

The media and climate change

How is the media sector addressing the climate challenge?

Contents

Introduction	3
Media emissions	5
UK and EU targets	7
Collaboration	9
Calculation in practice	11
Internal focus	13
Advertising: Proactive steps	15
Live sport	17
Climate change coverage	19
Getting the message across	21
Dedicated Energy & Climate Change practice	23
Climate Change & Sustainability Regulatory Timeline	26

Introduction

Climate change is the defining challenge of our age. As the impact of human activity on global warming and its consequences become increasingly evident, the need to transition to carbon net zero has never been greater.

At CMS we are fortunate to have the expertise of a Tier 1 Environment Law practice to draw on. This has enabled us to be leaders in the legal sector on climate action (see more about our action in this area on page 23) but also to work closely with clients on theirs.

In tackling the climate crisis, each sector and every individual has an important role to play, not least the media sector. We have been speaking to people across the sector about how they are facing this challenge head on and the unique power of the media industry to help drive the fundamental changes we need to bring about to save our planet.

Although the number of people employed in media organisations is relatively small, their combined influence makes the sector's role disproportionate to its size. Primarily, this is because the media enjoys a unique position:

beyond a committed focus to reduce their greenhouse gas (GHG) emissions towards net zero, media outlets have enormous power to inform and shape public opinion and, potentially, to change the behaviour of their viewers, listeners and readers. To deliver the latter with credibility, they must first be seen to achieve the former.

There is a growing body of regulation and legislation in this area that all companies need to keep on top of. The timeline on pages 26–27 shows just how much this has ramped up in 2021.

But in being seen, heard or read, every media organisation has a special responsibility; as one of the greatest influencers of public opinion in our society, the media plays a pivotal role.

In this report we take a closer look at what is happening in practice.

In terms of emissions, transport accounts for 50% of the total for audio-visual media.



Media emissions

The greenhouse gas impact of audio-visual media falls into three principal areas: transport, energy, and waste.

In terms of emissions, transport accounts for approximately 50% of the total: primarily moving people (cast/crew) and freight (filming equipment, sets) for the production of assorted programmes. Energy, comprised of electricity and gas consumption, comes next, driven by corporate operations, studio power, production offices, and the use of diesel generators on location. Of course this ignores the energy required to power the infrastructure required to distribute the content – that’s a whole other paper in itself – and the devices needed to consume it.

Finally, there is waste. Production can be a notoriously “disposable” process: sets and materials are often designed and created for specific projects, before being taken down and thrown away once filming ends. For print media, there is the additional factor of newspapers and magazines, whose production requires millions of trees to be felled while mass distribution consumes significant energy. Inevitably, waste is ubiquitous. Although sales of physical titles may be in long term decline, online media outlets also create their own carbon footprint.



UK and EU targets

At a governmental level, national governments and the European Commission have produced a series of targets.

Olivia Jamison, specialist environment partner at CMS, outlines the context. 'For the last 40 odd years, we've had various EU laws focused on waste, emissions and energy efficiency,' she says. 'In the last 10 to 15 years, they have been increased layer on layer. Now we're at a point where targets are becoming more tangible with requirements frontloaded rather than end of pipe.'

In the UK, the Climate Change Act 2008 originally committed the UK to an 80% reduction of greenhouse gas emissions by 2050, compared to 1990 levels. In 2019, the Government amended that Act committing the UK to achieve net zero by 2050, rather than the 80% reduction target. In April this year, the Government further heightened its ambition, announcing that it "will set the world's most ambitious climate change target" to reduce emissions by 78% by 2035.

Further regulation is coming. 'In the UK, we have some existing environmental reporting requirements for certain types of businesses including more recently streamlined energy and carbon reporting, and mandatory climate related reporting for quoted or larger businesses is expected to apply from April 2022,' says Jamison. 'Meanwhile the EU has launched the European Green Deal – a set of

policy initiatives and legal proposals by the European Commission. The original commitment was to reach climate neutrality across the EU by 2050: an economy with net-zero greenhouse gas emission. In both jurisdictions, there have recently been additional announcements for new legal targets by 2030.

'The UK now has a target of a 68% reduction by 2030, and the EU, at least a 55% reduction by 2030, bringing forward reduction targets by 10 to 15 years in each case. This requires really transformational change, the likes of which we have never seen previously.' For business, the transformation will certainly be huge. 'It will impact all sectors of business in everything that they do,' she says. 'Although the UK is being more ambitious, the EU is setting this out in a very distinct framework, which means that it is slightly easier for businesses to understand what is expected of them.' The recent publication of the UK's Net Zero Strategy is intended to provide more clarity on the changes required to meet the UK's reduction target. Importantly, in addition to those efforts, adaptation and mitigation measures will be crucial for businesses to factor into their activities and that of their value chain.



