

Complaint against BP in respect of violations of the OECD Guidelines

Complainant:



ClientEarth
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Company:

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NCP:

**UK National Contact Point for the OECD Guidelines for
Multinational Enterprises**

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ClientEarth is an environmental law charity that has staff in London, Brussels, Warsaw, Madrid, Beijing, Berlin and Luxembourg, and works to enforce laws for the protection of the environment around the world.

Executive summary

1. In this Complaint, ClientEarth alleges that BP's current advertising misleads the public in the way that it presents BP's low-carbon energy activities, including their relative scale to its fossil fuel extraction activities, the role of gas, as well as the global energy system and climate change.
2. This Complaint is concerned with the way in which BP communicates with the public and whether this corresponds to the reality of its business and products. Nonetheless, the backdrop to this Complaint is that BP's plans to continue to grow its fossil fuel extraction business which has the potential to worsen the climate crisis and jeopardise the prospects of society making the required global energy transition and dramatically reducing greenhouse gas ("GHG") emissions, in order to meet the goals of the Paris Agreement.
3. The Organisation for Economic Co-operation and Development ("OECD") Guidelines for Multinational Enterprises¹ require clear, honest, accurate and informative communication between enterprises and the public. Communications addressing the environmental impacts of an enterprise's operations are critical to furthering the OECD Guidelines' purpose of promoting sustainable development. As the OECD Guidelines recognise, members of the public require accurate and clear information to make informed decisions about the sustainability and climate impact of both their consumption habits and the activities of businesses operating in their society.
4. In January this year, BP launched a major advertising campaign under the titles "Keep Advancing"² and "Possibilities Everywhere"³ across a range of different media including television and billboards in a number of countries, such as the UK, the US and Germany, as well online on its website and social media accounts.
5. The BP campaign presents what it suggests is the company's strategy for navigating the energy transition to sustainable energy supply and addressing what it identifies as a "dual challenge" of rising global demand for energy and a simultaneous need for lower GHG emissions to mitigate climate change. The campaign is accompanied by the slogan "#NotBusinessAsUsual"⁴ and related content such as the "Energy Illustrated" series of

¹ Available here: <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

² See, e.g., <https://www.bp.com/en/global/corporate/who-we-are/keep-advancing.html>.

³ See, e.g., <https://www.bp.com/en/global/corporate/who-we-are/possibilities-everywhere.html>.

⁴ See, e.g., <https://www.bp.com/en/global/corporate/who-we-are/keep-advancing/not-business-as-usual.html>.

videos.⁵ Duncan Blake, BP's Director of Brand, stated in an interview at the time of the campaign's launch that "the measure of success will be for people to play back that they see that BP are doing lots of things to contribute to this dual challenge."⁶

6. However, contrary to the OECD Guidelines, for the reasons given in this Complaint, ClientEarth contends that BP's adverts and communications with consumers are misleading in the following key respects:

6.1. They give a false impression of the relative scale of renewable and low-carbon energy in BP's business, suggesting that this is already extensive and growing, as well as making misleading claims about specific renewables projects. In reality, BP invests over 96% of its capital expenditure in fossil fuels such as oil and gas and less than 4% on low-carbon technologies. An approximate comparison of the energy supplied by BP suggests that less than 1% of it is from low-carbon sources, with the vast majority being from fossil fuels. BP has selectively highlighted relatively tiny investments in low-carbon technologies that are dwarfed by its fossil fuel business, *which is still expanding*.

6.2. They misleadingly omit full lifecycle emissions for gas and claim a higher emissions saving against coal combustion than put forward by bodies such as the International Energy Agency ("IEA"). The advertising also includes the following misleading claims regarding gas:

- a. that gas (and / or BP's gas in particular) is "cleaner burning", without clarifying in what context, against which competing sources of energy and to what extent this is the case (for example whether the claim applies in respect of cooking and spatial heating);
- b. that gas only performs a back-up function to variable renewables in electricity generation, when in fact gas is regularly used to generate electricity that could otherwise be provided by variable renewables, i.e., including when such renewables are operating at normal or high levels; and

⁵ <https://www.bp.com/en/global/corporate/energy-economics/spencer-dale-group-chief-economist/energy-illustrated.html>.

