

Quick Guide on environmental claims

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Kvikguide til virksomheder om miljømarkedsføring

Forbrugerombudsmanden/Danish Consumer Ombudsman

Carl Jacobsens Vej 35

DK-2500 Valby

Tel.: +45 41 71 51 51

Email: forbrugerombudsmanden@forbrugerombudsmanden.dk

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Purpose

If your company's products have a smaller impact on the climate or the environment than other products, or if your company otherwise takes measures to protect the climate or the environment, these could be important messages to market.

However, the marketing must still comply with the Danish Marketing Practices Act (*Markedsføringsloven*) – and any special legislation that may apply in your sector of business.

This Quick Guide is an abridged version of the Guidance from the Danish Consumer Ombudsman on the use of environmental and ethical claims, etc. in marketing and describes what you need to be aware of when you market your products with a smaller impact on the climate or the environment than other products on the market¹. You can read more in the Guidance from the Danish Consumer Ombudsman on the use of environmental and ethical claims, etc., in marketing, to which we make reference in the Quick Guide.

Marketing may not be misleading and factual information must be substantiated

If you use climate or environmental claims in your marketing, they **must be correct** and clearly worded so that consumers immediately understand them. You must also not omit essential information.

This follows from the prohibitions on misleading actions and omissions in sections 5 and 6 of the Danish Marketing Practices Act. Violation of the provisions may be subject to the penalty of a fine.

You must also be able to **substantiate the factual claims**. It follows from section 13 of the Danish Marketing Practices Act that the trader must be able to furnish evidence as to the accuracy of factual claims.

- » The claims must normally be supported by statements or studies by *independent experts*.
- » If the study has been made by the manufacturer of the product or by the company selling the product, as a general rule the study must be confirmed by independent experts.
- » If there is considerable disagreement among experts, you must disclose this in the marketing or refrain from using the claims.

In the Quick Guide and the Guidance, we distinguish between **general** and **specific** marketing claims. However, all climate and environmental claims constitute information about actual circumstances concerning the company, production and/or products. You must therefore be able to substantiate that the claims are correct. It follows from section 13 of the Danish Marketing Practices Act that the trader must be able to furnish evidence as to the accuracy of factual claims.

General claims are positive claims about your company or products, such as 'green', 'climate friendly', 'environmentally friendly', 'sustainable' etc. If you use such claims in your marketing without also stating why the company or products are, for example, climate friendly or environmentally friendly, you must be able to substantiate the general claim based on a life cycle analysis of your products. See more in the section on the use of general claims such as climate

¹ The Quick Guide is based on applicable law as at 21 December 2021.

friendly, environmentally friendly, green etc. on page 4 and in the section on the use of sustainability claims on page 10.

Naturally, it is easier to document **specific claims** about a specific climate or environmental benefit of a product. Specific claims are therefore easier to use in marketing. Neutral and specific information about a product or company provided in an objective manner, without highlighting environmental or ethical considerations, will normally not be considered/regarded as suitable to mislead consumers. See more in the section on use of specific claims on page 8.

If you use general environmental claims in your marketing, the Danish Consumer Ombudsman recommends that you substantiate the claim(s) with information about the specific benefit(s) for the climate or the environment of the company's products which *explains* the general claim(s). You must be able to substantiate the accuracy of the benefits to the climate or the environment that you describe, and the benefit(s) must not only have a marginal impact on the climate/environment.

You can read more about this below.

You can see our Guidance on the use of environmental and ethical claims, etc. in marketing [here](#).

Use of general claims such as climate friendly, environmentally friendly, green etc.

General climate or environmental claims *without* an explanation

General environmental claims may, *for example*, be 'environmentally friendly', 'environmentally correct', 'green', 'climate friendly' or 'climate travel'.