On climate action, the TV sector
is incredibly collaborative.

Collaboration

So, what are media companies doing to address the challenge of meeting these targets at a corporate level? Their response is calibrated to accommodate two distinct elements: the activities of media companies themselves and those of their suppliers and freelancers, who comprise a significant portion of workers in this sector, particularly in production and journalism. A concerted effort exists among the major broadcasters to address both with equal vigour.

Earlier this year, Netflix pledged to achieve net zero GHG emissions by the end of 2022. In common with the BBC, Sky and Channel 4, ITV has a net zero emissions target by 2030. 'It's been approved by the Science Based Targets initiative (SBTi),' says Susie Braun, Director of Social Purpose at ITV.

'We look at our competitors in terms of targets they might set for programmes they're commissioning to understand how successful they are, and which audience they reach,' she says. But on climate change and the media sector's response to it, collaboration is seen as key. 'On climate action, the TV sector is incredibly collaborative,' says Braun. 'We share so many of the same suppliers: it doesn't make sense to set different standards for a small production company to meet Sky's standards, but not ITV or BBC standards.'

We want to make it easy for suppliers to meet standards that we need them to meet. We work together with them to achieve that.'

She adds: 'All the broadcasters meet under the Albert auspices when it comes to sustainability. We are very happy to share information and work together to achieve our aims.'

John Enser, media partner at CMS, explains: 'For broadcasting, the key organisation is Albert, which does all the certification.' Founded in 2011 and governed by an industry consortium under the aegis of BAFTA, Albert is a sustainability project, which acts as the authority on environmental sustainability for film and TV. Its directorate members are BBC, ITV, Channel 4, Sky, Netflix and BT Sport. Critically, Albert provides a system of carbon calculation and sustainability certifications for media companies.

The principle of awarding a sustainability certificate ... is very clever; it's what all the broadcasters want.



Calculation in practice

‘Albert has helped us,’ says Fergus Garber, Director of Production at BT Sport. ‘The principle of awarding a sustainability certificate – and being able to attach it to the credits as a badge of honour for your programme – is very clever: it’s what all the broadcasters want. It’s a huge achievement when you get one since it really incentivises the production companies to be greener, to achieve that certificate.’

Braun adds: ‘Albert certification is what we mandate all ITV Studios programmes and all of our commissioned programmes to go through. The Albert system is smart in its simplicity and practical in a very granular way. At the beginning of a production, you use their carbon calculator, estimate what your carbon footprint will be by putting in the number of days you’ll be in an edit suite, or the number of flights you might take. If you’re shooting abroad, the hotels you’re staying in. That produces your carbon footprint.

‘You then need to determine how it can be reduced. That might be reducing travel, changing the way that the production is filmed to give you fewer days, for example. You submit your new carbon footprint, which shows the reductions you’ve implemented. You then have to offset through the Albert offsetting scheme, run by Natural Capital Partners, and provide BAFTA with evidence of what you’ve done.

‘In working with our procurement team, we’ve taken our top 200 emitters: how much we are spending with them and calculating what the emissions factor will be as a result. We then looked at those 200 suppliers in more detail, asking each of them: Can you tell us about your climate action plan? Do you have a net zero plan? What are you doing to reduce your carbon? Are you running on renewable energy?’

This can then be factored into contract negotiations. ‘Beyond recognising carbon net zero as an objective, media organisations – along with all companies – working with their suppliers to reduce their carbon footprint need to know what they should put into their contracts to achieve the desired outcomes and monitor progress, as well as knowing what kinds of contracts they might start to see that they haven’t seen before’ says Victoria Gaskell, co-head of the media practice at CMS.



Internal focus

ITV has formalised its net zero target in an annual production plan. 'We've installed an environmental data platform which provides transparency on our carbon emissions,' says Braun. 'It's very detailed work and quite painstaking: we need to look at emissions from offices based in 13 territories around the world which might have multiple sites. In the UK, we have more than 110 sites.'

Garber outlines BT Sport's approach. 'It's important to start from the top down,' he says. 'We put our senior leadership team through carbon literacy awareness training, which has an immediate impact on how they view their place in the world and how they can help. Training is extremely important to get everybody on board. Train the senior team, then work down. Albert was very helpful because they provide free training to the media industry. Once that happens, everybody is playing for the same team in trying to make a difference. Then you do simple things, like giving everybody a flask and a coffee cup.'

