

Joint Open Letter to Aviation Sector on the use of Environmental Claims in Marketing to Consumers

1 INTRODUCTION

1.1 Purpose

The International Consumer Protection and Enforcement Network (ICPEN), a worldwide network of more than 70 consumer protection authorities, is sending this joint letter to advise traders¹ in the aviation industry to review their commercial practices and ensure that their environmental claims comply with consumer protection law.

The global aviation sector is responsible for an estimated ~3% of the annual net emissions of carbon dioxide produced by human activity, and additional non-CO2 warming effects.² Given the sector's present emissions and projected future growth, the introduction of measures to reduce emissions is critical.

The aim of this letter is to raise standards in the way that the aviation industry makes environmental claims to ensure that consumers are able to make informed choices based on claims that are accurate and clear, relevant in the context of a product or service, and based on reliable and scientifically-based evidence. Giving consumers greater confidence to identify those airlines that they consider to be making the greatest effort to reduce emissions will help to drive innovation and investment in more sustainable technology within the aviation industry. This drive to innovate and invest will also help the aviation industry to achieve climate goals set for the sector.

This letter focuses on consumer protection issues. When marketing or otherwise communicating with consumers, aviation industry participants must adhere to applicable consumer protection laws, and also industry-specific statutory or regulatory requirements.

This letter is without prejudice to any other legal issues or terms that national authorities may want to raise or may have raised in national proceedings.

1.2 Action for the industry

ICPEN advises traders to review their environmental marketing practices to ensure compliance with consumer protection law. In particular, ICPEN encourage traders to:

¹ 'Trader' means a natural or legal person acting for purposes relating to that person's trade, business, craft or profession, whether acting personally or through another person acting in the trader's name or on the trader's behalf.

² D.S. Lee et al., *The Contribution of Global Aviation to Anthropogenic Climate Forcing for 2000 to 2018*, 244 Atmos. Env. 117834 (2021). Available at: <https://www.sciencedirect.com/science/article/pii/S1352231020305689>.

- Ensure any claims made are truthful, clear and accurate
- Make environmental claims only when they have sufficient evidence to support the claim;
- Refrain from using vague and general claims;
- Focus on environmental or social measures only when significant to the environmental impact of the airline's operations as a whole;
- Instead of making claims about future aspirations, focus on the specific measures already taken or currently being undertaken to reach these goals;
- Where a claim requires action by the consumer, and this is not readily apparent, explain clearly what action needs to be taken;
- Ensure that sustainability claims that reference the use of carbon offsets and/or alternative fuels (including sustainable aviation fuels³) are transparent, accurate, and, at a minimum, adhere to widely recognized quality standards;
- Sustainability claims should not create a misleading impression about the overall impact of the airline or the act of flying. For example, if a business is making an environmental claim based only on offsetting and it has not actually reduced its carbon emissions, this should be made clear to the consumer. See paragraph 2.3 for further examples.

2 MARKETING PRINCIPLES APPLIED TO PRACTICES IN THE AVIATION INDUSTRY

2.1 Environmental claims

Making environmental claims is the practice of suggesting or implying that a product or service has a positive or no negative impact on the environment, is less damaging to the environment than other products, or has improved its impact over time. Such claims are subject to consumer protection and marketing laws.

Enforcement authorities can assess whether such claims are presented accurately and truthfully, and whether the claim can be substantiated with appropriate evidence. Authorities will also look at not just what is explicitly claimed, but also the overall impression of the content, including other contextual information such as implications created by imagery, symbols, colour choice, product names, packaging, and other elements. For example, the use of green imagery, such as trees and leaves, without an explicit claim could also mislead consumers.

Sections 2.2-2.5 address specific practices ICPEN authorities consider especially problematic in the aviation industry. Section 2.6 addresses the requirement to substantiate environmental claims with appropriate evidence.

³ Sustainable aviation fuel includes fuels that are derived from renewable or waste feedstocks and which achieve specified sustainability criteria. There are a variety of SAF criteria and definitions, such as those referenced in the latest edition of Annex 16, Volume IV of the Convention on International Civil Aviation, done at Chicago December 7, 1944 or Article 3(7) of the ReFuelEU Aviation Regulation.