⁶ <https://www.campaignlive.co.uk/article/bp-launches-biggest-global-campaign-decade/1523391>.

- c. that gas is a “perfect”, “ideal” or “smart” partner to renewables, when in fact it has significant negative environmental impacts and its use must be reduced to avoid worsening the effects of climate change.
- 6.3. They assert that increases in global primary energy demand are both desirable and inevitable for human progress and development, when a significant body of leading scientific and expert opinion indicates otherwise, while also misleadingly omitting information about the predicted severe negative impacts of climate change caused by the continued, let alone increased, use of fossil fuel energy.
7. ClientEarth alleges that these misleading claims place BP’s 2019 campaign in conflict with the following sections of the OECD Guidelines:
- 7.1. Consumer Interests (Chapter VIII, paras 2, 4 and 5 and paras 85 and 88 of the Commentary); and
 - 7.2. Environment (Chapter VI, paras 2(a) and 6(c)).
8. In bringing this Complaint, ClientEarth seeks to ensure that information provided by BP to the public and consumers is clear, true and accurate and consistent with the relevant requirements of the OECD Guidelines. This is a major advertising and public information campaign by one of the world’s largest and best-known oil and gas companies. Adherence to the relevant parts of the OECD Guidelines is in the public interest and is critical to: (i) informing the public about the true role of large oil and gas companies such as BP in creating and contributing to the current climate crisis, (ii) educating the public about the consequences of the ongoing use of fossil fuel energy, and (iii) telling the public the truth about the need to dramatically reduce oil and gas production in order to avoid catastrophic climate change and meet the temperature goals of the Paris Agreement of 2015.⁷
9. ClientEarth hopes that the NCP will assist the parties to resolve the issues raised in this Complaint and that BP will engage with the NCP process in good faith, displaying the type of environmental leadership that it wishes to be known for.

ClientEarth’s request to BP:

10. ClientEarth requests that BP take steps to correct the misleading information in its public communications. Specifically, ClientEarth requests that BP:

⁷ U.N. Framework Convention on Climate Change Conference of Parties, Twenty-First Session, Adoption of the Paris Agreement, U.N. Doc. FCCC/CP/2015/L.9/Rev.1 (Dec. 12, 2015).

- 10.1. Withdraw and cease publication of the identified advertisements and public communications until revised to conform with the OECD Guidelines, including by not misleading with respect to climate and other environment-related issues.
 - 10.2. Make a public statement explaining the withdrawal and / or correction of its advertisements. All advertisements must clearly state how much of the company's investment is in oil and gas and how much in what it calls 'low carbon businesses'. In the case of BP, this means that it should disclose clearly in all advertising the proportion of its annual investment that is in fossil fuels and the proportion that is in low-carbon sources of energy.
 - 10.3. Ensure that all future advertising and public communications include a comment in the form of a warning or a disclaimer that the use of the company's oil and gas products creates GHG emissions that contribute to global climate change. All advertising must include the following text:

“The Intergovernmental Panel on Climate Change (IPCC) has found that emissions from fossil fuels are the dominant cause of global warming.

The IPCC warns that fossil fuel emissions must be halved within 11 years if global warming is to be limited to 1.5°C. Warming above 1.5°C risks further sea level rise, extreme weather, biodiversity loss and species extinction, as well as food scarcity, worsening health and poverty for millions of people worldwide.”
 - 10.4. Make a public commitment to ensure that its future communications on climate and environment-related issues and on the environmental impacts of its products and services are consistent with the purposes of the OECD Guidelines and introduce a clear internal policy to this effect to the extent that no such policy already exists.
11. If it is not possible to resolve the matter in this way, ClientEarth requests that the NCP find that BP has breached the OECD Guidelines in the ways described in the Complaint.