

ClientEarth - Opening Statement

Joint Oireachtas Committee on Environment and Climate Action

1. I am appearing here today for ClientEarth, an international environmental law NGO. One issue that ClientEarth focusses on is greenwashing, which is seen as a key barrier to a wide range of environmental goals and to the protection of human health.
2. ClientEarth's greenwashing work involves engaging with regulatory bodies, supporting the enforcement of the law through Court claims and regulatory complaints, publishing research and engaging with policymakers on legal reform.
3. In 2018, the IPCC concluded that "*limiting warming to 1.5°C would require a rapid escalation in the scale and pace of transition, particularly in the next 10–20 years*".¹ The use of fossil fuels is the dominant cause of climate change, and achieving the Paris goal requires the drastic reduction of fossil fuel use and an end to fossil fuel production expansion.
4. In contrast to this, fossil fuel advertising preserves demand for products which must² be rapidly reduced to meet the Paris Agreement temperature goal ("Paris goal"), often misleads consumers about the environmental attributes of harmful products and industries, and delays the societal shifts necessary for the net zero transition.
5. ClientEarth supports the European campaign for a ban on advertising and sponsorship by fossil fuel and transport companies, drawing on:

¹ IPCC 1.5°C Report, Chapter 4, p. 392; and see the phase out dates for fossil fuel products in the IEA Net Zero Roadmap

² IPCC 1.5°C Report, Chapter 4, p. 392

- a. the international scientific consensus on climate change, (from the IPCC and other scientific publications), and
 - b. ClientEarth's experience of seeking to enforce the prohibition of misleading advertising.
6. According to the IPCC,³ decarbonisation requires public behaviour change in the consumption of fossil fuel products ('demand-side mitigation'). This change implicates businesses as social actors, because they influence public behaviours and social norms through advertising. However, the IPCC highlights that fossil fuel industries' advertising has acted as a barrier to decarbonisation, by shaping narratives such as climate scepticism and derailing climate mitigation.⁴ Accordingly, the IPCC's examples of decarbonisation policy measures include the regulation of advertisements.⁵
 7. The IPCC also refers to the risks of so-called 'carbon lock-in', the build-up of economic, institutional and social inertia from "*the continued investment in and use of carbon-intensive technologies that are difficult or costly to phase-out once deployed.*"⁶ This means low-carbon alternatives are 'locked out'. Fossil fuel advertising plays a crucial role in perpetuating carbon lock-in.
 8. According to climate scientists, we must cross 'social tipping points' to transition; meaning we must "*activat[e] contagious and fast-spreading processes of social and technological change within the next few years.*" Bans on advertising for fossil fuel products are noted as a policy intervention to trigger social tipping points.
 9. There is evidence of democratic support for bans. The UK⁷ and French citizens' Climate Assemblies also backed advertising bans or restrictions on high emissions products or sectors. National and local governments are acting or seeking to restrict fossil fuel advertisements in various ways: in France, the Netherlands, Canada, the UK, Australia, Sweden and elsewhere. Similar to tobacco advertising bans, the movement for a fossil fuel advertising ban is supported by the World Health Organisation (WHO), which has described climate change as "*the biggest health threat facing humanity*" and estimates 550,000 annual deaths from air pollution in Europe alone.
 10. Meanwhile, potentially misleading fossil fuel climate advertising is proliferating, often using common sector narratives. Fossil fuel companies generally are not considered to be aligned with the Paris goal. Studies find that oil and gas company public communications deploy common misleading narratives at odds with climate science, and estimates that just five such companies spend from \$750m to \$12bn per year on climate-related communications activities. Similarly, car and airline companies have some of the biggest advertising budgets in Europe.⁸
 11. ClientEarth's support for a ban is also based on its experience of seeking to enforce prohibitions on misleading advertising. According to European Commission guidance, consumer law requires

³ IPCC AR6 WGIII Full Report, Chapter 5, p. 5-67

⁴ IPCC AR6 WGIII Full Report, Chapter 5, p.5-83; Chapter 13, p.13-27; Technical Summary, TS-106

⁵ IPCC AR6 WGIII Full Report, Chapter 4, p. 4-76, Table 4.12 'Examples of policies that can help shift development pathways'

⁶ IPCC 1.5°C Report, section 2.3.5, p. 126; see also IPCC AR6 WGIII Full Report, Chapter 3, p. 3-69.

⁷ UK Climate Assembly Report, p.22

⁸ Various sources in Advertising Climate Chaos report, p.4, footnote 3.

that environmental claims must be based on robust and well-accepted scientific evidence, which should prevent misleading fossil fuel environmental claims.

12. However, structural barriers contribute to a significant enforcement gap, so the law is not sufficiently observed in practice by fossil fuel companies. Regulators, consumer associations and PR and legal professionals do not have sufficient capacity or sufficient expertise in often complex issues of climate science. Claims and complaints are costly and lengthy – they typically take at least 1-2 years to resolve, by which time a new marketing strategy is often in place.
13. A wave of litigation, regulatory guidance and self-regulatory bodies' rulings is important in raising awareness and signalling the risks, but fossil fuel climate narratives are still commonly promoted. Fossil fuel companies appear to be incentivized to promote the core narratives underpinning their 'social licence to operate' irrespective of legal risk.
14. Fossil fuel greenwashing is liable to grow,⁹ unless it is prevented at source. ClientEarth's position is therefore that a fossil fuel advertising ban is necessary for ensuring legal compliance, and a necessary policy measure to achieve the net zero transition.

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⁹ p.91