

Full title of law or regulation	<p>Bil Sweden (the Swedish Car Trade Association) Guidance on the use of environmental claims in the marketing of new passenger cars, trucks and buses (May 2012)  <a href="http://dp.hpublication.com/publication/f49a0f76/">http://dp.hpublication.com/publication/f49a0f76/</a>  English translation:  <a href="http://www.gregsregs.com/downloads/SWBilsEnvironmentENTS.pdf">http://www.gregsregs.com/downloads/SWBilsEnvironmentENTS.pdf</a></p>
Title of relevant section	Sections 4 and 5
Claims guidance	<p>Swedish Consumer Agency guidance states that the claim "Environmentally friendly" ("<i>miljövänlig</i>") should only be used if the product has a positive impact on the environment or that it does not affect it at all. It specifically states that a car cannot be called environmentally friendly; even if the car has low fuel consumption and the best converters available (i.e. vehicle emissions control device), it is still not environmentally friendly. The Market Court has dealt with many cases concerning the concept of "environmentally friendly" in advertising. The following key points can be made from those decisions:</p> <ul style="list-style-type: none"> <li>- Claiming that a product is "environmentally friendly" ("<i>miljövänlig</i>"), "nature friendly" ("<i>naturvänlig</i>"), or similar, gives the consumer the impression that the product is better for the environment than other similar products on the market.</li> <li>- There is also a risk that the average consumer will perceive a vague or imprecise claim/ expression as applying to a product's total environmental impact – with the result that the consumer is misled as to the product's environmental advantages.</li> <li>- The word "environmentally-friendly" ("<i>miljövänlig</i>"), can only really mean anything that improves / enhances (i.e. has a positive impact on) the environment or at least does not harm the environment. In order to use such a concept in advertising, one must be able to prove that the product, if one examines the "cradle to the grave", can improve/ enhance (make a positive impact on) the environment, or in any event does not harm / damage the environment.</li> <li>- Advertising for environmentally harmful products must only talk about the product's impact on the environment in comparison with other products in the same field (category) as well as provide an accurate overall picture.</li> <li>- The term "biodegradable" may only be used if all the ingredients in a product are biodegradable</li> </ul> <p>* Please also refer to Sections 4.2 and 4.3 in Bil Sweden Guidance that refers to relevant cases from The Swedish Market Court: <a href="http://www.marknadsdomstolen.se">http://www.marknadsdomstolen.se</a></p>
Case law	<p>MD 2004:4 - <b>The Consumer Ombudsman (KO) against Volvo Cars of Sweden Limited</b>  <a href="http://www.marknadsdomstolen.se/Filer/Avg%C3%B6randen/Dom04-04.pdf">http://www.marknadsdomstolen.se/Filer/Avg%C3%B6randen/Dom04-04.pdf</a></p> <p>Volvo was not able to substantiate the following claims: "A car that cleans the air of harmful ozone", "Up to 75% of all ozone passing through the radiator turns into oxygen" and "Cleaner Air." The advertiser has to be able to prove that the claim is correct. Otherwise it will be deemed to be unreliable and unfair. This decision illustrated that there is a high standard of trustworthiness when environmental claims are used in car marcoms. Volvo could not prove with adequate strength that the marketing conveyed to the consumer was trustworthy. Despite relying upon a evaluation by the Californian Air Pollution Control Authority to prove their case.</p> <p>MD 2004:12 - <b>The Consumer Ombudsman (KO) against the Ford Motor Company AB</b>  <a href="http://www.marknadsdomstolen.se/Filer/Avg%C3%B6randen/Dom04-12.pdf">http://www.marknadsdomstolen.se/Filer/Avg%C3%B6randen/Dom04-12.pdf</a></p> <p>The company used billboards to market Ford Focus Flexi-Fuel in which the following claims were made across three ads: "Best emissions ever" ("<i>Bästa utsläppen någonsin</i>"); "The first car that I wanted to hug" ("<i>Den första bilen som jag velat krama</i>") and "Best car ever driven past" ("<i>Bästa bilen som någonsin kört förbi</i>"). KO viewed the claims as</p>

---

sweeping and imprecise. They were found to be unsubstantiated and therefore unreliable and unfair. The onus lies with the advertiser to prove that all interpretations and impressions generated from marketing are consistent with the Marketing Act.

MD 2011:12; **The Consumer Ombudsman (KO) against Mercedes-Benz Sweden AB**  
<http://www.marknadsdomstolen.se/Filer/Avg%C3%B6randen/Dom2011-12.pdf>

This judgement came in two parts: **Firstly**, the company used the term “environmentally friendly” in an advert for a car which was deemed not to meet the requirements of precision and clarity – considered contrary to marketing practice under Section 5; as misleading under Section 10; and unfair under Sections 6 and 8 of the Marketing Act. There was a risk that a consumer would be capable of reading an additional meaning into the expression, other than that Mercedes intended.

**Secondly**, the company in a 73-page brochure regarding "The renewed A-class", had used the term "environmentally-friendly diesel engines", "help the environment" and "good for the environment". The court held that they were intended to be read in conjunction with the remainder of the brochure as a whole; the accounts provided by the company in connection with the expressions were deemed to contain adequate clarification in the context of the terms used, which described the car's benefits from an environmental standpoint (i.e. use of diesel particle filter DPF and Eco-start/stop function). As a result it was held the average consumer would probably have the perception that the car models would have a relatively reduced environmental impact and a lesser environmental impact than other vehicles of comparable size class. The environmental assertions were therefore perceived as having a relative meaning and gave an impartial yet complete picture of the vehicle models' environmental advantages.

---

#### Bil Sweden guidance

Whilst the Consumer Agency advises against the use of the generic term, “environmentally friendly” in car marcoms, the Bil Sweden Guidance does provide direction on when such an expression might be used. The key point (s.4.2):

- General expressions such as “environmentally friendly” must be qualified – meaning that the limitations of that expression must be clarified (i.e. put into context)

- Expressions such as “environmentally friendly” can be used but only on condition that they indicate clearly and distinctly the environmental advantages associated with that particular marketed model of car. The specification (i.e. explanatory statement/qualification) must be clearly prominent, easily understood and placed in immediate proximity with the expression to be qualified. Otherwise, the specification is to be placed so that it is read together with the expression.

**\*\*** See also ICC Guidance on the issue – which calls for advertisers to either avoid or appropriately qualify such general claims. (The ICC Code on Advertising and Marketing Communication Practice – defines the term “qualification” as an explanatory statement that accurately and truthfully describes the limits of the claim. (In Section E))

**\*\*\*** The international standard ISO 14021 confirms that virtually all environmental claims must be specified and clarified in the advertising message; that the use of vague and non-specific claims or those that make broad implications such as “environmentally safe,” “environmentally friendly”, "green", "nature-friendly", “ozone friendly”, etc, shall not be used because they are misleading (Clause 5.3 in the Standard)

---