

EQUITY RESEARCH

May 31, 2023

ESG

Buyer Beware – Delta Hit With US\$1 Billion Lawsuit Over Carbon-neutral Claims

Moving Too Fast (And Too Slow) On ESG Can Be A Risk

Our Conclusion

Delta Airlines is being sued for misrepresenting its credentials as a “carbon-neutral” airline, a strategy partly built on the use of voluntary carbon credits with an environmental impact that is increasingly under scrutiny.

Corporate issuers must perform a balancing act when they approach ESG. Move too slow and they can become the target of environmental activism. Move too fast and they risk accusations of greenwashing. Both are notable risks for the C-suite and investors.

Key Points

The plaintiffs claim Delta knew or should have known its proclamation of being a carbon-neutral airline since March of 2020 was false. Furthermore, the claim states consumers were adversely impacted when “paying a premium” to purchase Delta flights relative to competitors.

At the heart of the issue is the use of voluntary carbon credits, which are increasingly advertised as mechanisms for corporations to reduce their environmental footprint. A number of investigative reports and academic studies have presented evidence that some carbon credits provide no carbon offsetting at all (see [link](#)). Such revelations have already resulted in the resignation of Verra’s (the largest standard setter for voluntary carbon credits) founding CEO, David Antonioli, just a few weeks ago.

In this report, we suggest a US\$1 billion claim from the plaintiffs is not necessarily unreasonable. If Delta Airlines were to offset its total carbon emissions since it first made its claims of carbon neutrality in March of 2020 at an oft-quoted price of US\$15 to US\$20/tonne through voluntary carbon credits, it would cost US\$1.1 billion to US\$1.5 billion.

The class-action lawsuit (filed in California) is a fascinating read (see [link](#)), but we believe there are two other key takeaways for investors.

Firstly, not all airlines should be grouped together. The lawsuit specifically mentions JetBlue as having already retracted its claims of carbon neutrality. Domestically, Air Canada’s stated commitment is to reach net-zero by 2050 through a multi-pronged approach including the use of electric planes, investing in Sustainable Aviation Fuel and fleet upgrades. For more, see our Sustainable Aviation Fuel report [here](#).

Secondly, the lawsuit advocates for the “permanence” of carbon credits. Specifically, it states “Offsets also need to permanently sequester carbon in order to meaningfully combat climate change... Trees planted today are more likely to succumb to wildfire and do not provide durable carbon storage.” This again highlights the value of robust carbon capture credits in Canada to both domestic and (likely one day) international participants.

All figures in U.S. dollars unless otherwise stated.

For required regulatory disclosures please refer to “Important Disclosures” beginning on page 5.

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Sectors:

ESG, Portfolio Strategy



Environmental



Social



Governance



So Exactly How Did They Come Up With US\$1 Billion?

A US\$1 billion lawsuit is certainly going to grab headlines. We stay away from opining on the proposed merits of the lawsuit (as we are not lawyers), but the headline did make us curious; how did the Plaintiffs come up with such a number?

In Exhibit 1, we provide a table of Delta's total revenues since 2019. Over the last three years, from when Delta first made claims of carbon neutrality, the airline has generated almost US\$100 billion in revenue, and thus US\$1 billion is about 1% of total revenues.

Exhibit 1: Delta Air Lines – Total Revenues, 2019 - 2022

Delta Airlines	2019	2020	2021	2022	Last 3 Yrs
Revenue, USD millions	\$47,007	\$17,095	\$29,899	\$50,582	\$97,576
Lawsuit Claim (US\$1 billion)					\$1,000
Claim, % of revenue					1.02%

Source: Bloomberg and CIBC World Markets Inc.

From our Sustainable Aviation Fuel report published late last year (see [link](#)), we saw the incremental cost to offset flight emissions using voluntary carbon credits was about 2% to 4% of ticket prices. Thus, a 1% premium on gross revenues to offset emissions seems reasonable, in aggregate.

Coming at it another way, we can also see how much US\$1 billion is per tonne of emitted CO₂. As shown in Exhibit 2, over the last three years Delta has emitted over 72 million tonnes of carbon. A US\$1 billion claim comes out to about US\$14 per tonne.

Exhibit 2: Delta Air Lines – Total Scope 1 Carbon Emissions, 2019 - 2022

Delta Airlines	2019	2020	2021	2022	Last 3 Yrs
CO ₂ e direct emissions, Kt	37,784	17,549	24,408	30,551	72,508
Lawsuit Claim (US\$1 billion)					\$1,000
USD per tonne					\$13.79

Note: Emissions shown are Scope 1 emissions in tonnes thousands. Source: Bloomberg and CIBC World Markets Inc.

