Switzerland: Avoiding greenwashing risks in climate-related claims

Sylvia Anthamatten and Isabell Schellhas of Walder Wyss analyse how recent Swiss regulatory developments are shaping the rules for climate-related claims and increasing greenwashing enforcement risk

Climate-related claims have become a central feature of corporate communication across industries. At the same time, they are subject to increasing regulatory scrutiny and enforcement risk. In Switzerland, recent developments – in particular, the introduction of **Article 3(1)(x) of the Unfair Competition Act** (UCA) and the issuance of the Federal Office for the Environment (FOEN) **Enforcement Aid** (**unofficial English translation**) – have significantly raised the bar for such claims.

Companies now face a complex legal landscape in which climate-related claims must not only be accurate but also supported by objective and verifiable criteria. This increases the risk of greenwashing allegations and creates uncertainty as to compliant climate-related communication. At the same time, the FOEN Enforcement Aid seeks to enhance legal certainty by clarifying the applicable standards, thereby reducing the risk of companies refraining from climate-related communication altogether – a phenomenon often referred to as 'greenhushing'.

This article examines the legal framework governing climate-related claims under Swiss law, focusing on the practical implications of the UCA, regulatory guidance, and commonly used claims such as 'carbon neutral' and 'net zero'.

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Legal framework

Greenwashing in the context of climate-related claims – also referred to as 'climate-washing' – describes practices that create a misleading impression of the climate-related benefits or impact of a product, service, brand, or organisation. While these concepts are increasingly recognised, their precise contours remain inconsistent across jurisdictions, and Swiss law does not provide for specific legal definitions.

Instead, misleading claims are primarily addressed through the principles of unfair competition law; in particular, the prohibition of misleading commercial practices under the UCA. Additional requirements may arise from product- or sector-specific regulation and relevant self-regulatory frameworks.

Financial institutions and listed companies must also comply with applicable standards set by the **Swiss Financial Market Supervisory Authority** and the **SIX Swiss Exchange**. In addition, large companies are subject to non-financial reporting obligations under Swiss law, which may give rise to climate-related claims that fall within the scope of the UCA.

UCA

Since January 1 2025, Article 3(1)(x) of the UCA provides that a person acts unfairly if they make claims about their climate impact, or that of their goods or services, that cannot be substantiated with objective and verifiable criteria.

This provision applies to claims relating to the climate impact of a company, product, or service. Its scope is limited to such climate-related claims and does not expressly extend to broader environmental assertions, which remain subject to the general prohibition of misleading commercial practices under Article 3(1)(b) of the UCA.

In practice, this requires that climate-related claims be based on a credible scientific foundation and supported by generally recognised methodologies. Further guidance on these requirements is provided by the FOEN (see sections 3 and 4 below).

This provision effectively places the burden of substantiation on the entity communicating a claim. While it remains debatable whether this constitutes a formal reversal of the burden of proof, the evidentiary risk in practice lies with the company making the claim.

Specific regulatory law

Various administrative law provisions aimed at preventing consumer deception complement the UCA by regulating the use of specific terms in commercial communications, particularly in relation to environmental or climate-related claims. Examples include the **Federal Act on Foodstuffs and Utility Articles** and the **Ordinance on Organic Farming and the Labelling of Organically Produced Products and Foodstuffs**. While these regimes are formally distinct, they pursue similar objectives and may influence the interpretation of climate-related claims in practice.

Self-regulation

The **Swiss Fair Trading Commission (SLK)**, a self-regulatory body of the advertising and communications industry, applies its **Principles of Fairness in Commercial Communication**, which are rooted in Swiss law, alongside the **ICC Advertising and Marketing Communications Code**, thereby establishing recognised ethical standards for assessing environmental and climate-related claims in advertising practice.

In 2023, the SLK issued dedicated **guidance on commercial communications containing environmental or climate-related references**, specifically addressing greenwashing. Its relevance must, however, be considered in light of the introduction of Article 3(1)(x) of the UCA and the Enforcement Aid issued by the FOEN, which provide more detailed guidance on climate-related claims.

