

Carbon neutral claims

1. What does 'carbon neutral' mean?

Carbon neutral claims are used to convey a message about the volume of carbon emissions associated with a particular thing, most often a product or an organisation. If a wine or a winery claims to be 'carbon neutral', then the net emissions associated with that wine or winery must be zero. Carbon neutral does not mean that there are no carbon emissions at all associated with a product or organisation, and care should be taken not to suggest that this is the case.

2. What laws apply to carbon neutral claims in Australia?

Like all advertising, carbon neutral claims (and environmental claims more broadly) must comply with the Australian Consumer Law. This means that they must not be false, misleading or deceptive. Care should be taken when using broad terms that are capable of multiple meanings – for example: 'green', 'carbon friendly', 'carbon compensated' and 'environmentally safe'.

The Australian Consumer Law is enforced by the Australian Competition and Consumer Commission (ACCC). The ACCC has a broad range of powers including the power to initiate court proceedings seeking significant pecuniary penalties where a false or misleading representation has been made in advertising. Private citizens (including competitors and consumer associations) may also initiate legal proceedings for a contravention of the Australian Consumer Law.

3. What is the AANA Environmental Claims Code?

There are a number of self-regulatory advertising codes that may apply to carbon neutral claims when used in advertising. This includes, most relevantly,

the Australian Association of National Advertisers [AANA Environmental Claims Code](#), which provides a set of broad principles in relation to environmental claims, including carbon neutral claims.

Complaints under the Environmental Claims Code (the Code) are determined by Ad Standards in response to consumer complaints. There are no civil or criminal consequences for a contravention, but Ad Standards can direct an advertiser to withdraw or modify an advert that it deems to be non-compliant with the Code. Determinations made by Ad Standards are not legally binding, but they tend to be followed in practice.

4. Do I need to get certified to make a carbon neutral claim?

There is currently no legal requirement to become certified before making a generic 'carbon neutral' claim in Australia. The only legal requirement is that the claim is not false, misleading or deceptive in contravention of the Australian Consumer Law.

Certification to a reputable standard can, however, provide a useful mechanism for substantiating a carbon neutral claim and can therefore help mitigate the risk of contravening the Australian Consumer Law.

5. What standard/s apply to carbon neutral claims?

There are no mandatory standards for carbon neutral claims in Australia. There are, however, several voluntary Australian and International Standards.

These include PAS 2050:2011 (Specification for the assessment of the lifecycle of greenhouse gas emissions of goods and services), PAS2060:2014 (Specification demonstration of carbon neutrality)

and the Climate Active Standards administered by the Australian Government.

Businesses that wish to get certified to these standards typically engage a private carbon solutions provider to help them achieve certification, or they can apply to the Australian Government Department of Environment and Energy to get certified to the Australian Government's Climate Active Standards.

6. Some wines and wineries display a 'Climate Active' logo. What is Climate Active?

In 2010, the Australian Government launched the Climate Active Carbon Neutral Standards administered by the Department of Environment and Energy (the Department). To date, the Australian Government has released five different Carbon Neutral Standards that set best practice guidelines for becoming carbon neutral. Businesses can either self-certify against the relevant standard or apply to the Department to get certified.

The Climate Active Standards are currently the only government endorsed standards for 'carbon neutral' in Australia. The Climate Active Standards are based on the carbon accounting principles of the GHG Protocol (2004) and AS/ISO 14064 and ISO14040 series. There are some added benefits to becoming Australian Government certified under the Climate Active regime, including rights to use an official Climate Active logo in return for the payment of an annual certification fee and compliance with applicable licence terms.

7. How do I decide which Climate Active Standard(s) to follow?

When deciding what Climate Active Standard(s) to follow, careful consideration should be given to a range of factors, including:

- What do you want to promote as carbon neutral – for example, a wine product, a specific winery or cellar door, or an entire wine business?
- What carbon emissions data do you already have access to, and how easy or difficult is it to obtain carbon emissions data from third party suppliers?
- What are the requirements, if any, of your trade customers with respect to carbon emissions?
- Where are your end customers located? (noting that Australian specific certifications may not always be appropriate in overseas markets).

Businesses looking to obtain certification to a Climate Active Standard are encouraged to engage with the Department of Environment and Energy early in the process to ensure they have chosen the right Standard. Please also refer to question 9 below for further information about choosing the right Standard.

8. How do I calculate carbon emissions?

Before making a carbon neutral claim, the carbon emissions boundary needs to be clearly defined, and relevant carbon emissions within that boundary calculated. The scope of the boundary will vary depending on whether the carbon neutral claim relates to a wine (i.e. a product) or a winery (i.e. an organisation).

The Climate Active Standards provide comprehensive instructions for determining the boundaries of a carbon claim. For an organisation, the emissions boundary must include all emissions under the direct control or ownership of an organisation, as well as emissions they can strongly influence.

For a product, such as a bottle of wine, the emissions boundary should include all emissions across the product lifecycle, which will include carbon emissions outside of the wine maker's control. Ideally, this should include all emissions across the entire lifecycle, including emissions associated with product use and disposal.

