

Norrøna Sport AS

Your ref.

Our ref.  
Case nr: 21/14987-26  
Executive Officer: Marius Gauslaa  
Dir.tlf: 457 29 418

Date:  
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## Misleading marketing towards consumers using Higg MSI data

### 1 INTRODUCTION

The Norwegian Consumer Authority (**NCA**) refer to our letter to Norrøna Sport AS (**Norrøna**) dated 14 February 2022 regarding the use of the Higg Materials Sustainability Index (**Higg MSI**) in marketing. We asked Norrøna to present documentation underlying the Higg MSI. Norrøna presented their documentation on 18 March 2022. In addition, we had a digital meeting with Norrøna and the Sustainable Apparel Coalition (the **SAC**), the owner of the Higg MSI, on 5 May 2022. After the meeting, the NCA requested some further information, provided by Norrøna and the SAC on 27 May 2022.

On [norrøna.com](http://norrøna.com), Norrøna uses the Higg MSI / data from the Higg MSI to communicate the environmental benefits of organic cotton t-shirts. The marketing shows four categories (impact categories) where the environmental impact of the organic cotton t-shirt is reduced compared to the production of an equivalent t-shirt made from conventional cotton. The categories included in the index are “global warming”, “fossil fuels”, “water consumption” and “water pollution”.

The SAC has stated to the NCA that the Higg Index is a suite of tools for the standardized measurement of value chain environmental impacts, developed by the industry, represented by the SAC. The Higg MSI aims to measure the environmental impact of the *materials* in products, and thus not the environmental impact of the life cycle of the entire product. The SAC has also stated to the NCA that the Higg MSI is built on the life-cycle-analysis (LCA) approach, i.e., the environmental impacts of materials are assessed and quantified from the manufacturing or growing of raw materials up to the moment when this material is ready for use in consumer goods/consumer products.

Consumers are increasingly interested in the environmental performance of products and services. For example, a large majority of consumers in the EU state that protecting the environment is important to them personally.<sup>1</sup>

The NCA is of course positive to the fashion industry to work towards better sourcing decisions for companies when it comes to environmental impact, provided the work is done based on a correct factual and scientific basis. However, the moment tools developed by the industry to promote better sourcing decisions etc. is used by traders in marketing towards consumers, the rules protecting consumers against misleading marketing must be complied with. In order not to mislead consumers to make transactional decisions based on false premises, claims in marketing must not give the average consumer a misleading impression of the environmental impact of products.

When environmental claims are used in marketing, it is thus key to ensure that consumers are not misled about the environmental characteristics of products that the claims are correct, clear, accurate, specific, and unambiguous. This is important in all industries, but particularly in highly polluting industries such as the fashion industry<sup>2</sup>.

The NCA have concluded that Norrøna's marketing of products with environmental claims, by using data from the Higg MSI, is misleading to consumers and thus prohibited, cf. section 2. We therefore ask Norrøna to change or remove the relevant marketing before the set deadline, cf. section 3.

## **2 SUMMARY OF OUR CONCLUSION**

The provided documentation consists of information and data underlying the Higg MSI.

The average consumer is increasingly interested in the environmental performance of products, and susceptible to be influenced by environmental claims when considering making purchasing decisions. The documentation we have been provided with does not constitute sufficient evidence for the reductions in environmental impact communicated about a specific product through the Higg MSI. Norrøna's claim of reductions in environmental impact for organic cotton t-shirts on norrona.com, by using the Higg MSI data, is likely to be false and untruthful for the products in question.

The NCA have thus concluded that Norrøna's marketing of products with environmental claims, by using data from the Higg MSI, is misleading to consumers and thus prohibited, cf. the Marketing Control Act § 6, cf. § 7.

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<sup>1</sup> Special Eurobarometer 501 (March 2020) <https://europa.eu/eurobarometer/surveys/detail/2257>

<sup>2</sup> See for example [www.genevaenvironmentnetwork.org](http://www.genevaenvironmentnetwork.org) The environmental cost of fashion, 27.05.2022

The main reasons the NCA has found that Higg MSI data is not apt to substantiate the environmental claims made by Norrøna, are:

- Firstly, the NCA stress that Norrøna's use of the Higg MSI will likely leave consumers with an impression that the numbers are true, accurate and descriptive of the specific product shown on norrona.com.

However, the Higg MSI is based on global average numbers and not on data from the production of the specific product marketed. The Higg MSI being built on global average numbers, means that the reductions in environmental impact shown to consumers for the specific product, are not necessarily correct for the product in question (see further in section 6.1).

