by consumer surveys in the United States, the United Kingdom and various

[10] See "*Is offsetting an impossible goal*?" on pgs 11-12 in Test Aankoop/Test Achats (Belgian consumer agency) and Carbon Market Watch (2023): "Assessing the carbon neutrality claims of projects in Belgian supermarkets".
[11] 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."

European Member States[12]. There appears to be a general misunderstanding about climate-related advertising terminology and that could prevent consumers from knowing what they are actually purchasing: "dirty" products that are misunderstood to be "climate friendly" or "green".

Consumers might, therefore, lack motivation to alter their purchasing behaviour that may include buying more sustainable or climate-friendly products because they assume what they are currently doing is good 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 shift on a vast scale in order to stay Paris aligned, failure to ban offsetting / neutrality claims could put our ability to maintain a habitable planet at risk. These claims can therefore act as mitigation deterrents to real climate action, something we simply cannot afford in this critical decade[13].

Promote the alternative: "contribution" or "beyond value chain mitigation" (bvcm) claims

The Central Consumer Protection Authority should ban offsetting and instead include a reference to the "contribution" / BVCM claim model in its draft guidelines.

Due to all of the aforementioned issues associated with offsetting / neutrality claims, some companies and other market players appear to be increasingly shifting away from this problematic "compensation" climate claim model to a "beyond value chain mitigation" (BVCM) or "contribution" claim model, which centres on simply providing climate finance as opposed to purchasing assumed tonnes of emissions reductions[14].

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12 NRW Verbraucherzentrale (2022): "Klimaneutrale Produkte: 89 prozent für klare Regeln und geprüftes Siegel"; Dutch Authority for Consumers and Markets (2022) : "Consumers find claims regarding carbon offset unclear"; UK ASA (2022): "Climate Change and Environment - Consumer understanding of environmental claims"; Morning Consult (2022): "Most U.S. consumers don't know what carbon neutral means".

13 According to the UN's Intergovernmental Panel on Climate Change (IPCC), the 2020s are the critical decade for climate action.

14 Carbon Market Watch (2024): "Credible climate claims in a post-offsetting world". See also, NewClimate Institute (2023): "A guide to contributions: taking responsibility for emissions without offsetting"; Carbon Market Watch (2020): "Above and Beyond Offsetting: Alternatives to compensation for climate action and sustainable development"; and Science-based Targets Initiative (2024): "Beyond Value Chain Mitigation".

For example, in the Voluntary Carbon Markets Integrity Iniative's (VCMI) Claims Code of Practice[15] – which provides companies with targeted guidance for making more credible climate claims – there is a clear move away from "offsetting" and other compensation claims towards "contribution" claims, which more accurately reflect what a company is doing when it purchases carbon credits: making a contribution or a donation to a climate mitigation project without claiming that this same financial investment has "neutralised" emissions or "cancelled out" harmful claim impact.

Companies or organisations should first reduce their own emissions, and only take part in BVCM action to address residual or "unabatable" emissions (which should be no higher than 5-10% by the target year, and for some companies should be zero, depending on the sector). A company could plan on implementing an internal carbon price on these emissions and investing this amount in mitigation projects, but *not* on a "tonne-for-tonne" basis that would result in a misleading claim that implies that emissions will be "neutralised". If this company wishes to communicate about this planned investment or contribution, it should use the recommended BVCM / contribution model. "Unabatable", however, is not a permanent state, so a company should also simultaneously commit to continue investing in research & development (R&D) in an attempt to push the decarbonisation frontier, and increase the chances that what is unabatable now becomes abatable in the future.

Future climate-related claims / targets must have stronger substantiation requirements

We are responding to the following section of the draft guidelines.

8. Other Claims –– Aspirational or futuristic environmental claims may be made only when clear and actionable plans has been developed detailing how those objectives will be achieved.

First and foremost, offsetting should be banned for claims related to a company's current climate impact *and* future impact, such as to meet "net zero" targets. This would mean that a company should not offset to reach future climate targets. Setting separate

[15] Voluntary Carbon Market Integrity Initiative (VCMI's) Claims Code of Practice (2023).

targets for internal reductions and outside value-chain contributions should be encouraged instead.