9. Carbon neutral product versus carbon neutral organisation – which one should I choose?

Some wine businesses have chosen to certify to both the Product and the Organisation Climate Active Standards. This provides a high degree of flexibility as it generally allows carbon neutral claims to be made in respect of wine products (e.g. on packaging), as well as in respect of the winery.

If only certifying to the Climate Active Organisation Standard, care should be taken not to suggest that a particular wine or wine range is carbon neutral. It may, however, be possible to promote a particular wine as being made or bottled at a carbon neutral winery.

When deciding whether to certify to the product or organisation standards, consideration should be given to the emissions data requirements. Certifying a product as carbon neutral is typically more data intensive as it requires collection of emissions

data across the entire product life cycle, including emissions outside your control.

Please see question 7 above for more information about what to consider when deciding which Standard to follow.

10. What should I do if I don't have actual carbon emission data?

The Climate Active Standards ordinarily require emissions data to be calculated over a 12-month period (the 'base year'), before a carbon neutral claim can be made. However, it is acknowledged that emissions data may not yet exist. In those cases, the Climate Active Standards contemplate that base year data can be estimated or projected provided that any estimated data is representative.

When relying on representative emissions data, care should be taken to ensure that it is based on a 'like for like' comparison. It is also best practice to implement a data management plan that provides for a timely transition to actual data.

11. Do I need to calculate every single carbon emission, or can some emissions be excluded?

In each case, it is important to consider the requirements of the applicable Standard as well as the potential for a carbon neutral claim to be misleading or deceptive if certain emissions are excluded but not disclosed. The Australian Competition and Consumer Commission has specifically warned against making carbon neutral claims for products where the data does not include emissions across the entire product lifecycle.

Under the Climate Active Standards, carbon emissions are subject to the 'relevance' test. This means that certain carbon emissions are deemed to be relevant and must be calculated, while others will only be considered relevant if they meet certain prescribed criteria.

12. What are carbon offsets?

A carbon offset is a reduction in carbon dioxide or other greenhouse gas emission to compensate for emissions made elsewhere. Carbon offsets are purchased to offset (or cancel out) carbon emissions that remain after appropriate carbon reduction strategies have been implemented.

Not all carbon offsets are created equal, and it is important that carbon offsets are purchased from reliable sources. Unverified offsets may leave you

exposed to unsubstantiated carbon neutral claims in breach of the Australian Consumer Law. It is particularly important that carbon offsets are:

- real and genuine (i.e. they are actually produced, rather than just planned)
- additional to what would have happened in the ordinary course of things
- permanent, and
- retired or cancelled once purchased to avoid double counting.

See question 13 below for further information about buying carbon offsets.

13. Who should I purchase carbon offsets from?

If relying on carbon offsets to make a carbon neutral claim, care should be taken to only purchase carbon offsets from *reliable* sources.

If certifying to one of the Climate Active Standards, there are restrictions on who you can reliably purchase carbon offsets from to ensure that the offset units represent genuine and credible emission reductions. The Climate Active Standards provide a list of eligible offset units that have been assessed by the Department of Environment and Energy (the Department) as meeting the Standard's offset integrity principles. The Department's list is a useful guide even if not certifying to the Climate Active Standards.

There are also third-party service providers that conduct due diligence and can assist with identifying reliable carbon offsets.

14. What documents or reports do I need to prepare to substantiate a carbon neutral claim?

All data used to calculate, reduce and offset carbon emissions should be carefully documented and retained to ensure you are able to substantiate your claim if challenged.

Under the Climate Active Standards, businesses are also required to issue an annual report that includes certain mandatory information such as a summary of their carbon emissions over the year, details of the carbon offsets that have been retired/cancelled and a summary of what steps have been taken to reduce emissions. The annual report needs to be signed off by senior management and published on the business' website. If certified, the report will also be published on the Climate Active website.

15. Can I qualify a carbon neutral claim?

Where certain carbon emissions are not factored in, or the carbon neutral claim only relates to a specific part of the product lifecycle, there is the potential for a carbon neutral claim to mislead or deceive. While qualification may be possible, careful consideration should be given to the placement and prominence of any qualifying statement, particularly if claims are being made on product packaging.

16. Where can I find more information about going carbon neutral?

There are a number of online tools and resources available to assist wine businesses looking to achieve carbon neutrality. These include:

- The Australian Wine and Research Institute's [Carbon Calculator](#)
- The Climate Active Carbon Neutral Standard for [Products & Services](#)
- The Climate Active Carbon Neutral Standard for [Organisations](#), and
- The Climate Active [Technical Manual](#).

It is also possible to search the Climate Active website for businesses that have been certified to a Climate Active Standard and to view their Public Disclosure Statements.

Disclaimer

The information set out above is provided as a general guide and is not intended to be relied on as legal advice. Wine Australia recommends obtaining legal advice for any specific questions relating to carbon neutral claims.