

Climate-Related Marketing Claims in Switzerland: Towards Stricter Regulation and Enforcement

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1. Background

Given the stronger awareness of consumers regarding the potential impact of products on the environment, claims relating to the environment and sustainability are a frequently used marketing tool. But as in other jurisdictions, legal scrutiny of advertising with environmental claims (**Green Claims**) is increasing in Switzerland.

Switzerland is not part of the European Union (**EU**), and thus the proposed [EU Green Claims Directive](#) and the [Directive on Empowering Consumers for the Green Transition](#) (which entered into force in March 2024) do not apply to advertising in Switzerland (although they do impact Swiss companies marketing their products in EU countries).

There is no specific ban on greenwashing under Swiss law but the general principle of clarity and truth set forth in [Article 3\(1\)\(b\) Swiss Federal Act on Unfair Competition \(UCA\)](#) is primarily relevant for assessing Green Claims (apart from additional sector-specific legislation). This provision states that a company acts unfairly if it makes incorrect or misleading statements in respect of itself, its goods, or its services. The current law does not specify whether and how advertisers must substantiate a Green Claim. However, in civil proceedings, courts may shift the burden of proof for the factual accuracy of the claim onto the advertiser if appropriate (Article 13a UCA). In proceedings before the [Swiss Fairness Commission](#) (a self-regulatory body in the Swiss communications sector), the burden of proof for the factual accuracy of advertising claims already lies with the advertiser by default.

In the past years, Swiss authorities and consumers have become increasingly sensitive to incorrect or misleading Green Claims. This has led to repeated calls for tighter regulation against greenwashing, several legislative proposals, and a rise in legal proceedings against businesses (please also see our [Newsletter Green Claims: Proceedings in Switzerland](#)).

2. New Specific Provision on Green Claims

As of 1 January 2025, a new provision of the UCA specifically addressing Green Claims will come into force in Switzerland. The Swiss parliament enacted this new provision as part of the revision of the [Swiss Federal Act on Reduction of CO₂-Emissions \(CO₂ Act\)](#).

Pursuant to the new Article 3(1)(x) UCA, a company acts unfairly if it makes statements about itself, its goods, works or services regarding the climate impact caused, without being able to substantiate these claims with objective and verifiable evidence. A violation of this provision can lead to both civil and criminal consequences.

Some key observations on the new provision:

- **Statements about itself, its goods, works or services:** The provision covers any express or implied commercial communication (including by way of pictograms, labels, or product names). Importantly, a "*statement*" not only refers to a claim specifically advertising a product or service to consumers, but to any statement that could influence competition in the market. This includes, for example, statements made in press releases, interviews, or tender submissions. To the extent a company is subject to non-financial reporting obligations (which includes reporting on environmental matters, such as CO₂ targets; see [Article 964b Swiss Code of Obligations](#)), or voluntarily publishes a non-financial report, climate-related information contained in such a report falls under the new Article 3(1)(x) UCA.

- **Statements regarding the climate impact caused:** The new provision applies specifically to statements that relate to the "*climate impact caused*." This encompasses generic statements (e.g., "*climate neutral*," "*net zero*," "*carbon positive*"), but also more specific information, for example, about a company's emissions (e.g., "*emission reduced by 30%*"), or its carbon offsetting program. The new Article 3(1)(x) UCA does not prohibit, or impose a higher bar for, broad and generic statements (as long they are verifiable). On its wording, the new provision seems to not cover statements that are not directly related to a climate impact caused, but to the environment more generally (e.g., "*green*," "*sustainable*," "*environmentally friendly*"). However, this will depend on the context in which such statements are made and how they are likely understood by the average addressee. Statements relating to other (non-climate-related) Environmental, Social, and Governance (ESG) aspects do not fall within the scope of the new provision, but may nevertheless qualify as unfair competition under Article 3(1)(b) UCA if they are factually incorrect or misleading.
- **Substantiation by objective and verifiable evidence:** The new provision allows climate-related claims only if companies can properly substantiate them. The UCA does not specify under which (objective) methodology a statement must be verifiable. Companies should use recognized scientific methodologies, rely on accurate data, and adhere to relevant international standards. The newly added Article 39(4^{bis}) of the revised CO₂ Act allows for the Swiss Federal Office for the Environment to establish standards for determining the climate impact of companies and products. The new Article 3(1)(x) UCA also does not address the controversial issue of whether greenhouse gas offsetting can be used to support claims of climate neutrality, or whether any carbon offsetting must be disclosed as part of such claim.
- **No duty to provide information to the public:** While companies should make sure that they have objective and verifiable data to evidence their claim in case of a civil or criminal action, the new Article 3(1)(x) UCA does not require companies to make such information publicly available. Additionally, there is no legal duty to have climate-related claims verified by any government authority or independent institution.
- **General requirements of clarity and truthfulness:** Although not expressly stated in the new provision, marketing claims must be clear and accurate. Hence, when making an advertising claim about the climate impact caused, companies should specify what the claim pertains to (e.g., the product itself, its packaging, the manufacturing process, the product's entire life cycle, the company offering the product). The guidelines published by the International Chamber of Commerce ([ICC Framework For Responsible Environmental Marketing Communications](#)) and by the Swiss Fairness Commission ([Guideline on Commercial Communication Regarding Environmental Aspects](#)) provide useful guidance in this respect.

3. Outlook

False or misleading advertising claims regarding the climate impact caused by a product are already considered "*unfair*" under the Swiss laws in place. Hence, the new provision on climate-related advertising claims only slightly increases the litigation risk profile for companies. What is new is that it explicitly provides that the company making a climate-related claim bears the burden of proving its factual accuracy. Courts will likely also be inclined to shift the burden of proof to the advertiser for the accuracy of non-climate-related Green Claims that do not fall under the new provision (see Article 13a UCA).

Given the increased appetite to take legal action against unfounded green advertising (including by Swiss consumer organizations and the Swiss State Secretariat for Economic Affairs), the number of legal proceedings relating to Green Claims will continue to rise. Most complaints against unjustified Green Claims will continue to be brought before the Swiss Fairness Commission, due to the low-cost nature of such proceedings. There will likely also be a rise in court cases in this field. It is thus key that

companies ensure that they are able to prove the factual accuracy of any Green Claims, including in particular climate-related marketing claims.

On a broader level, the new provision underscores Switzerland's commitment to encouraging companies to genuinely invest in and advertise efforts to combat climate change, while also empowering consumers to make more sustainable choices.