- Secondly, the data underlying the Higg MSI are partly scientifically outdated and not meant for comparisons as done by the use of the Higg MSI (see further in section 6.2).
- Thirdly, the relevant marketing and the Higg MSI does not take into account all relevant ways in which the products are affecting the environment. The "fossil fuels" impact category does for example not include emission from manure. If data with respect to other factors that impacts the environment were taken into account, the environmental impact of organic cotton products could be different than what is communicated to consumers in the marketing (see further in section 6.3).

### **3 WE ASK NORRØNA TO CHANGE OR REMOVE THE RELEVANT MARKETING**

The NCA ask that Norrøna changes or removes the relevant marketing using the Higg MSI from their product pages. We ask that the necessary changes/removals are done by Norrøna as soon as possible and **no later than 14 August 2022**. We ask for confirmation within the same deadline that necessary changes/removal has been done.

If Norrøna has any questions or comments to our letter, we ask these to be presented promptly, and no later than on 14 August 2022.

### **4 LEGAL FRAMEWORK**

#### **4.1 The Marketing Control Act, implementing harmonised EU directive prohibiting misleading marketing towards consumers**

The Norwegian Marketing Control Act implements the general provisions of EU directive 2005/29/EC<sup>3</sup> (the Unfair Commercial Practices Directive). The directive contains fully harmonised rules for marketing, including the prohibition against unfair commercial practices included in § 6 of the Marketing Control Act.

Marketing will always be considered unfair and prohibited if it is misleading pursuant to the Marketing Control Act §§ 7 and 8, cf. § 6 fourth paragraph. Whether marketing is misleading under these provisions must always be based on a case-by-case assessment of the relevant marketing.

When assessing whether marketing is misleading or not, the marketing must be assessed through the eyes of an average consumer.

For marketing to be considered misleading under the Marketing Control Act, the marketing must be likely to influence consumers to make a transactional decision that they would not otherwise have taken.

#### **4.2 Misleading acts**

The Marketing Control Act § 7 regulates misleading acts. Whether an act is misleading depends on whether the marketing material contains false information, or whether it is otherwise likely to deceive consumers, in respect to elements further specified, cf. § 7 first paragraph letters (a) – (h). In this context, marketing is misleading if it is likely to deceive consumers about the main characteristics of a product, including its advantages and specifications. The environmental performance of garments must be considered as a main characteristic of the product.

When assessing whether marketing is misleading pursuant to § 7, the starting point is the overall impression formed by the recipient. Factually accurate claims may therefore be considered misleading because of the context in which they are presented. This condition therefore imposes requirements for both the content and the design of the marketing.

#### **4.3 Misleading omissions**

The Marketing Control Act § 8 regulates misleading omissions. A trader's marketing shall be deemed to contain misleading omissions if it omits or hides material information that consumers require to be able to make an informed economic decision, or if it presents the information in an unclear, unintelligible, ambiguous or unsuitable manner, cf. § 8 first paragraph first sentence.

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<sup>3</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council

#### **4.4 Environmental claims**

Highly polluting industries, such as the fashion industry, should ensure that their claims are accurate in a sense of being relative. Such industries should not give off the impression that their products do not have a negative environmental impact. Rather, they should present environmental benefits in accurate and relative terms so that the average consumer can understand a product's actual environmental impact. Moreover, traders should not distort claims about composition of materials, manufacturing process, transportation or end-of-life impacts, for example by unduly emphasizing the importance of positive aspects, especially if the benefits are not significant, the whole life cycle of the product taken into account.

#### **4.5 Requirement for substantiation of claims**

The Marketing Control Act § 3 second paragraph requires that traders can substantiate factual claims made in marketing with evidence. Documentation substantiating the accuracy of factual claims shall be in the possession of the advertiser at the time the marketing takes place.

This obligation of having sufficient documentation to substantiate a factual claim must be seen in the light of the statutory prohibition against unfair and misleading marketing. If environmental claims used in marketing lack adequate documentation, they will easily be deemed misleading and unfair and therefore prohibited.

Any environmental claim made should be based on evidence that can be verified by relevant competent bodies. This evidence should be relevant to the entirety of the claim made, and be robust, independent, verifiable and generally recognised evidence which takes into account updated scientific findings and methods.

For the documentation to have sufficient evidential value, the documentation must be up to date and accurate throughout the period when the claim is used in the marketing of a product. If new research is undertaken or new documentation comes to light that casts doubt on the previous conclusions, the claims must be reviewed in the light of the new documentation. If this means that the trader no longer possesses accurate and up-to-date documentation supporting the claims used during marketing, the marketing must be adjusted accordingly.