'Our core business is sports production. How do you produce the content? The first thing is to apply everything you do in the studio to when you're out on the road or making programmes – at outside broadcasts, things like catering, single use plastic.' It's really important to bring your supply chains with you, he notes. 'The worst thing is to say to your suppliers: we're sustainable now, so you've got to be. End of conversation. That's not the way to do it. Instead, tell them: we're a sustainable company now, or certainly trying to be, we'd love it if you were too. Let's see how we can work together to get you to

a point that we're all happy with.' Going green 'isn't free', he notes, 'it costs someone money somewhere.'

This year, Garber received a press release from Sky Sports about their target to go 100% Green D Plus biofuel in outside broadcast generators in a matter of weeks. 'I sent an email to the head of sustainability at Sky and said: this is amazing, how are you going to do it? She sent me the details of their action plan. I phoned Telegenic – our outside broadcast supplier – and said: Can we do what Sky is doing? Telegenic said: yes, we can. Six weeks after their initial press release, we hit the same target as Sky. It's so important that we share knowledge across the sector even if we're competitors.' But, Garber cautions: 'We've got to be careful not to preach. We recognise we're not perfect and shouldn't pretend that we are. The crime is saying nothing because you're too frightened you will be caught out.'

At a practical level, both ITV and BT Sport would ideally like their staff and freelancers to use electric vehicles. But until the up-front cost drops and the range of EVs increases this is not yet feasible.

The ASA tries to reflect society, rather than socially engineer society.



Advertising: Proactive steps

As one of the key regulators in the media sector, The Advertising Standards Authority (ASA) has, historically, been more reactive than proactive. But this has changed. 'The move from reactive to proactive is a journey we've been on since 2014,' says Guy Parker, the ASA's Chief Executive. 'We've made really big strides. Far less of our resource is now spent dealing reactively with complaints from the public.'

Part of that shift involves climate change. 'For the ASA, the focus is: what contribution should advertising regulations make to us hitting the climate change targets that we have set ourselves, which have become more demanding with the 78% carbon reduction by 2035 target,' he says.

The challenge, notes Parker, is to identify the priority areas that the ASA should look at. 'Where humans are contributing to bad environmental impacts: aviation, food, cars and heating are four big areas that have been identified as priorities for behavioural change in various reports by the Climate Change Committee, among others,' he says. 'That gives us a steer on where we should be looking.'

Parker adds: 'The ASA tries to reflect society, rather than socially engineer society. This government and future governments are going to be legally held to some incredibly demanding climate change targets. That makes our life easier because the case for change has been made. We then have to decide, looking at the evidence, being thoughtful, taking soundings from experts, what that change looks like. There's a legitimate question about whether ad regulation needs to play a part in that change. Businesses want to do the right thing, and promote more sustainable behaviour, not because they're held to that by a code that we police, but because it fits with their ESG strategy, their commitments, and their contracts with their consumers.'

Last November, the Advertising Association (AA) launched its Ad Net Zero plan, which aims to get

the advertising industry to commit to minimise its carbon footprint in the creation of ads. This year, the ASA and CAP are undertaking a Climate Change and the Environment project, taking stock of the rules regulating environmental claims (some guidance having recently been issued by the CMA). 'We're not just looking at green claims, we're also looking at broader environmental messages, unsustainable consumer behaviours, the extent to which advertising is contributing to that,' says Parker. 'In the next few years, it will be universally accepted that ad regulation has a role to play, where it doesn't at the moment.' But there is only so much that the ASA can do, even on a more proactive basis without legislative change.

Stuart Helmer, head of advertising and marketing at CMS London, comments: "We have seen regulators, including the ASA, taking a firmer line against unsubstantiated environmental claims in recent years. Often this benefits big brands, who can get wild claims often made by disruptor companies taken down. But a realignment of advertising regulation to discourage over-consumption generally would be a significant step beyond the ASA's normal function of curtailing misleading advertising, and could have far-reaching effects on the industry. While there is only so much that the ASA can do, even on a more proactive basis, without legislative change, the CMA's recent publication of guidance on greenwashing may indicate a firmer line from the ASA's "backstop" regulator. Advertisers should keep a close eye on the outcome of the ASA review."

#GameZero will demonstrate the green steps that the sporting world can take to work towards a zero-carbon future.



Live sport

When the pandemic hit BT Sport, they decided to accelerate remote production. 'A football match, pre-pandemic, normally involved several outside broadcast vehicles,' says Garber. 'For example, one for the slow-motion replays, a second to manage the presentation and a third to cover the match: the director calling the cameras. In addition to these sizeable vehicles, there is a tender, which carries all the equipment, a dining bus, and another to manage onscreen graphics. They have to accommodate a very large TV crew. Because of technology enhancements, many of these people and their kit can now be somewhere else.'

