**Decree No 2022-539 of 13 April 2022 on carbon offsetting and claims of carbon neutrality in advertising**

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JORF No 0088 of 14 April 2022
Text No 17

Target audience: advertisers.
Subject: detailed rules for the implementation of communications, by advertisers, of carbon neutrality indications on products and services, provided for in Article 12 of Law No 2021-1104 of 22 August 2021 on combating climate change and strengthening resilience to its effects.
Entry into force: the text shall enter into force on 1 January 2023.
Notice: the Decree sets out the detailed rules for communications by advertisers on the carbon neutrality of their products or services. It also provides for counterclaims to these claims, in order to ensure transparency vis-à-vis the public and to prevent any risk of greenwashing. It applies to all advertisements broadcast after the text enters into force.
References: the Environmental Code modified by the Decree can be consulted, in its drafting resulting from this amendment, on the website of Légifrance (https://www.legifrance.gouv.fr).

The Prime Minister,
On the basis of the report by the Minister for the Ecological Transition,
Having regard to Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, and in particular notification No 2021/904/F;
Having regard to the Environmental Code;
Having regard to Law No 2021-1104 of 22 August 2021 on combating climate change and strengthening resilience to its effects, and in particular Articles 12 and 147 thereof;
Having regard to Decree No 97-1198 of 19 December 1997 implementing the first paragraph of Article 2 of Decree No 97-34 of 15 January 1997 on the deconcentration of individual administrative decisions to the ministers responsible for ecological and solidarity transition, territorial cohesion and relations with local and regional authorities;
Having regard to Decree No 2020-457 of 21 April 2020 on national carbon budgets and the national low-carbon strategy;
Having regard to the observations made during the public consultation carried out between 20 January 2022 and 10 February 2022, pursuant to Article L. 123-19-1 of the Environmental Code;
Decrees:

**Article 1**

Chapter IX of Title II of Book II of the Environment Code is supplemented by Section 9 as follows:

‘Section 9
‘Environmental claims

‘Article D. 229-106. - An advertiser who claims in an advertisement that a product or service is ‘carbon neutral’, ‘zero carbon’, ‘with zero carbon footprint’, ‘climate neutral’, ‘fully offset’, ‘100 % offset’ or uses any wording of equivalent meaning or scope shall comply with the provisions of this Section.
‘This Section applies to advertising correspondence and printed advertising matter, advertising posters, advertisements in press publications, advertisements in cinema, advertisements broadcast by television or radio broadcasting services and by means of online communication services, as well as to claims on product packaging.

‘Article D. 229-107. - An advertiser referred to in Article D. 229-106 shall produce a greenhouse gas emissions balance sheet for the product or service concerned covering its entire life cycle. This balance sheet shall be updated annually.
‘This balance sheet shall be worked out in accordance with the requirements of standard NF EN ISO 14067, or any other standard equivalent to the requirements of that standard. An order of the Minister responsible for the environment may supplement these requirements in order to bring the methodology of the emissions balance sheet in line with that of the environmental signage provided for in Article L. 541-9-11 of this Code.

‘Article D. 229-108. - The advertiser referred to in Article D. 229-106 shall publish on its online public communication site or, failing that, on its mobile application, a summary report describing the carbon footprint of the product or service advertised and the means by which these greenhouse gas emissions are primarily avoided, then reduced, and finally compensated for. This report shall contain three annexes detailing its contents and presented in the following order:
‘(1) An annex setting out the results of the balance sheet provided for in Article D. 229-107 and a summary of the methodology use for drawing up that balance sheet. That summary shall specify in particular the scope used for the definition of the product or service concerned, the functional or declared units used, the boundaries of the system in question, the method of processing the end-of-life stage, the emission data taken into account for electricity or gas consumed from the networks. It shall specify the country(ies) or geographical area(s) in which emissions and emissions from international transport take place, to the extent that such data are available;
‘(2) An annex setting out the target trajectory for reducing greenhouse gas emissions associated with the product or service advertised, with quantified annual progress targets, covering at least the ten years following the publication of the report under this Section. An updated trajectory covering a further period of 10 years shall be established every 5 years following the publication of the first report under this Section;
‘(3) an annex detailing the procedures for offsetting residual emissions, specifying in particular the nature and description of the compensation projects. This Annex also presents information on their cost, by classifying them according the following categories: less than 10€/tCO2, between 10 and 40€/tCO2 or above 40€/tCO2. This Annex demonstrates that the volume of emissions reduced or captured through this compensation corresponds to the residual emissions of all the products or services sold and affected by the advertising. This annex also specifies the means implemented by the advertiser in order to ensure that it does not double count the compensation enabled by these projects. In particular, it sets out the methods for removing emission reductions and captures from the market when offsetting credits are used. Finally, this annex details the efforts made to ensure the best possible coherence between the geographical areas where the projects are carried out and where the emissions take place.
‘This publication shall be updated annually throughout the marketing period of the product or service during which the advertiser claims in an advertisement that the same product or service is carbon neutral or uses any wording of equivalent meaning or scope. In particular, the update makes it possible to monitor the evolution of emissions associated with the product or service in comparison with the reduction path mentioned above. The advertiser thus withdraws the claim referred to in Article D. 229-106 if it appears that unit emissions associated with the product or service before compensation have increased for two successive years.
The web link or quick response code to access this publication is indicated on the advertisement or packaging with the claim of carbon neutrality.

‘Article D. 229-109. - Emission reductions and captures resulting from compensation projects used by the advertiser referred to in Article D. 229-106 shall comply with the principles laid down in Article L. 229-55 and its implementing texts.
Compensation projects must not be detrimental to the preservation and restoration of natural ecosystems and their functionalities.
‘The emission reductions recognised under Decree No 2018-1043 of 28 November 2018 establishing a ‘Bas Carbone’ (Low Carbon) label are deemed to comply with the two preceding paragraphs.
‘Advertisers may affix the words ‘Compensation carried out in France’, or any mention of equivalent meaning or scope, only if all compensation projects are carried out in France.’

**Article 2**

This Decree shall enter into force on 1 January 2023.
Until 31 December 2025, the financing of projects in the EU Members States is equivalent to the allocation to the advertiser for emission reductions and captures in accordance with the provisions of Article D. 229-109, if the advertiser can justify by a contract the eventual recognition of the benefit of the checked and validated emission reductions and captures of that project. The advertiser shall ensure compliance with its emissions offsetting obligations, where appropriate by acquiring additional carbon credits corresponding to the difference between the checked and validated emission reductions and captures of that project and those funded.

**Article 3**

The French Minister for the Ecological Transition shall be responsible for the implementation of this Decree, which will be published in the Official Journal of the French Republic.

Done on 13 April 2022.

Jean Castex
By the Prime Minister:

The Minister for the Ecological Transition,
Barbara Pompili