### **5 HOW THE AVERAGE CONSUMER IS LIKELY TO PERCEIVE NORRØNA'S ENVIRONMENTAL CLAIMS**

Norrøna's use of the Higg MSI data in the marketing of a specific product is likely to give the average consumer the impression that the reduced environmental impact communicated applies to the relevant product.

The SAC holds that the claim is that sourcing organic cotton results in a lower environmental footprint since the average footprint of farmers enrolled in the organic cotton program is lower than the average footprint of farmers producing conventional cotton.

When Norrøna's environmental claim is presented on the product page for the product, the average consumer is likely to understand the claim as a description of the environmental attributes of the materials used in that specific t-shirt, and not for instance as a claim related to the environmental impact of the overall sourcing decisions made by the Norrøna and/or the textile industry in general.

We have observed that Norrøna recently have changed their presentation of the Higg MSI data for the relevant products.

#### **Appendix 1** Example of Norrøna's marketing with Higg MSI data 13 June 2022

Norrøna have now included a text stating that the environmental impacts are based on generalized global standards from life cycle assessments and can be different from the actual product listed. Norrøna has also included the word "estimated" in all presentations of the material's environmental impact.

Our conclusion on how the average consumer will understand the marketed environmental benefits does not change with the adjustments made. It will make no sense to the average consumer to get information on reductions in environmental impact in relation to a specific product, if the information does in fact not say anything about the specific product. The average consumer will thus still understand the information given to apply to the product in question.

All scores on reductions in environmental impact must thus be substantiated by Norrøna with sufficient evidence for the environmental impact reduction claim not to be misleading to consumers. Norrøna must be able to prove that the reductions in environmental impact marketed are true and correct for the specific products marketed.

## **6 EVALUATIONS OF THE DOCUMENTATION FOR THE CLAIMS PRESENTED BY NORRØNA – DATA UNDERLYING THE HIGG MSI**

### **6.1 The global average data behind the Higg MSI does not constitute sufficient evidence for the product specific claims**

#### *6.1.1 General*

The Higg MSI data constitutes the basis of Norrøna's claims. The documentation provided by Norrøna consists of data underlying this index.

According to the SAC, the documentation underpinning the Higg MSI represent the global average environmental impact of organic and conventional cotton production.<sup>4</sup> In the Sphera database referenced to by the SAC, constituting a part of the data for the Higg MSI, it is also explicitly stated that the data set represent a global average situation.<sup>5</sup> Thus, the Higg MSI and the claims communicated through the use of results from the index rests on global average numbers.

The SAC has stated to the NCA that the use of global average numbers is in line with on-going regulatory developments EU PEF and France Ademe.

The NCA stresses that, at least as for now, it is the Unfair Commercial Practices Directive and the corresponding Marketing Control Act, with the prohibition against unfair commercial practices, that constitute the relevant legal framework when assessing the legality of claims towards Norwegian consumers. The relevant question, and the determining factor when assessing whether Norrøna's use of global numbers are justified in the communication of a specific product's environmental performance, is thus whether the use of global, average numbers is misleading to consumers, cf. the Marketing Control Act § 7, cf. § 6.

#### *6.1.2 Global average data vs. product specific data*

Global average data on materials is by nature not specific to the production of the specific product / the exact origin of the material in the specific product. Global average data for the material in the marketed product, such as the data underlying the Higg MSI, is thus not apt to constitute proof that the claimed reductions in environmental impact are true and correct for the specific product.

The main problem with using global average numbers, is that such they fail to capture local variations in resource usage and environmental impact. There are significant differences in the way cotton is grown and how much water farmers use, as well as how and if they use these inputs efficiently.<sup>6</sup> For example, climate, rainfall and irrigation technology vary greatly from one farm, country and / or region to another.

#### *6.1.3 Example illustrating why global average data is not apt document product specific environmental impact: Water consumption*

By using the Higg MSI, Norrøna claims (now "estimates") that organic cotton consumes 87% less water than conventional cotton. Out of the four impact categories included in the Higg MSI, water consumption is the impact category that shows the most significant reduction in environmental impact compared to the benchmark material.