'So, you send your camera team, presenters and commentators, but almost everybody else – replays, graphics, director, producer and assistant producers – can be hundreds of miles away in a production control room. We call them Remote Operations Centres (ROCs), like outside broadcast trucks, but with no wheels. You have an ROC in a central location which the crew go to match after match, instead of travelling all over the country. That's remote production. In addition to our Stratford studio, we plan to build centres in Birmingham, Leeds and Glasgow. So we can still use the people we want, but they have less distance to travel. Crew travel and kit movements have been much reduced: that's been a very positive sustainability by-product of the pandemic.'

In a sign that the trend is spreading further into sport, Sky and Tottenham recently partnered for the world's first major net zero carbon football game against Chelsea. Publicity for the Premier League match included the following: '#GameZero will demonstrate the green steps that the sporting world can take to work towards a zero-carbon future; #GameZero partners want the game to raise awareness of the threat of climate change and inspire fans to make simple changes that will help reduce their carbon footprint.'

Media's greatest beneficial impact arguably rests in its capacity to change societal and consumer behaviour.



Climate change coverage

However well the media sector performs in working towards its zero carbon targets by re-evaluating internal processes and corporate behaviour, its greatest beneficial impact arguably rests in its capacity to change societal and consumer behaviour. Here, the media sector has an enormous part to play – through portrayals on screen, in TV shows, news programmes such as Sky's The Daily Climate Show and documentaries, as well as in advertising. Where broadcasters used to give climate change deniers equal airtime in discussions on the topic, this is no longer the case.

Some TV programmes, despite perhaps having a relatively heavy carbon footprint, have served to get important messages about climate change across to many millions of people. To film a nature documentary, the crew has to take their equipment to far flung places, often for weeks or months at a time. However, the beneficial impact of these programmes can dwarf the carbon footprint involved in making them. The net benefit of some of these productions – Blue Planet II being an obvious example – has therefore been exponentially higher than the actual carbon footprint created because they have educated so many people about the horrendous impact of climate change on animal and human habitats.

'ITV takes issues which are on the edge of the mainstream and makes them mainstream,' says Braun. When it comes to making climate change mainstream, nothing can surpass

COP26 which is to be hosted by the UK in Glasgow. COP is shorthand for conference of the parties under the United Nations Framework Convention on Climate Change (UNFCCC). This year's meeting, COP26, will officially open on 31 October with more than 120 world leaders attending as they seek to find ways to reduce GHG emissions and deliver on the ambitions set out in the Paris Agreement and the Convention. Under the 1992 UNFCCC, every country is treaty-bound to "avoid dangerous climate change".

'We talk about our social purpose plans at ITV, our ability as a platform to reflect and shape culture,' says Braun. 'On the first day of COP26, we've got Climate Action Day on ITV, our main channel. So, from six o'clock in the morning through to 10:30 at night, the entire day is going to have a climate action theme within the programmes and the advertising breaks.'



Getting the message across

For media companies, the twin responsibilities of working towards net zero and of conveying the importance of that message to their viewers, readers and consumers requires a carefully calibrated approach.

In a sector generally characterised by a high level of competition, the level of co-operation and collaboration between the major participants serves as a role model for others to follow.

Global success at COP26 will ultimately be judged by governments' collective efforts to achieve their goals. Similarly, the media sector may well be judged by its ability to communicate and persuade people to change their behaviour. It is a responsibility they seem well-equipped to manage and one that CMS is actively engaged in helping with.



Dedicated Energy & Climate Change practice

With more than 450 lawyers in 75 offices across the globe our Energy and Climate Change practice is one of the largest of its kind. It was founded on ground-breaking work designing and implementing modern energy markets and is now at the forefront of developments on energy transition, renewables and the various responses to the climate crisis. From advising on climate change strategy, new technologies, risk and disputes, to environmental regulation, Power Purchase Agreements, and real estate and infrastructure projects, we advise clients operationally and strategically.

Our track record includes:

- Advising on the UK's most advanced carbon capture project in the UK's first zero-carbon industrial cluster. BP, Eni, Equinor, Shell and Total have formed a consortium and assumed leadership of the Net Zero Teesside Project, previously known as the Clean Gas Project.
- Advising product manufacturers in relation to sustainability laws for on the launch of new broadcast and streaming devices.
- Advising broadcasting and media publishing companies in relation to Streamlined Energy and Carbon Reporting and the Energy Savings Opportunity Scheme.
- Advising various private equity funds, banks and large international manufacturing and real estate organisations such as Columbia Threadneedle Investments, Ametek, and John Laing Infrastructure Fund on energy efficiency, carbon and related reporting obligations across the EU.
- Advising major banks, insurers and asset managers on principles likely to underpin regulatory frameworks including, EU Action Plan for Financing Sustainable Growth, Financial Stability Board's Task Force on Climate-related financial disclosures, LMA Green Loan Principles, ICMA Green Bond principles.