2.2 Vague and general claims

Marketing should not in its presentation exploit consumers' concern for the environment, nor the fact that the average consumer may not easily understand the impact of environmental measures in a larger context.

The use of vague and general terms in marketing of airlines can mislead consumers into believing that the airline has a lower environmental impact than it actually has, or no negative impact at all. Therefore, claims should be presented in a way that is clear, specific, accurate and unambiguous, both in its factual description and in what is implied.⁴ This includes using clear, non-exaggerating language and visual elements, being clear about the limitations of the claim and any associated uncertainty, and linking the claim only to the product or service, or part thereof, that is relevant to the claim. For example, merely suggesting that an airline is "green" or "sustainable" is vague. Highlighting the specific measures taken to reduce the airline's overall emissions would be more likely to address issues of vagueness or generality.

2.3 Overstating environmental measures

Airlines should not exaggerate the environmental qualities of the services they provide or highlight irrelevant aspects or marginal improvement of the product or service's environmental impact. It is important that improvements made by the airlines are marketed in a way that is relevant to the overall impact of the airline. For example, claims that imply that an airline is more *sustainable* because single-use plastics have been reduced or eliminated during in-flight service are likely to be misleading, as this does not significantly change the airline's total environmental impact. Such claims should not be given undue emphasis in any marketing.

Environmental claims should focus on significant improvements in meaningful areas.⁵ Consumers can struggle to contextualise environmental claims, so claims regarding insignificant improvements can mislead consumers. Claims should therefore be appropriately contextualized by the overall environmental performance of the relevant product or service. For example, when sustainable aviation fuel constitutes a small fraction of an airline's fuel supply, a general claim that "all our flights fly on sustainable aviation fuels" could be mis-interpreted by consumers to mean that each flight is using 100 % sustainable aviation fuel.

2.4 Carbon offsetting

There are a number of situations in which an airline may engage in offsetting:

- through compliance markets (e.g. such as CORSIA);

⁴ See for example the European Union (EU) [Commission Notice: Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market](#), p. 75.

⁵ See for example the United Nations (UN) [One Planet Guidelines for Providing Product Sustainability Information](#), p. 22.

- purchasing offsets voluntarily as part of its sustainability strategy;
- offering consumers the opportunity to purchase offsets.

Information about offsetting schemes should be presented to consumers clearly and unambiguously, regardless of whether such schemes are voluntary or mandated. The information seen in marketing now is often limited and can potentially mislead consumers about the schemes' environmental impact. An example of marketing that can be misleading due to being too vague is "Protect the environment - offset CO₂" or "Climate neutral air travel". Traders should make it clear what a net-reduction means, as this can be difficult for the consumer to understand.⁶

The effects of the offsetting schemes should be documented. Traders should be able to provide evidence that carbon offsets represent emissions that are additional, permanent, issued against a conservative baseline, quantified, monitored, reported and verified, have a clear and transparent chain of custody, are not double-counted, double-claimed, or double-issued, and avoid projects that cause social or environmental harm.

Limitations and uncertainties should be communicated. Carbon offsetting schemes often rely on predictions of future absorption of emissions, which are uncertain. If a measure has a positive effect on the environment that will come to fruition only in the future, marketing of the measure should not be framed in a way that could be perceived as having an instant or already-achieved impact.

For consumers to make informed purchasing decisions, they should be presented with information, prior to purchase, about the projects towards which they are paying and how the projects may offset emissions from the flight. For example, it is important to provide consumers with information explaining to which projects they will be contributing, how long it will take before the emissions from the flight are fully offset, and who is responsible for the fulfilment and monitoring of the project.

Furthermore, the marketing should clearly indicate that carbon offsetting does not have a direct impact on the consumer's flight, and as such does not eliminate the emissions from fuel combustion. Using claims such as "Eliminate your emissions – offset your travel" may mislead consumers. Instead, the consumer should be given accurate information about what carbon offsetting will contribute to, and how this relates to the airline's overall emissions.

When the financial responsibility for carrying out environmental measures, such as purchasing carbon offsets or Sustainable Aviation Fuel, rests on the consumer, these measures should not be marketed as measures made by the airline, other than as a facilitator.