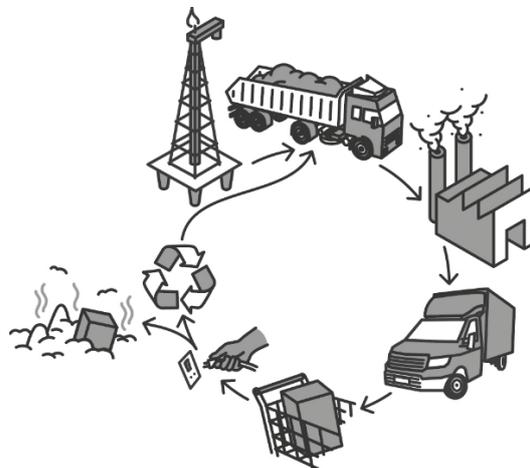
This type of claim constitutes factual information and, according to section 13 of the Danish Marketing Practices Act, it must therefore be possible to substantiate the accuracy of the claims. Individual general claims will be perceived by consumers as an indication that the product does not have a negative impact on the environment/climate. As all production affects the environment/climate, it is therefore in principle misleading to use this type of claim in marketing. Using this type of claim imposes strict requirements for substantiation that the marketing complies with the Danish Marketing Practices Act.



Requirements

- » In environmental terms, the product must be among the very best equivalent products. If all the products on the market are equally good you must not market your product with general environmental claims. As a general rule, you must therefore be able to substantiate that your product generally has a significantly smaller impact on the climate or the environment than equivalent products.
- » The documentation must normally be based on a *life cycle analysis* of the product and be supported by statements or studies by *independent* experts.

- » A life cycle analysis identifies (environmental) conditions and assesses the significant (environmental) impacts throughout the product's life cycle, from the acquisition of raw materials and manufacture, to the use and disposal of the product, as well as transport within and between these phases.



Practice

A petrol company marketed a petrol product in a TV commercial showing a car covered in grass. The car was refuelled with the petrol product, after which it drove away in a trail of flowers, followed by the slogan: '5% less CO₂. Same price – better for the environment'. The Danish Consumer Ombudsman stated that instruments such as flowers, grass, green colours and the like would undoubtedly give the consumer the impression of a product that is not harmful to the environment. Such instruments must therefore not be used in marketing if an environmental benefit cannot be substantiated on a reliable and correct basis. The company could not demonstrate any such environmental benefit on the basis of a life cycle analysis and the marketing was therefore misleading.²

Labelling schemes

- » If a product is labelled under an *official* labelling scheme, such as the 'Nordic Swan Ecolabel' or the 'EU Ecolabel', the product may normally be described as 'less environmentally damaging', 'more environmentally correct', 'more gentle on the environment', 'better for the environment' or the like, without a life cycle analysis etc. being required. This is also possible if the product fulfils all of the criteria for achieving one of the labels and this can be documented by a recognised independent expert.
- » See more about labelling schemes in Chapter 10 of the Guidance on the use of environmental and ethical claims, etc.

In particular about 'organic' (cosmetics and textiles)

- » You may use the 'organic' designation for textile products when at least 95% of all fibres in the product (including synthetic fibres) come from certified organic³ plant and/or livestock

² Case [08/02992](#)

³ It is stated in the Guidance on the use of environmental and ethical claims, etc. that the Danish Consumer Ombudsman believes that for the determination of the size of the organic proportion, inspiration can be found in Article 23(4)(a)(ii) of Regulation (EC) No. 834/2007 ('at least 95% by weight, of its ingredients of agricultural origin are organic') and especially in Danish provisions on organic agricultural products used for non-food purposes.

production. The other substances used may not significantly reduce or offset the benefits of organic cultivation (among other things without pesticides).

- » You may use the 'organic' designation for a cosmetic product if at least 95% of all the raw materials/ingredients in the product (i.e. excluding added water) come from certified organic vegetable and/or animal production. The composition or impact on the manufacturing process of the non-organic substances/ingredients may not unnecessarily reduce or offset the benefits of organic cultivation.
- » If the product cannot generally be described and marketed as organic, you can legally disclose the content of certified organic substances in percentage terms.