» **Band 1 TMT Media**
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» **Tier 1 Media and entertainment**
Legal 500 2022

» **Tier 1**
Media Law International 2021

» **Band 1 Environment**
Chambers and Partners 2022

» **Tier 1 Environment**
Legal 500 2022





CMS UK and its international offices is committed to reaching Net Zero by 2025



Committed to UN Global Compact

CMS climate change and sustainability commitments

At CMS, we take our responsibilities to the environment very seriously. We have led the legal sector by setting Science Based Targets for carbon reduction, aligning ourselves with the UN Goals for Sustainable Development (UN Goals), United Nations Global Compact and committing to an ambitious goal of net zero by 2025.

Science-based carbon reduction targets

We were the first of only two law firms globally to announce and set Science Based Targets to measure our carbon reduction progress, which are approved by SBTi.

We spent 12 months measuring our greenhouse gas emissions across our jurisdictions globally, including in Central & Eastern Europe, Asia and the Middle East, with the support of Carbon Intelligence, the carbon management and energy performance business.

As a result, we have been able to set, and have approved, Science Based Targets focused on a 30% reduction of emissions by 2025 and a 50% reduction by 2030, for both our own operations as well as for our supply chain. The firm will offset remaining emissions to go net zero by 2025 and is also exploring options to go net negative and address its historical carbon debt.

Carbon reduction strategy

We use The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard to collect activity data and calculate Scope 1 and Scope 2 emissions. Our emissions have been verified to a reasonable level of assurance by an external third party according to the ISO 14064-3 standard.

As CMS strives to meet its carbon net zero commitment by 2025, the largest area of work for us is with our suppliers. They generate Scope 3 emissions for our calculations and constitute our greatest amount of carbon emissions. We expect that in collaboration with our suppliers we can reduce their absolute carbon generated emissions to us by 50%.

Consistently with our clients' experience, our internal supplier facing teams needed to be better informed. Our procurement team is being trained and encouraged to think about both the measurement of carbon emissions and the likely opportunities for reduction with our suppliers. Naturally this has carried over to evaluations of our existing and potential new lease sites with the establishment of the firm's key green criteria for leases.

We have created an app to input emissions and other environmental data as well as individualised portals for our key suppliers. The goal is to be in a position by the end of 2021 where we have an accurate view of our carbon emissions via suppliers on a monthly basis. With these and our roadmaps in place, we can monitor and adjust our initiatives and goals in real time as we head towards net zero in 2025.

Further commitments

We have introduced a programme of over 20 workstreams to address climate change and sustainability, including:

- renegotiating electricity contracts to maximise supply from renewable sources – all our UK offices now run on 100% renewable electricity;
- launching a mobile app to help over 3,200 of our people assess their own carbon footprints. MyGreenerFootprint is now available on the Apple Appstore and can be downloaded by anyone who would like it; and
- using a print awareness tool to gamify paper saving across the firm, working with PrintReleaf to plant over 12,000 trees and counting to offset paper usage, using Forest Stewardship Council certified paper, and ensuring all paper is recyclable.

We provide legal support to a range of environmental charities and organisations. We partner with The Chancery Lane Project, a collective developing new model clauses and contracts. Our lawyers have advised pro bono, helping to create new precedents that incorporate climate considerations and effect real change. As part of our Social Impact programme, we run environmental volunteering opportunities, often with clients.



All UK offices run on 100% renewable electricity



CMS UK is ranked by the Carbon Disclosure Project

We have a number of channels to share knowledge and insight that are available to clients, including:

- **Sustainability insight and thought leadership:** Our legal teams provide regular insight and thought leadership on a range of legal and commercial issues deriving from climate change, sustainability and ESG (Environmental, Social, Governance) issues. [Sustainability Insights](#)
- **CMS Law-Now:** You can receive the very latest legal commentary and insight which regularly covers climate change and ESG topics. cms-lawnow.com

- **Events and webinars** – we host regular events on ESG topics for our clients. Recent examples include webinars on Net Zero and the European Green Deal, sustainability claims and greenwashing and climate and sustainability in commercial contracts. You can access these on our dedicated [COP26 hub](#).

You can see how we work with our clients by visiting our pages dedicated to ESG on our [website](#).

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Climate Change & Sustainability Regulatory Timeline



Timescales may be subject to COVID-19 related delays

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