

NOTE

Regulation of the use of the "carbon neutral" label in advertising. Taken from Soulier Avocats 'Advertising And The Environment: Update On "Greenwashing" Regulation.' May 2022

https://www.mondaq.com/france/environmental-law/1192112/advertising-and-the-environment-update-on-greenwashing-regulation?email_access=on

Regulation of the use of the "carbon neutral" label in advertising

[Decree 2022-539 of April 13, 2022](#) (FR) on carbon offsetting and carbon neutrality claims in advertising (the "Decree") has just been adopted. It implements Article 12 of the aforementioned [Climate and Resilience Law](#). (FR)

It should preliminarily be recalled that Article L. 229-68 of the French Environmental Code that deals with environmental claims (Article introduced by the Climate and Resilience Law) provides as follows: "*It is prohibited to state in an advertising that a product or service is carbon neutral or to use any formulation of equivalent meaning or scope, unless the advertiser makes readily available to the public the following:*

1. *A greenhouse gas emissions assessment report that incorporates the direct and indirect emissions of the relevant product or service;*
2. *The process by which the greenhouse gas emissions of the relevant product or service are first avoided, then reduced and finally offset. The greenhouse gas emissions reduction trajectory is described using quantified annual progress targets;*
3. *The methods for offsetting residual greenhouse gas emissions that comply with minimum standards defined by decree."*

The Decree creates a new Section 9 on environmental claims in the [French Environmental Code](#) (FR) The scope of this new Section covers:

- Advertisers who claim "*in an advertisement that a product or service is "carbon neutral", "zero carbon", "with a zero-carbon footprint", "climate neutral", "fully offset", "100% offset" or "use any formulation of equivalent meaning or scope";*
- Advertising, defined very broadly, namely "*advertising correspondence and printed advertisements, advertising displays, advertisements in press publications, advertisements broadcast in movie theatres, advertisements issued by television or radio broadcasting services and by means of online communication services, as well as claims affixed to product packaging*".

The Decree defines the terms and conditions for advertisers to communicate on the carbon neutrality of their products or services.

The greenhouse gas emissions assessment report pertaining to the relevant product or service must cover the entire life cycle of such product or service, be drawn up in accordance with the requirements of the NF EN ISO 14067 standard (or any other equivalent standard) and be updated every year.

Concerning the greenhouse gas emissions reduction trajectory, the advertiser must publish on its online public communication site, or failing that on its mobile app., a summary report describing the carbon footprint of the product or service being advertised and the process by which these greenhouse gas emissions are first avoided, then reduced, and finally offset. The Decree then describes in detail the annexes that must be attached to this report.

Finally, concerning the methods for offsetting residual greenhouse gas emissions, the emission reductions and sequestrations resulting from offset projects must comply with the principles set out by Article L. 229-55 of the French Environmental Code (i.e., be measurable, verifiable, permanent and

additional). These projects must not be unfavourable to the preservation and restoration of natural ecosystems and their functions. Reductions labelled "*Low Carbon*" are deemed to comply with these principles. It should be noted that an advertiser may only display the words "*Offsetting carried out in France*", or any words of equivalent meaning or scope, if all of the offsetting projects are carried out in France.

The Decree applies to all advertisements broadcast as of January 1, 2023.

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