Practice

A supermarket chain marketed OEKO-TEX-certified children's clothing under the designation 'organic well-being'. The clothing was, however, not organic. The marketing was therefore misleading.⁴

Read more in section 7.1 of the Guidance on the use of environmental and ethical claims, etc. [here](#).

General climate or environmental claims *with* an explanation

- » If you use general climate or environmental claims with information about a specific climate or environmental benefit of a product that explains the general part of the claim, you do not need to be able to substantiate the accuracy of your marketing by means of a life cycle analysis.
- » You must ensure that the general part of the claim is read together with the explanation.

Example

General claim: 'Travel environmentally friendly'

Explanation: 'Take the bus rather than your car and help reduce CO₂ emissions, as a bus with at least X passengers emits less CO₂ than the equivalent number of cars with one person in each car.'

Practice

A candle manufacturer marketed its candles, made from vegetable raw materials, with the claims 'Cleaner burning – less soot' and 'Better for you and the indoor climate'. The candle manufacturer had measured the soot emissions from the candles, compared to other candles, and presented the test results to substantiate the claims. The test was not sufficient evidence, however, as too few of the competitors' candles were tested, as the test should have been performed several times, and as the test did not show a significant difference in soot emissions compared to the other candles. The marketing was therefore misleading.⁵

Requirements

- » You must be able to document the accuracy of the climate or environmental benefit that justifies (explains) the general environmental claim. See also below concerning the use of specific claims.
- » The claims must normally be supported by statements or studies by independent experts.
- » The use of a general environmental claim sends a strong signal to consumers that your product has significant positive climate/environmental properties and that it is better for

⁴ Case [16/05359](#)

⁵ Case [18/04490](#)

the climate/environment than your competitors' products. Even if you can document the accuracy of the climate or environmental benefit, the Danish Consumer Ombudsman still sets four additional requirements:

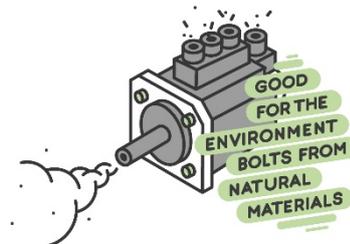
1. The climate or environmental benefit of the product must not only have a marginal impact on the climate/environment, for example if a change of packaging solely results in the elimination of a marginal amount of toxins or climate emissions. However, a small improvement can be disclosed in marketing as *specific* information without the use of general climate/environmental claims. See more in 'Use of specific claims'.



2. The climate or environmental benefit of the product must not be derived from activities that are inherently harmful to the climate/environment. See the example below about pressure-treated wood.



3. The climate or environmental benefit of the product must not be significantly reduced by climate/environmentally adverse aspects of the product. This means, for example, that as a general rule it will not be legal to use terms such as 'environmentally friendly' for products that originate from particularly polluting sectors.



4. The climate or environmental benefit of the product must not be customary for equivalent products. It is described in further detail in section 7.2 of the Guidance on the use of environmental and ethical claims, etc. how this requirement can be fulfilled. It might be

misleading, for example, if a product is referred to as ‘environmentally friendly’ when the competing products in the market present the same environmental benefit.



Example of requirement 2

‘Pressure treated wood is environmentally friendly because it does not require paint or finish – it simply doesn’t rot.’

However, the reason is that toxic substances have been added to the wood and are released into the environment over time, and the wood must therefore be deposited at a landfill when it is worn out. Even though pressure-treated wood can present an environmental benefit since it does not need to be painted or finished, it cannot be described as environmentally friendly because the benefit is partly offset by how it has been achieved.

Read more in section 7.2 of the Guidance on the use of environmental and ethical claims, etc. [here](#).

Use of specific claims

If you do not use general climate or environmental claims in your marketing, but rather specific claims about a specific climate or environmental benefit of a product, the marketing will be significantly easier to substantiate. Specific claims also give consumers more precise information about the product’s climate or environmental merits.

- » You must be able to substantiate that your claims are correct, and you must not omit significant information from the marketing.

