

Carbon Neutrality – Look Before you Leap

So, after several approaches from the young lawyers in your firm, you have decided that someone needs to investigate becoming carbon neutral. After all, several other NZ law firms have announced it, and one major firm claims a carbon neutral summer clerk programme. But first you want to know how much it will cost, and how much effort it will take. You hand that information gathering exercise over to the young lawyers who lobbied you about climate change responsibilities at last week's drinks. Two months later they are back with the answers. They tell you that carbon neutrality for your medium-sized firm should cost only a few thousand dollars for some offset credits. In terms of effort, they've already done the calculations; having found a carbon calculator on the internet. You will have little trouble selling that to your partners given the benefits for recruiting young legal talent, and the obvious marketing potential in the wider market.

What it really means to be carbon neutral

There has been huge growth worldwide in the voluntary carbon emissions market, and carbon neutrality claims are increasingly being used as a marketing device. Airlines, banks, taxis, dental practices, real estate agents, sports tournaments and now even law firms are projecting 'green' by selling offsets (carbon credits) to their customers for products/services sold, or claiming carbon neutral status for themselves. As with many marketing exercises, however, reputational issues and even the law mean that how you undertake your carbon neutrality project, its scope, the types of offset units purchased, and your neutrality claims are very important. For credible carbon neutrality claims, both the calculations and the credits need to be appropriately verified.

Having advised a range of entities aspiring to and/or achieving carbon neutrality, we have compiled a brief user guide to doing it right because in this emerging and fast changing area it is so easy to do it wrong. There are

numerous risks: risks around the standards used; risks about the validity of different types of credits; and risks about obtaining verification from an entity not adequately qualified; and the more general risks of getting poor or no advice about achieving carbon neutrality. The starting point for any lawyer is a few definitions and reviewing the legal framework.

What is “carbon neutrality”?

Carbon neutrality is achieved when the volume of greenhouse gases (GHG) emitted into the atmosphere balances the amount absorbed by the environment. For most companies that means measuring your carbon impacts, reducing carbon emissions wherever possible, investing in projects that reduce GHG to account for the remainder of what is emitted or, more commonly, purchasing emissions units to cover the shortfall. Put simply, carbon neutrality has three steps: measure, reduce, offset. Measure your carbon emissions, reduce as much as you can, and then offset the remainder of your emissions.

Measuring your Carbon Footprint

An Internet search will reveal hundreds of ‘carbon calculators’ and if you enter your data you will get a different result each time. Selecting an appropriate methodology for measuring your carbon footprint is key to a robust carbon neutrality exercise. Future proofing is likely to be important in this fast changing area, so meeting an internal company standard that you create is unlikely to be sufficient. Rather, the best future proofing is offered by recognised independent verification standards.

At the moment there are quite a number of international standards. During the next few years the carbon emissions market is likely to settle on just a few standards. However, for law firms we suggest you work with the following:

- the GHG Protocol (developed by the World Resource Institute and the World Business Council for Sustainable Development, it provides a 2007 Corporate Accounting and Reporting Standard);

- ISO 14011 and 19011 (establish audit procedures for the planning and conduct of an environmental management system audit);
- the Voluntary Carbon Standard (VCS); and
- the Gold Standard Foundation.

If you are advising clients in different sectors, certain other standards may be more appropriate.

Developing a carbon emissions inventory is a useful reference point if it is part of a continuing process for emissions reducing activities. It is most convenient for companies to assess their inventories on an annual basis. Many companies, and even law firms, are surprised to learn that their calculations will need to be repeated, and offsets for carbon neutrality purchased, annually.

For the majority of law firms and companies focused on corporate activity, the calculations are not complex because the carbon activities are limited in scope and the data relatively easy to capture. In the absence of figures yet to be published by the Ministry for the Environment detailing the emissions factors to be used in your calculations, we recommend using the same emissions factors that the Government uses to calculate its New Zealand National Inventory.

Fundamental to getting the calculations right is understanding what should be included in those calculations - that is, the scope. There are three facets of carbon inventory scope:

- Scope 1 – Direct GHG emissions from sources that are owned or controlled by the reporting company;
- Scope 2 – Indirect emissions associated with the generation of purchased electricity, heat or steam; and
- Scope 3 – Other Indirect GHG emissions that are a consequence of the activities of the reporting company, but occur from sources owned or controlled by another company, including employee business travel

and commuting to and from work, transportation of products, materials and waste, and outsourced activities.

Adequately defining your scope is critical to withstanding criticisms of 'green wash' or green sheen'. The GHG Protocol suggests that companies should at least account for Scopes 1 and 2. Many New Zealand companies are going further and including some of the factors within Scope 3. In 2007, the Government announced its aims for a carbon neutral public service. Six Government agencies were tasked with starting the process, iteratively learning by doing. Those agencies are not including within their scope staff commuting or the embodied energy in buildings (the emissions released in producing the materials used in construction) and products. That approach is noted by the Ministry for the Environment to be consistent with the New Zealand standard for greenhouse gas emissions monitoring and reporting that is currently being developed. Future proofing New Zealand carbon neutrality projects for the compliance market likely to commence later in 2008 means it would be prudent to include all business travel.