Practical guidance

The practical application of Article 3(1)(x) of the UCA has been further clarified by the FOEN in its Enforcement Aid issued in March 2026, building on its mandate under the **CO_2 Act** to establish principles and standards for assessing climate impact.

The FOEN Enforcement Aid outlines the key requirements for climate-related claims under the UCA; in particular, the standards of objectivity and verifiability. It also identifies relevant methods and benchmarks recognised under Swiss law, as well as certain private standards and voluntary frameworks.

The FOEN Enforcement Aid aims to promote a consistent application of the law and to enhance legal certainty for market participants. It is intended for authorities, companies, advisory firms, courts, and self-regulatory bodies such as the SLK. While not legally binding, it provides authoritative guidance and is likely to play a significant role in shaping the assessment of climate-related claims in practice.

General principles

Climate-related claims must meet requirements relating to both the quality of communication (formal criteria) and the integrity of their content (substantive criteria).

As regards the formal criteria, claims must be clear and intelligible, allowing recipients to understand their scope (for example, whether they relate to a specific component or to the company as a whole) and whether they concern present or future circumstances; in particular, whether they describe current performance or future targets (clarity and comprehensibility). They must be applied consistently and avoid ambiguity (consistency). Where comparisons are made or implied, the underlying basis therefore must be transparently disclosed (comparability).

With regard to the substantive criteria, claims must be factually accurate (truth) and appropriate in scope and substance (adequacy). They should address material aspects of climate impact and must not emphasise minor improvements while the overall impact remains largely unchanged (relevance). In addition, claims must not create exaggerated or misleading impressions or omit information necessary for a proper understanding of the context (completeness). Finally, they must be supported by current data (up-to-dateness).

Importantly, these requirements also apply where climate-related claims are made in the context of mandatory disclosures, such as sustainability reports or transition plans.

Offsetting measures

In line with the hierarchy of measures under the **Climate and Innovation Act**, priority is given to reducing greenhouse gas (GHG) emissions. Offsetting, by contrast, typically involves the acquisition of GHG certificates (carbon credits) generated by projects that remove emissions or achieve reductions outside a company's value chain or a product's life cycle, and that are used to compensate for the company's own emissions.

Against this background, the use of offsetting to substantiate climate-related claims is subject to strict limitations:

- Product-related claims must not be based on offsetting measures – this is consistent with the approach taken under the EU Empowering Consumers Directive; and
- For company-level claims, a restrictive approach applies to emission reductions outside the value chain – however, the primary emphasis remains on reductions within the company's value chain.

Where permitted, offsetting measures are subject to stringent quality requirements. In particular, they must comply with the principle of subsidiarity, ensure a high level of environmental integrity, and prevent double counting. In the FOEN's view, these requirements are currently met only by national and international attestations issued under the CO2 Act.

Verification

The data underlying climate-related claims must be based on objective and verifiable criteria and supported by an appropriate methodology. Assumptions, reference periods, standards, and methods must be selected so as to reflect the specific characteristics of the relevant product or company and to avoid misleading outcomes.

Essential information must be presented in a manner that enables recipients to understand the claim. Additional details may be provided; for example, via web links or QR codes.

Swiss law does not require prior verification or third-party certification of climate-related claims – or labels, in contrast to developments at EU level. However, the requirement of clarity under the prohibition of misleading practices may require that key information necessary to understand the claim be disclosed alongside the claim, typically on the same medium.

Frequently used climate-related claims and case law

Climate-related claims can be broadly divided into two categories:

- Measurable claims, which contain a quantitative element or refer to a specific emissions-related target; and
- More broadly framed environmental claims.