Practice

Mittens for children were marketed under the ‘PFOA-free finish’ claim. However, the mittens did contain small amounts of PFOA and also contained other fluorides, including a fluoride that degrades into PFOA. The marketing was therefore misleading.⁶

Practice

An airline operating domestic flights using propeller aircrafts marketed itself with a recent study by the Danish Energy Agency showing that propeller aircraft’s CO₂ emissions were well below half those from ordinary jet aircraft. The airline also wrote that in environmental terms their propeller planes were fully competitive with other modes of transport, adding ‘You won’t get far in your car on 8 kg of fuel, but

⁶ Case [15/12246](#)

in our propeller planes you can fly all the way from Copenhagen to Aalborg'. However, the airline *did not* disclose that the study by the Danish Energy Agency also showed that transport by IC3 train emitted significantly less CO₂ than propeller aircraft. The airline had therefore omitted significant information and the marketing was misleading. It was also taken into account that the choice of colours and background illustration (including colourful flowers, a rainbow and a green background) signalled that the flight did not affect the environment.⁷

Example

The product as such must not be marketed as recyclable if only some of the raw materials included in the product can be recycled.

- » If it is stipulated in legislation that your company or product must fulfil climate or environmental requirements, you must not highlight your fulfilment of these requirements as a special aspect of the product or your company.

Practice

A taxi company marketed itself with the claim 'This taxi is in energy class C or better!'. It was a statutory requirement, however, that newly registered taxis should be in energy class C as a minimum, and at the time of the marketing at least 70% of taxis already on the road were in energy class C or higher. The marketing was therefore misleading.⁸

REMEMBER

- » You must continuously update your environmental claims in line with new legislation, new technological knowledge or new or better products on the market etc., which entail that your claims are no longer accurate.
- » There may be specific rules in certain areas, such as chemicals and food, which must also be complied with.

In particular concerning the use of claims about reduced greenhouse gas emissions

Examples of marketing claims concerning reduced greenhouse gas emissions may be 'climate neutral', 'net zero emissions' or '30% CO₂ reduction'.

- » If you market how you seek to reduce your CO₂ emissions, you must have a plan for reducing your greenhouse gas emissions by reduction measures in production or in the company, which must be verified by an independent body, and you must have greenhouse gas accounts showing current emissions and the expected future emissions.
- » If your marketing uses claims that your company or the use of products emits less CO₂ than before – for example 'We have reduced our CO₂ emissions by 30%' – you must be able to document the reduction in emissions. The reduction may not have taken place a long time ago, unless you specify the time of the reduction in your marketing.

⁷ Case [09/05694](#)

⁸ Case [12/03215](#)

- » If your marketing uses climate neutrality claims, such as 'CO₂ neutral', a calculation must be made of the total emissions of greenhouse gases from the product, activity or the company marketed. The total greenhouse gas emissions must be zero.⁹
- » If you use climate compensation schemes, they must be verifiable by means of an independent body. You must disclose this in your marketing and the climate compensation scheme must be described clearly and concisely, so that the consumer is in no doubt as to what the scheme entails.

Practice

An electric car was, among other claims, marketed under the claim 'A CO₂ neutral alternative to the petrol car'. The car manufacturer had not calculated the total emissions of greenhouse gases from the car throughout its lifetime (life cycle), whereby the total emission should be zero. It was and would not be possible to substantiate that the total emission was zero. The marketing was therefore misleading.¹⁰

Practice

In the marketing of a soft drink bottle partly made of plant material, it was stated that initial studies showed that the bottle significantly *reduced* the CO₂ footprint of the packaging. However, the soft drink maker had not calculated the bottle's CO₂ footprint. The marketing was therefore misleading. Two assessments of the CO₂ footprint made by two professors did not constitute any such calculation¹¹.

Read more in section 7.3 of the Guidance on the use of environmental and ethical claims, etc. [here](#).

In particular concerning the use of sustainability claims

Sustainable development designates development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.¹²

On this basis, sustainability claims must be substantiated by a life cycle analysis showing that the company does not impair the ability of future generations to meet their needs.

Health, social and ethical issues must also be taken into account.

It is therefore very difficult to call a product etc. sustainable without this being misleading.