Even with this guidance, some significant New Zealand companies would have difficulty justifying their present marketing claims of carbon neutrality if their scope(s) came under close scrutiny. While not yet a problem here, misleading advertising relating to carbon neutrality claims is attracting law suits overseas. For example, the Australian Competition and Consumer Commission (ACCC) recently instituted proceedings under the Trade Practices Act (1974) against GM Holden as the Australian supplier of Saab vehicles for misleading and false advertising ("*Every Saab is green*" and "*carbon emissions neutral across the Saab range*"). Perhaps such action from the Commerce Commission is not a great risk for those law firms unlikely to attract strong consumer scrutiny, but for the bigger 'branded' law firms or those aggressively shopping their "*carbon neutral legal services*" this remains a risk.

Interaction with the Proposed NZ ETS

As the Climate Change (Emissions Trading and Renewable Preference) Bill 2007 stands, scopes 2 and 3 will not be covered by the New Zealand Emissions Trading Scheme (NZ ETS). The aim of the Bill is to capture emissions liability at the higher obligation points, for example, the energy producers. Until the NZ ETS is fully implemented in 2013, not all emissions by companies will be covered, leaving good opportunities for voluntary offsetting. Once the NZ ETS is fully implemented, the need and desire for firms to undertake voluntary offsetting may reduce. Wider global market experience indicates that the introduction of a compliance market usually displaces voluntary markets.

Reducing Emissions

Any worthy carbon neutrality exercise also involves focusing on reducing carbon emissions. Ongoing reductions are the most important aspect of delivering carbon neutrality and they bring considerable benefits for the company as well as the wider environment. Some of the easiest ways to do this are reducing energy consumption (energy efficient light bulbs, particularly LEDs; timers for air conditioning; turning off appliances; and changing printer settings), recycling, and changing transport modes. There are consultants available to help companies identify opportunities for low-cost reductions with immediate economic returns. Depending on your location some of these consultancy services are offered via local government to businesses for free, or nominal fees. Some reductions are so simple that even if your firm is not inclined to pursue carbon neutrality, the immediate low cost benefits are undeniably good business.

Offsetting or Purchasing Carbon Credits

Some clients will have a natural fit with undertaking an offset project. An example of a popular offset project in New Zealand is planting a Kyoto compliant forestry sink, perhaps under the Permanent Forest Sinks Initiative which generates quality Kyoto units that can be traded internationally. However, most New Zealand law firms are likely to avoid the effort of

generating their own offset project credits, preferring instead to purchase these.

Entering the carbon trading markets requires thorough research and planning. The market is evolving rapidly but is quite fragmented and the carbon credits traded have extremely variable integrity. This should be obvious to anyone looking at the price differentials for the range of credits available on the voluntary and Kyoto markets. All carbon credits, whether voluntary or Kyoto compliant, have a standard volume of one tonne of CO₂ equivalent.

At the time of writing, grey or voluntary market credits ranged from a few dollars per credit for junk (perhaps sourced from an unverified avoided deforestation project or a long life light bulb scheme), to around \$10 for voluntary forestry planting, to over \$30 for high quality verified units (maybe from an existing wind farm). Some of the most well known sources of carbon credits in New Zealand are not verified to international standards. Significant due diligence is required to ensure you purchase high quality verified units but can be prohibitively expensive for the small quantities of carbon credits required by most law firms. Due diligence requires:

- understanding the underlying emission abatement project;
- checking whether the verification reports match the vintage offered;
- investigating the qualifications of the verifiers (most in New Zealand are not internationally accredited); and
- ensuring proper registry services accompany the credits (each with a unique identification number) to record the transfer and ultimately retirement of the credits once they are 'used' to achieve carbon neutrality.

While the Kyoto markets are also complex to navigate, they offer greater security – reflected in their higher prices. The three broad types of Kyoto credits presently available for purchase in New Zealand (others will become available over time) are Assigned Amount Units (AAUs), Emissions

Reductions Units (ERUs), and the more readily available Certified Emissions Reductions (CERs). While prices for these different types of Kyoto units vary daily, they offer good credibility having met the rigorous rules of the Kyoto Protocol and scrutiny of the relevant United Nations bodies.

A good carbon trading risk management strategy for law firms and corporates seeking carbon neutrality is to purchase Kyoto compliant units. This is particularly so given the price will be ameliorated by the small volumes required. The due diligence required for any purchase means purchasing greater quantities of carbon credits to cover several years of offsetting may be worthwhile. In these circumstances, Kyoto complaint units also offer the best future proofing for firms as any excess can be held and later traded on the compliance markets. The chances are high that demand for quality carbon credits will increase and sale of the surplus may cover the cost of implementing your carbon neutrality programme. Another benefit for lawyers is that at present clients are finding it hard to get good advice. By carefully looking before you leap and ensuring you understand the differences between dubious claims and implementing a robust, verifiable carbon neutrality programme, you will have learned first-hand some valuable advisory tools.

Karen Price a co director of NZCX Ltd, a carbon broker. NZCX brokers emission unit trades both domestically and internationally with its partner CanterCO2e (the world's largest carbon broker).