

Newsletter **ESG Update**

Climate Claims in Commercial Communication – The New Legal Landscape

The Swiss Regulator has taken steps to combat greenwashing more specifically. The entry into force of the new Art. 3 para. 1 let. x of the Swiss Unfair Competition Act on 1 January 2025 raises the bar for commercial communications related to the climate impact of companies, their products and services.

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Raising the Bar on Climate Claims: Switzerland's New Greenwashing Rules Take Effect in 2025



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The new Art. 3 para. 1 let. x of the Swiss Unfair Competition Act, which comes into force on 1 January 2025, sets stricter standards for climate-related claims in commercial communications. To ensure compliance with the new requirements, companies making claims such as “climate friendly”, “CO₂ neutral” or “net zero” must be able to substantiate them with objective and verifiable information.

I. Background

Greenwashing in commercial communications, including advertising, is primarily governed by the Swiss Unfair Competition Act (UCA). In addition, financial institutions and listed companies must adhere to the expectations of the Swiss Financial Market Supervisory Authority (FINMA), the Swiss Stock Exchange (SIX), and self-regulatory guidelines. Greenwashing exposes companies to both civil claims and risks of criminal liability. Allegations of unfair practices may be raised by any injured person, professional and trade associations as well as consumer protection organisations. The Swiss Confederation, usually represented by the Swiss Secretariat for Economic Affairs (SECO), may also initiate proceedings in the public interest.

The Swiss Commission for Fairness (SCF), a self-regulatory body of the advertising and communications industry, has recently seen an increase in complaints, particularly regarding climate claims (see our reports [here](#) and [here](#)). The SCF applies the ICC Framework for Responsible Environmental Marketing Communications and issued a specific guideline on commercial communications with environmental references and arguments last year (see our report [here](#)). Further, it is possible to report greenwashing to

SECO ([here](#)) or to the Foundation for Consumer Protection ([here](#)). In the majority of cases, the complaints were upheld and the companies concerned were advised to cease certain practices. Notably, the Foundation for Consumer Protection initiated **criminal proceedings** against a helicopter operator, alleging that the company had disregarded an SCF recommendation to cease making certain claims.

Although greenwashing has been debated in the Federal Parliament, Switzerland has not yet enacted any specific anti-greenwashing legislation. This contrasts with the stricter approach taken by the **European Union**, which has adopted amendments to the Unfair Commercial Practices Directive (see the Empowering Consumers Directive and the proposal for the Green Claims Directive). However, a new UCA provision (**Art. 3 para. 1 let. x UCA**) will come into force on 1 January 2025, specifying the existing legal framework in the context of climate claims. It was introduced as part of preparatory works for the CO₂ Act for the period after 2024.

II. The New Provision

Under the new provision, Art. 3 para. 1 let. x UCA, any person who makes a statement regarding the climate impact of themselves, their goods, works or services that cannot be **substantiated by**

objective and verifiable information acts unfairly.

(a) Scope

The scope of the provision is narrowly defined, addressing claims related to the **climate impact** of a company, product, or service. Frequently used climate claims include “climate neutral”, “CO₂ neutral”, “climate friendly”, or “net zero”, as well as forward-looking and comparative claims (e.g., “net zero by 2050”, “50% reduced emissions”). The new provision does not explicitly extend to broader environmental claims, such as those concerning biodiversity, ecosystem preservation, water conservation, or other ecological factors. However, it is conceivable that **more generic terms** such as “sustainable,” “green,” or “environmentally friendly” may fall within the provision’s scope, at least to the extent that they imply a climate-related dimension.

Further, the provision also covers climate-related statements made in sustainability reports (whether mandatory or voluntary), as well as any implied claims communicated through the use of colours, labels, or other visual or auditory cues.

(b) Impact

It is consistent with existing principles and practice under the UCA that commercial communications must be truthful and not misleading. By requiring climate claims to be substantiated with objective and verifiable information, the new provision clarifies the existing legal framework for climate-related claims. Such claims can only be considered truthful and not misleading if they are based on a **sound scientific basis** and a **generally accepted methodology** that enables a proper assessment of the reduced climate impact asserted. This arguably applies both to the terminology used in the claim itself (what does the term used, e.g. “climate neutral”, mean

according to climate science?) and the accuracy of its substantiation (has the climate information underlying the claim been properly assessed?).

Proper communication and content transmission is critical for a claim to be verifiable and substantiated. We expect that the new provision will raise the bar for climate claims and elevate the standards for their assessment, specifically with respect to evaluating whether the claims concerned are both i) sufficiently clear in terms of quality of communication and ii) sufficiently relevant and transparent in terms of content. In particular, this concerns the temporal aspect and scope of claims (e.g., whether they relate to a current or future state, the entire company, a specific service, a product or specific parts thereof). In our view, in order not to be misleading, a climate claim must provide a **comprehensive view**, meaning that the claim must consider the **entire value chain** of a company or the **full life cycle** of a product or service, accounting for both direct emissions (Scope 1) and indirect emissions from upstream and downstream activities (Scopes 2 and 3). For instance, a claim promoting a product as “climate friendly” that only considers the climate impact of the packaging, rather than the entire life cycle of the product, is misleading.

While the new Art. 3 para. 1 let. x UCA imposes a duty to substantiate claims, it does not technically reverse the (procedural) burden of proof. However, in practice, it is expected to have a similar effect.

III. Comments

The new provision requires companies and authorities to assess climate claims based on objective and verifiable information. In the coming months and years, it will become clearer what the new provision entails for commercial communications. The Federal Office for the Envi-

ronment is expected to issue authoritative guidance in Q2 2025.

To ensure compliance with the new provision and to adapt to evolving practices, companies are strongly encouraged to review their communication strategies and campaigns – not only for climate-related claims but for all sustainability-related statements. Ambiguous, vague, or unsubstantiated claims must be avoided. While the revised UCA does not prohibit climate-related claims, it raises the bar for their substantiation. The future of climate communications will focus on clear, accurate, and substantiated claims that reflect actual progress in reducing climate impacts. Companies should proactively address the growing risks of greenwashing by raising internal awareness, providing staff training and establishing a dedicated point of contact for climate-related claims.

Environmental, Social and Governance (ESG) & Sustainability have become key strategic issues for companies and their boards. The transition to more sustainable business practices presents both challenges and opportunities for companies. Walder Wyss can help you navigate the complex and rapidly evolving ESG & Sustainability landscape. [See here](#) for more information.

Walder Wyss Newsletters provide comments on new developments and significant issues of Swiss law. These comments are not intended to provide legal advice. Before taking action or relying on the comments and the information given, addressees of this Newsletter should seek specific advice on the matters which concern them.

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