On the other hand, a company will be able to market that it *strives for* sustainability, or similar claims.

- » This requires that you have a specific plan for how you will achieve sustainability, which must be verified by an independent body. The plan must entail the continuous improvement/development of the product etc., so that the impact is gradually reduced, which must be measurable. Implementation of the plan must be in progress or imminent.

⁹ The six greenhouse gases covered by the Kyoto Protocol must be included in the calculations, which must be made according to recognised scientific methodologies.

¹⁰ Case [12/00351](#)

¹¹ Case [12/00396](#)

¹² See the Brundtland Commission's Report, the World Commission on Environment and Development from 1987.

A company may also market itself with sustainable *initiatives*.

- » This requires you to state which specific initiatives you have actually taken. The initiatives must promote sustainability. This might be initiatives that promote biodiversity, or use of materials that consumes less of the Earth's resources.

The overall impression may also be misleading

Not only the words you use in marketing are included in the assessment of whether your marketing is correct.

The use of images, drawings, colours etc. can give the impression that the product is not harmful to the environment.



Practice

In the aforementioned case of a soft drinks bottle partly made from plant material, the soft drink was marketed under the '100% recyclable bottle' claim. The claim was objectively correct, but since the claim was supplemented by a picture of the bottle from which plants, farms, wind turbines, animals etc. were pouring out, the marketing gave consumers the impression that the fact that the bottle was 100% recyclable was a particular environmental benefit. Since all bottles – including those that were not partly based on plant material – were 100% recyclable, the claim was misleading.

The company's environmental profile (branding)

- » If you wish to brand your company using climate or environmental claims, for example using slogans, mottos, visions or statements as part of a company name or product name, or images, symbols, colours etc., it must also be possible to substantiate these claims in order not to be misleading.

Example

If a company calls itself 'The Green Cleaning Squad', its marketing must comply with the requirements concerning general environmental claims without an explanation, see above. This means that the company must have performed a life cycle analysis that maps all environmental aspects of the company.

- » You should only use claims about objectives and visions if you have specific action plans to achieve the objective and the action plans are in progress or imminent, and are measurable.

Requirements

- » You must comply with the aforementioned requirements (depending on the nature of your claim)

- » Be aware of how you market your company from an overall environmental perspective. It could be misleading if emphasising an initiative gives the company a better environmental/climate profile than is actually justified.

Practice

In the aforementioned case of a soft drinks bottle that was partly made from plant material, the claim ‘The bottle of the future is made from 100% renewable resources. Our new bottle – with plant-based material and recycled plastic – is a first step on the way’ was used. However, no more than 15% of the bottle’s total material was plant-based, and the soft drink maker’s website stated that it was not possible to produce this type of bottle exclusively from plant material. The soft drink maker could not substantiate either that this was a realistic goal in the immediate future. The claim was therefore misleading. The bottle’s name of ‘PlantBottle’ was also problematic since the plant material accounted for no more than 15% of the bottle’s total material.

Practice

A taxi company marketed itself with a claim that it was ‘at the forefront when it comes to seeking new solutions to reduce CO₂ emissions’. The company referred, inter alia, to a four-year-old environmental strategy of which the objectives had not been achieved. The company also referred to the greenhouse gas accounts they had prepared and the fact that the company’s taxi drivers were trained in ‘environmentally friendly’ driving behaviour. As far as the greenhouse gas accounts were concerned, these merely showed the company’s environmental impact, and not that the company did anything that was beneficial to the environment. Concerning the training of drivers in driving behaviour, other taxi companies had also (long ago) sent their drivers on such a course. Overall, there was insufficient basis for the company to market itself under the claim in question.¹³

Read more in section 9 of the Guidance on the use of environmental and ethical claims, etc. [here](#).

Complaints to the Danish Consumer Ombudsman

If consumers, companies or other parties wish to complain about misleading marketing based on environmental or climate claims, the complaint can be submitted via the Danish Consumer Ombudsman’s website. See [here](#).

¹³ Case 12/03091