For all future climate or environmental claims, the Central Consumer Protection Authority should require that a company do the following: Include information on clear, science-based, objective, publicly available and verifiable commitments; and a realistic and concrete, implementation plan that includes measurable and time-bound targets regarding improvements inside own operations and value chains and other relevant elements necessary to support its implementation, such as allocation of resources.

Other elements related to the credibility of future climate claims

The Central Consumer Protection Authority should also consider the following (non-exhaustive) elements into account when assessing the credibility of future climate claims / targets.[16]

- **Accurate target setting and footprint calculation:** Ensuring accurate target setting is a very important element of a company or organisation's future climate strategy, and can result in an increase in the credibility of climate claims or targets. Companies should set and publicly disclose credible, science-based targets for the short term (3-5 years), medium term (5-10 years) and long term (a reduction of 90-95% emissions by 2050 or sooner). This is in line with the "mitigation hierarchy" principle, which means that priority should be given to deep internal decarbonisation.

  One of the first steps in target setting includes the calculation of a company's or organisation's emissions (footprint). This would mean taking into account *all* direct and indirect emissions across the entire value chain (scope 1, 2, 3 upstream and downstream). Emissions disclosure can be based, for example, on the reporting requirements for scopes 1, 2 and 3 of the GHG Protocol, a standardised framework for measuring and managing greenhouse gas emissions[17]. Since calculating indirect scope 3 emissions may be more difficult, an estimated range should be provided, with the highest estimate included in the

[16] Many of these elements can be found in Carbon Market Watch (2024): "Credible climate claims in a post-offsetting world". See also "net-zero" standards, such as SBTi's "Corporate Net Zero Standard" (2023) and Voluntary Carbon Market Integrity Initiative (VCMI's) Claims Code of Practice (2023) "prerequisites".
[17] GHG Protocol.

footprint calculation. Complete exclusion of indirect emissions should always be avoided because this can significantly decrease the credibility of the claims, and increases the chance that they will be misleading. Several examples of scope 3 exclusion or distortion can also be found in the 2023 *Corporate Climate Responsibility Monitor*[18].

- **Corporate lobbying in line with Paris Agreement:** Companies should investigate whether their advocacy activities are aligned with the goals of the Paris Agreement, and do not present a barrier to effective climate legislation. If a company, for example, claims to have an ambitious climate strategy, but actively lobbies against more stringent climate regulations, these actions will completely erode the credibility of its future climate claims. Unfortunately, this is a common occurrence: "Corporate net zero or similar targets are rarely matched by support for government climate policy, with 58% of almost 300 companies from the Forbes 2,000 found to be at risk of 'net zero greenwash' due to their policy engagement," a recent investigation by InfluenceMap found[19].

  To ensure that their advocacy efforts are Paris compatible, companies can submit, for example, a public statement describing how these activities are consistent with the principles of the four categories of the Global Standard on Responsible Corporate Lobbying (GSRCL)[20], according to the *VCMI Claims Code of Practice*[21]. The GSRCL is a standard for companies to assess whether their lobbying activities are in line with the Paris Agreement and, if not, to help them change course.

- **Companies should commit to deforestation and divestment of fossil fuels and highly polluting industries:** Deforestation is a contributor to global emissions and destroys ecosystems. However, corporate action is lacking in this area[22]. Companies wishing to increase the credibility of climate claims should implement concrete strategies to be deforestation free by 2025.

  Companies or sectors who have typically invested in fossil fuels or highly polluting industries, should completely divest from these industries. Companies

[18] 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".
[19] InfluenceMap (2023): "'Net Zero Greenwash': The Gap Between Corporate Commitments and their Policy Engagement."
[20] Standard on Responsible Corporate Lobbying.
[21] Voluntary Carbon Market Integrity Initiative (VCMI's) Claims Code of Practice (2023).
[22] EurActiv (2023): "Major firms not doing enough to curb deforestation: report".

which do not implement such actions, should not be considered to have credible climate claims / strategies. The banking industry has been found to be especially culpable in this regard.[23]

- **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 - BVCM (purchase of carbon credits, investment in climate impact funds, etc.), and each one should be addressed and communicated differently. Rather than using, e.g. "net zero by 2050", organisations can communicate their "headline" climate targets as their planned emission reductions, e.g. "we have committed to a GHG emissions reduction of at least 95% across our entire value chain by 2050, compared to 2019".