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<sup>4</sup> Higg Transparency Program – Norway response (Methodology) page 10

<sup>5</sup> The Sphera data set on organic cotton under "Key Data Set Information" – "Geographical representativeness description"

<sup>6</sup> "Life Cycle Assessment (LCA) of Organic Cotton – A global average" page 55

The claimed reductions in water consumption for the t-shirts made from organic cotton illustrates why using global averages does not necessarily represent the actual water consumption of environmental significance for the organic cotton in that exact t-shirt.

The following is stated in 'Life Cycle Assessment (LCA) of Organic Cotton – A global average' (the study which the Higg MSI builds on): *"In the regions under study, organically cultivated cotton receives relatively little irrigation in addition to naturally occurring rainfall. The irrigation water requirement of a crop is obviously mainly determined by climatic conditions although the actual usage is also influenced by irrigation techniques. This is why low irrigation rates cannot be attributed exclusively to the organic cultivation scheme."*<sup>7</sup>

The Higg MSI does not distinguish between rainfed water (green water) and irrigation water (blue water). According to the Nordic Swan Ecolabel, *"[o]rganic cotton alone does not solve the problems associated with water consumption for cotton cultivation. However, much of today's organic cotton is grown in areas where rainwater is the main water source, and in that way, less water is used"*.<sup>8</sup> And, as laid down in the 'Life Cycle Assessment (LCA) of Organic Cotton – A global average':

*"Water use and consumption are much discussed aspects of sustainability assessments within and beyond LCA. Much confusion has arisen from different usage of terminology, thus it is not always clear what a "water footprint" actually means. Water use values are only of limited informative value with regard to the environmental relevance of the water withdrawal. Of much more interest is the water lost to the watershed, i.e. water consumption, and hereby only the values for consumption of blue water (surface and ground), as it is assumed that precipitation would follow the Natural hydrologic cycle regardless of the land use type and therefore has no environmental burden from a LCA perspective."*<sup>9</sup>

For a water consumption claim in relation to a product to be precise and accurate, it is crucial that variables such as climate, rainfall and irrigation technology in different countries and different regions are accounted for before presenting the claim. However, the global numbers fail to capture these variables. As emphasized by Simon Ferrigno in his 2020 report 'The Inside Guide to Cotton & Sustainability', *"global averaging is useless with cotton and means local reality is not addressed. Each distinct cotton region needs to address its own specific problems."*<sup>10</sup>

Overall, the Higg MSI is likely to give the average consumer the impression that growing organic cotton always consumes drastically less water and that, mainly due to this, the

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<sup>7</sup> Page 54

<sup>8</sup> [www.nordic-ecolabel.org](http://www.nordic-ecolabel.org) "More on organic cotton", 27.05.2022

<sup>9</sup> Page 41

<sup>10</sup> Ibid.

product has a significantly reduced environmental impact than if the product had been made from conventional cotton. As far as we understand, the real reason behind the substantial reduction in water consumption in global average numbers is because organic cotton farms *typically* are located in places with more rainfall compared to most conventional cotton farms. Thus, the real reason behind the reduction in water consumption is not because organic cotton farms always require less water compared to conventional cotton farms – but rather because of variations in rainfall in the regions where the respective cotton farms are located. Should the organic cotton in the product, marketed as having a significantly reduced water usage compared to conventional cotton, have been grown in an area with little rainfall, the claim of reduced water usage would be incorrect.

Norrøna's claim related to water consumption also indicates that the consumption of water in and of itself is a threat to the environment, and that this impact is significantly reduced by the product being made from organic cotton compared to if the product had been made from conventional cotton. However, in relation to water consumption, the global numbers underlying the Higg MSI do not reveal anything about whether water is sustainably managed on a local level where cotton is growing.<sup>11</sup> As stated in the report "Cotton: A Case Study in Misinformation": *"It's also important to point out that cotton can in fact be grown sustainably, and cotton farmers can use water responsibly"*.<sup>12</sup> Cotton water consumption is sustainable, according to FAO<sup>13</sup>, *"if the amount of water withdrawn is replenished by equal amounts in a timely manner. Some cotton-growing nations have in fact moved towards greater water stewardship."*<sup>14</sup> This means that there is no automatic correlation between the amount of water consumed and the environmental impact of the water consumption *if* the water resources are sustainably managed. Whether the water resources are sustainably managed is in fact a local issue. Experts within the field of cotton production clearly state that replacing a wasteful irrigation system with more sustainable ways of handling existing water resources would solve many of the issues with water consumption in cotton production.<sup>15</sup> For example, the cotton industry in Australia improved its water efficiency by 40% in the decade ending 2012 through water sharing, according to the industry group Cotton Australia.<sup>16</sup> And in the smallholder region of Malawi's Shire Valley, farmers are learning to harvest rain, which can be collected for both farmers and local communities.<sup>17</sup>

Whether the water used is blue or green and/or whether the water is sustainably managed on a local level, is therefore of significant relevance when assessing the real environmental benefits of the reduction in water consumption.