⁶ Behavioural research commissioned by the Netherlands Authority for Consumers and Markets (ACM) suggests that consumers struggle to understand climate compensation claims:
<https://www.acm.nl/system/files/documents/acm-publishes-behavioral-research-into-co2-compensation-when-purchasing-airline-tickets.pdf>.

2.5 Future aspirations

Instead of making claims about future aspirations, such as becoming “climate neutral”, ICPEN encourages businesses to focus on the specific measures they are already taking to reach these goals.

Claims about what will happen in the future are uncertain by nature. This can make it difficult to formulate marketing claims about future goals and visions that are sufficiently precise and balanced. Focus should be on the measures already or soon-to-be put in place that are significant in achieving the goal.

Like any other environmental claim, future aspirations should be supported by sufficient evidence. Traders should therefore have clear and well-defined plans for achieving these goals, with concrete targets and timeframes. Aspirations should be realistically achievable based on the airline’s operations, through the use of technically feasible and verifiable methods.

2.6 Substantiation requirements

A trader should be able to substantiate all claims, whether explicit or implied, with appropriate evidence.

Highly technical and complex claims, such as claims regarding environmental impact, should be supported by scientifically robust and reliable evidence based on recognised methodologies.⁷ The evidence should be verifiable by competent authorities.

The evidence should be proportionate to the scope of the claim. The more vague the claim, the more likely it is to imply that the whole of a product or service is sustainable etc. so the amount of substantiation required is likely to be extremely high, if not prohibitive. If the claim is specific, then substantiation will only be necessary for that specific element. For example, a claim that an airline recycles its uniforms will be easier to document, due to being a specific claim, than a vague claim such as “fly sustainably” that will require the airline to document that they have little to no negative impact on the environment through a life cycle analysis of the whole of their service.

The documentation should cover the entirety of the claim during the relevant marketing period. This means that if circumstances, recognised scientific consensus, or the marketing itself is changed, traders must consider if the underlying documentation still supports the claim in its entirety. If expert studies give rise to significant disagreements, or reasons to doubt the underlying evidence, traders should refrain from making the claim altogether.

⁷ See for example the International Chamber of Commerce (ICC) [Advertising and Marketing Communications Code](#), p. 40-41.

If a claim does not relate to a specific measure, but implies a general improvement of the whole airline's operations, this should be substantiated with evidence that take the entire life-cycle of the airline into account. For example, claims that imply that the use of SAF reduce emissions by a set amount, should be based on a life-cycle analysis of the fuel used that take all relevant impact categories into account, not only CO₂-emissions.

2.7 Sustainable Aviation Fuel (SAF)

The use of sustainable aviation fuels (SAF) is currently regarded by the aviation sector as one of the most effective means to reduce its net carbon emissions over the next few years. Given the importance of SAF to the aviation industry's current ambitions to reduce emissions, it is especially important for consumers to be able to trust airlines' claims regarding SAF.

Under consumer protection law, any claims about the use of SAF should be clear and accurate, and in particular should not mislead consumers into believing that the use of SAF can or does make flying completely sustainable. Airlines should ensure that claims about the use of SAF follow the general principles outlined in this letter.

Claims about the use of SAF should also be carefully calibrated to ensure that the consumer understands the extent of emissions reduction achieved through their use. As noted above, claims that suggest that an airline is "flying with sustainable aviation fuel" or "flies with more sustainable aviation fuel than any other airline" could mislead consumers without more detail. To avoid misleading consumers, traders should provide additional information, such as by contextualizing the amount of fuel (e.g., through reference to total fuel usage) and the amount of emissions reduction achieved per unit of fuel. In addition to this, traders can provide further documentation on their use of SAF on their website, as long as this information is not in itself necessary for consumers to understand a claim.

To ensure that the emission reductions associated with any particular batch of sustainable aviation fuel are not claimed by multiple parties, market participants should adhere to best practices for ensuring chain of custody and avoidance of double counting, double claiming, and double issuance.

3 ENGAGEMENT WITH ICPEN

We welcome the opportunity to engage with businesses and other stakeholders who wish to discuss the contents of this letter. Further inquiries should be directed to ICPEN-Secretariat@cb-bc.gc.ca.

Yours sincerely,

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