If you are an avid traveler, you may have noticed most flight carriers today provide the option to offset your flight, usually at a cost of US\$15 per tonne to US\$20 per tonne. As an example, we provide a snapshot from Lufthansa's Compensaid portal in Exhibit 3 on the following page. This portal provides an estimate of flight emissions for any flight, globally, along with the expected cost to offset depending on the desired offset mechanism.

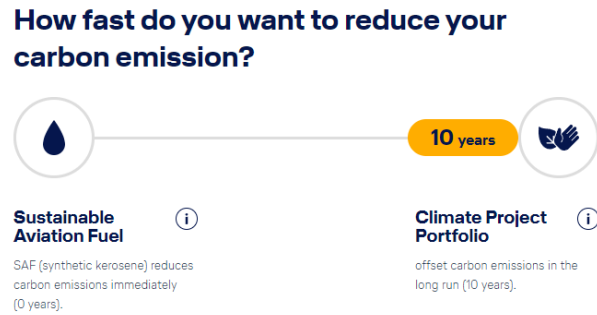
Using a flight from Toronto Pearson to London Heathrow, as an example, the portal quotes a minimum price of 5.49 EUR to offset 354 kg (0.354 tonnes) of CO₂, or about EUR 15.50/t or US\$16.55/t. Once again, the Lawsuit claim of US\$13.79/t (Exhibit 2) is not that far from the minimum "premium" a consumer would be asked to pay to offset a flight.

Both ways, it seems US\$1 billion is not unreasonable! Finally, we provide verbatim snippets from the class-action lawsuit in Appendix 1 for all interested readers.

Flight	Equipment	kg CO2e	Cost To Offset		
			EUR/t	US\$/t	C\$/t
Toronto to London	Boeing 787-8/9	354	EUR 15.51	US\$16.55	C\$22.46

EN ▾

Fly more sustainably now



Source: Compensaid and CIBC World Markets Inc.

Appendix 1: Verbatim Commentary From Delta Lawsuit

This is a class action lawsuit, brought on behalf of a putative nationwide class, or alternatively a putative class of California residents, who have purchased Defendant's flights, against Defendant for grossly misrepresenting the total environmental impact of its business operations in its advertisements, corporate announcements, and promotional materials and thereby attaining underserved market share and extracting higher prices from consumers.

Since March 2020, Defendant has repeatedly touted itself as "the world's first carbon-neutral airline" across various channels including advertisements, press releases, LinkedIn posts, podcasts, and in-flight napkins.

Defendant has represented that its airline is "carbon-neutral" because of carbon offsetting via participation in the voluntary carbon offset market. The voluntary carbon offset market is a loose arrangement of companies and NGOs that facilitate investment in green projects such as renewable energy and prevention of deforestation.

Defendant's claim of carbon neutrality therefore hinges on an underlying set of representations—that since March 2020 Defendant's investments in the voluntary carbon offset market have entirely offset the CO₂ emissions from Defendant's global airline operations, such that Defendant has not been responsible for releasing additional carbon into the atmosphere during that time.

Plaintiff has since discovered that any such representations are manifestly and provably false. As explained below, foundational issues with the voluntary carbon offset market make the purchase of said offsets cannot make a company "carbon neutral."

In making her purchase, Plaintiff paid a substantial price premium due to the false and misleading carbon neutral claim.

September 2021 video advertisement states that Delta is "committed to becoming the world's first carbon neutral airline on a global basis." As reported by Adweek, Delta's Managing Director of Sustainability, Amelia DeLuca, stated that Delta's intention for the advertisement was to communicate that "[w]hen you book with Delta, you can feel confident that we will offset the carbon emitted from your flight with us."

"In the EU, a 2021 study revealed that 85 percent of offsets failed to reduce emissions. In response, EU member states decided offsets would not count toward European climate goals after 2021." "In 2019, a study similarly found that 82 per cent of California's offset credits do not provide climate benefits."

Offsets also need to permanently sequester carbon in order to meaningfully combat climate change. "Carbon dioxide emissions stay in the atmosphere for a century or more, so you must offset an equivalent amount of emissions for at least that long. Trees planted today are more likely to succumb to wildfire, disease, pests, or extreme weather as the world warms, and do not provide durable carbon storage."

"To counterbalance fossil fuel emissions, therefore, carbon credits must be associated with mitigation that is similarly permanent. If mitigation is 'reversed' (i.e., carbon stored as a result of a mitigation activity is subsequently emitted, so that no net reduction or removal occurs), then it no longer contributes to staying within a global carbon budget, and no longer serves a counterbalancing function.

This is primarily a concern with mitigation activities that result in enhanced carbon storage in biospheric reservoirs (including trees, shrubs, soils, and other biological stores of carbon)."

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