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<sup>11</sup> "Cotton: A Case Study in Misinformation" page 32

<sup>12</sup> Cotton: A Case Study In Misinformation, page 70

<sup>13</sup> Food and Agriculture Organization of the United Nations

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Australian Cotton. (2020). Australian cotton: Our water story. Fact sheet.

<https://cottonaustralia.com.au/assets/general/Publications/Industry-overview-brochures/The-Australian-Cotton-Water-Story.pdf>

<sup>17</sup> Cotton: A Case Study In Misinformation, page 70

The claims communicated through the Higg MSI by using global average numbers on a product level fail to adequately address these factors.

When the SAC claims that the SAC approach “enables the data-driven differentiation of materials in an otherwise complex and unclear green claims landscape”, it may be true that the global numbers for organic cotton can be documented. Irrespective of this, the use of global average numbers fails to address the complexity on a product level of both cotton and water.<sup>18</sup>

Norrøna’s claim of significantly reduced water consumption is likely to give the consumer the impression that the reduced impact applies to the product in question. This reduction in water consumption can however not be documented on a product level by the Higg MSI data.

This means that the documentation presented does not meet the requirements for sufficiently substantiation of the environmental claims Norrøna make, cf. the Marketing Control Act § 3.

## **6.2 Documentation underlying the Higg MSI is outdated and not meant for making comparative assertions such as in this case**

The Sphera data set for organic cotton fiber the NCA received from the SAC was only valid until 2017.<sup>19</sup> This means the validity of the data set, and therefore the claims communicated through the Higg MSI, has long expired. When the Higg MSI builds on outdated data sets, the index and the claims used to describe organic cotton t-shirts on norrøna.com, cannot be regarded as sufficiently documented.

Moreover, the 2014 ‘Life Cycle Assessment (LCA) of Organic Cotton – A global average’ and the 2012 ‘LCA update of cotton fiber and fabric life cycle inventory’ are not meant to be used to make comparative assertions. The 2014 LCA is referring to the 2012 LCA for discussion purposes only: *“This study does also not intend to conduct a comparative assertion as defined in the relevant ISO standards (ISO 14040, ISO 14044). Available published data is used to set the results of the presented study into perspective, for discussion and interpretation.”*<sup>20</sup> On page 54 and 55 they stress this point again: *“It should be stressed again, that an ISO consistent comparison of two product systems would require additional effort in assessment of the precision, completeness and representativeness of data used; description of the equivalence of the systems being compared, uncertainty and sensitivity analyses and evaluation of the significance of the differences found.”*<sup>21</sup> And in their conclusion on page 57: *“Life Cycle Assessment is a powerful standardized tool for quantitative evaluation of potential environmental impacts on product basis; however, given*

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<sup>18</sup> Ibid. page 31

<sup>19</sup> The Sphera data set on organic cotton under “Time representativeness”

<sup>20</sup> *Life Cycle Assessment (LCA) of Organic Cotton – A global average*, 14

<sup>21</sup> Ibid.

*the social and socio-economic dimensions of sustainability, further aspects than those investigated in this study need to be considered for a holistic assessment of sustainability of a production systems or a comparison with another production system.*<sup>22</sup>

From this we understand that the two LCA reports and their findings are not supposed to be used in comparisons. Part of the data underlying the Higg MSI are these two reports, and the Higg MSI compares organic cotton to conventional cotton. This part of the data underlying the Higg MSI is, as far as we can tell, likely not scientifically valid.

Part of the data underlying the Higg MSI is thus partly outdated and not meant for comparisons. This means the claims Norrøna make are not sufficiently substantiated in line with the requirements of the Marketing Control Act § 3 through the documentation presented.

### **6.3 Documentation not addressing all relevant environmental impacts – example of pollution and emissions**

The Higg MSI encompasses four impact categories. The way this is presented to the consumers, it is safe to assume that consumers will perceive these categories as the most relevant and significant when it comes to the product's environmental performance. Nevertheless, according to our understanding, other, relevant environmental factors are excluded from the Higg MSI, hereunder information regarding the product's impact on biodiversity and the amount of energy used in the production of organic cotton products.