[23] The Guardian (2023): "Europe's banks helped fossil fuel firms raise more than €1tn from global bond markets".

Further reading[24]

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

- The **2023 Corporate Climate Responsibility Monitor** thoroughly analyses 24 global corporations who portray themselves as market "climate leaders[25]". 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 findings[26].

- 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.[27]

- 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/deceptive[28].

- A **2023 report published by Changing Markets Foundation** on misleading climate-related claims and targets in the food sector, including "net zero" and "carbon neutral[29]".

- A **2023 greenwashing study published by German consumer group vzbv** concluded that sustainability advertising does more harm than good[30]. It found that "green advertising claims [such as "CO-2-compensated strawberry yoghourt" 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 evidence[31].

- A **2023 report published by the Environmental Coalition on Standards (ECOS)** on, *inter alia*, misleading carbon neutrality claims[32].

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[24] Includes sources previously cited as well as additional sources.
[25] 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".
[26] 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".
[27] Test Aankoop (commissioned by Test Aankoop, drafted by Carbon Market Watch) (2023): "Assessing the Carbon Neutrality Claims of Products in Belgian Supermarkets".
[28] BEUC, The Consumer Organisation (2023): "A Climate-Neutral Food Basket: Too Good to Be True".
[29] Changing Markets Foundation: "Feeding us Greenwash: An Analysis of Misleading Claims in the Food Sector".
[30] "Zühlsdorf + Partner" and the University of Göttingen on behalf of the vzbv's food safety project (2023): "Green Advertising Claims on Food Products".
[31] European Commission and National Consumer Authorities (2021): "Screening of Websites for 'Greenwashing': Half of Green Claims Lack Evidence".
[32] Environmental Coalition on Standards (ECOS) (2023): "Greenwashing, certified? How to ensure new laws and standards do not rubberstamp dubious climate neutrality claims".

- **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 effects[33]".

- 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] – are likely to be "phantom credits" and do not represent genuine carbon reductions", and could instead exacerbate the climate crisis[34].

- 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.[35]"

- A **Dutch Authority for Financial Markets** report that focuses on voluntary carbon markets and climate claims[36].

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

- A **court in the Netherlands** found "KLM's greenwashing in its advertising illegal, setting a major legal precedent with ramifications across the international aviation sector and for all companies advertising their commitment to the Paris Agreement. The judge ruled that KLM's claims suggesting that flying can be or is becoming sustainable, as well as advertising suggesting that its "offsetting" products reduce or compensate for the climate impact of flying are misleading and therefore unlawful"[37]. This is a very recent decision from March 20, 2024.

- 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 footprint[38].

- A **court in Germany** ruled that TotalEnergies "CO2-compensated" heating oil claim was deceptive / misleading[39].

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[33] Ademe (2022): "Use of the « carbon neutrality » argument in communications".
[34] The Guardian (2023): "Revealed: more than 90% of rainforest carbon offsets by biggest certifier are worthless, analysis shows".
[35] Broekhoff, Derik for ClientEarth (2022): "Expert report by Derik Broekhoff on CO2 compensation".
[36] AFM (2023): "Voluntary Carbon Markets: Supervisory Issues".
[37] ClientEarth Press Release (March 2024): "Historic win against greenwashing as KLM's advertising ruled illegal".
[38] Werner & Mertz Press Release (2022): "German court bans advertising with "carbon neutral company" logo from Climate Partner".
[39] 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".

- 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)[40]. 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 misleading[41].

- 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 project[42].

- 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 projects[43].

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[40] Advertising Fossil Free (2021): "Law Students Complaint Upheld - Shell Advertisements with Claim 'CO2 neutral' are Misleading."

[41] Advertising Fossil Free (2022): "Shell Also Loses on Appeal: CO2 Compensation is Misleading".

[42] Advertising Fossil Free (2022):"Dutch Advertising Watchdog: KLM Misleads with CO2-Neutral Claim and CO2ZERO Program".

[43] Just Food (2023): "Swedish Court Bans Arla's Net-Zero Advertising Claim".