The use and interpretation of such claims have been further clarified by the FOEN in its Enforcement Aid, which provides detailed guidance on how commonly used climate-related claims are to be understood and assessed under Swiss law. The overview below also takes into account relevant case law that pre-dates the issuance of the FOEN Enforcement Aid:

- Carbon-neutral/GHG-neutral – requires that, across the entire value chain, there is no net increase in carbon/GHG emissions. Emissions must first be reduced to the greatest extent feasible, with any remaining hard-to-avoid emissions fully offset through negative emissions, reflecting the approach set out in the FOEN Enforcement Aid. 'GHG neutral' extends beyond 'carbon neutral' as it encompasses all GHGs. Related to a carbon-neutral claim, the **Swiss State Secretariat for Economic Affairs (SECO)** found advertising for **CO_2-neutral skiing in St. Moritz** to be misleading, as travel emissions had not been taken into account.
- Net zero (e.g., 'net zero by 2040') – refers, unless specified otherwise, to all GHGs and presupposes that residual emissions in the target year are fully offset. The claim must clearly relate to a future state and be supported by a credible emissions reduction pathway aligned with recognised climate targets, with the underlying roadmap made accessible.
- Climate-neutral/climate-positive – would require the identification and full offsetting of all climate effects, including those not attributable to GHGs, for which sufficiently robust scientific methods are currently lacking. Such claims are therefore generally not considered substantiable under current scientific standards and should not be used. This approach is consistent with Swiss case law, which, for example, held in the context of advertising by FIFA, football's world governing body, relating to the alleged **climate neutrality of the 2022 FIFA World Cup** that offsetting alone was insufficient.
- GHG-/CO_2-free – implies the complete absence of emissions and does

not allow for compensation. Such claims are therefore subject to particularly strict requirements and are, in practice, rarely achievable.

- Net negative/CO_2-positive/carbon-negative – denotes a net reduction in emissions beyond neutrality, achieved through additional negative emissions.
- Climate-/CO2-compensated – indicates that emissions have been offset through reductions or negative emissions. The extent and quality of the offsetting must be specified; otherwise, the claim implies full compensation.
- Climate-friendly/climate-conscious/climate-effective (or similar) – refers to efforts to minimise climate impact within the value chain and must not rely on external offsetting. In this context, the SLK has accepted phrases such as 'to reduce the impact on the climate' ("*Klima schonen*" ("protect the climate"), **SLK 141/22**, October 10 2023).

Furthermore, broadly framed environmental claims – such as 'environmentally friendly', 'green', 'sustainable', or 'ESG' – may also qualify as climate-related claims where climate impact forms a material component of the asserted benefit. In the context of financial products and services, such claims generally require alignment with a recognised reference framework, as well as transparent and objectively verifiable targets. An improved ESG risk profile or financial performance alone is not sufficient to characterise a product as sustainable.

Liability and enforcement

In Switzerland, preventing greenwashing is addressed through a multi-layered framework combining civil, criminal, and administrative law measures, complemented by self-regulatory mechanisms.

At its core, the UCA enables the Confederation (through the SECO), as well as competitors, customers and relevant associations, to take action. Competitors may also seek damages or disgorgement of profits under the **Swiss Code of Obligations**. Misleading conduct may give rise to criminal liability, including custodial sentences of up to three years or financial penalties of up to CHF 540,000. Although criminal liability primarily attaches to the individual responsible, it may also extend to the business owner or employer. Administrative provisions on misleading practices may give rise to additional sanctions.

A complementary role is played by the SLK, which handles complaints from consumers, competitors, and consumer protection organisations. As a self-regulatory body, it has no formal investigatory powers and issues non-binding recommendations that are generally followed in practice. Where this is not the case, the SLK may publish its decisions and identify the parties involved. Even anonymised decisions can entail reputational risks, as media coverage may reveal the companies concerned.

Key takeaways on climate-related claims in Switzerland

The FOEN Enforcement Aid marks a further step towards greater legal certainty in the assessment of climate-related claims under Swiss law. At the same time, it raises the threshold for permissible claims by imposing more exacting requirements as to substantiation, transparency, and the use of recognised methodologies, reflecting a broader regulatory trend towards increased scrutiny of ESG-related communication, particularly in the climate context.

In particular, the restrictive approach to offsetting significantly limits the ability of companies to rely on such mechanisms to support climate-related claims, especially at product level.

Against this background, companies should review their communication practices and ensure that climate-related claims are carefully assessed, consistently applied, and supported by verifiable data. Particular attention should be paid to transparency regarding assumptions, methodologies, and any remaining uncertainties. Clear and factual communication – including disclosures on actual progress, existing challenges, and planned measures – will be key to maintaining credibility and mitigating legal and reputational risk.