The Higg MSI refers to a 46% reduction in water pollution compared to the production of an equivalent product made from conventional cotton. However, chemicals used in the production phase have other consequences for the environment in addition to the pollution of water, e.g., with respect to biodiversity.<sup>23</sup> When the reduction in pollution compared to a product made of conventional cotton is limited to water pollution, this may lead to an exaggeration of the environmental footprint of organic cotton products.

In order to give a nuanced and contextualized view of the product's environmental performance, it is necessary to include all relevant factors that cause harm to the environment. If relevant impact categories are omitted, it is difficult to assess the real environmental benefits of the impact categories already included in the Higg MSI.

Additionally, the 2014 LCA report problematise the fact that the organic fertilizer, the manure, is not traditionally included in LCA studies due to the fact it is often viewed as a waste product: *“As an example with specific relevance for this study, (BIRADAR ET AL 2013) assessed contribution of livestock to the livelihood of farmers in India (Maharashtra). Manure*

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<sup>22</sup> Ibid.

<sup>23</sup> Meemken, E.-M., & Qaim, M. (2018). Organic Agriculture, Food Security, and the Environment. Annual Review of Resource Economics, 10, 39–63.  
<https://www.annualreviews.org/doi/10.1146/annurev-resource-100517-023252>

*ranked second in a list of reasons to keep livestock after milk to sell. 7% of surveyed farmers even ranked manure as the main reason to keep animals.”<sup>24</sup> Further on they write: “In conclusion: the assumption of not allocating environmental burden to the provision of organic fertilizer in LCA studies of plant production systems is rarely questioned, despite the significant impact a deviation from this assumption can have.”<sup>25</sup> Since it does not exist enough good data concerning this, they do calculate different scenarios where they include the manure in the economic value. And: “If manure is assumed to represent 5% of the economic value in a livestock system (thus carrying 5% of its burden), the global warming potential of the cotton production system could almost double.”<sup>26</sup>*

If the Higg MSI included emissions from manure in their GHG emission calculations, the outcome could thus change drastically and the difference between organic and conventional cotton could be smaller or potentially disappear. This information is not included, even when the documentation that the MSI is based on highlight it as problematic.

When the above factors are not addressed in the data underlying the Higg MSI, the provided documentation is not sufficient to prove that the reduction in environmental impact corresponds to what is marketed.

This means the documentation for the claims Norrøna make on reductions in environmental impact are not sufficiently substantiated in line with the requirements of the Marketing Control Act § 3.

## **6.4 Conclusion**

Based on the above, we find that Norrøna has not provided sufficient documentation for its environmental claims as required by the Marketing Control Act § 3.

Based on this, the stated reductions in environmental impact of a specific organic cotton t-shirt compared to an equivalent t-shirt made from conventional cotton are in our opinion an oversimplified, inaccurate and imprecise depiction of the specific product’s true environmental performance.

The environmental claims made by Norrøna in this case, based on the Higg MSI, are thus false and untruthful claims likely to deceive consumers in relation to the main characteristics of the relevant products, cf. the Marketing Control Act § 7., cf. the Marketing Control Act § 7 first paragraph.

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<sup>24</sup> “Life Cycle Assessment (LCA) of Organic Cotton – A global average”, p. 43

<sup>25</sup> Ibid. page 44

<sup>26</sup> Ibid. page 44

## **7 TRANSACTIONAL DECISION TEST**

Norrøna's use of the Higg MSI data in marketing towards consumers will only be regarded as misleading if it is likely to cause consumers to make an economic decision that they would not otherwise have taken.

Consumers are increasingly interested in preserving the environment, and to find ways to mitigate their own environmental footprint when making transactional decisions. Environmental claims will for this reason constitute an important incentive for many consumers when deciding between competing products on the market.

Consumers will expect that the stated reductions in environmental impact are correct for the product they are looking at. Norrøna has failed to substantiate that the reductions in environmental impact are true and correct for the relevant products.

Norrøna's claims of reductions in a product's environmental impact, communicated through the Higg MSI, are thus likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, cf. the Marketing Control Act § 7 second paragraph.

## **8 CONCLUSION**

The NCA's conclusion is that the environmental claims communicated through the Higg MSI, and utilized for marketing purposes on norrona.com, is misleading to consumers, cf. the Marketing Control Act § 7.

The marketing is thus prohibited, cf. the Marketing Control Act § 6 first paragraph, cf. fourth paragraph.

Regards,

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Head of Section

Marius Gauslaa  
Legal Advisor

*This document is approved electronically and therefore has no handwritten signature*