

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

The City of New York,

Plaintiff,

-against-

Exxon Mobil Corp., ExxonMobil Oil
Corporation, Royal Dutch Shell plc, Shell Oil
Company, BP p.l.c., BP America Inc., and
American Petroleum Institute,

Defendants.

SUMMONS

JURY TRIAL DEMANDED

Index No.

Date:

TO THE ABOVE-NAMED DEFENDANTS:

Exxon Mobil Corp.

ExxonMobil Oil Corporation

Royal Dutch Shell plc

Shell Oil Company

BP p.l.c.

BP America Inc.

American Petroleum Institute

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear

or answer, judgment will be taken against you by default for the relief demanded in the complaint. The action will be heard in the Supreme Court of the State of New York in the County of New York. Venue is proper under CPLR § 505(a) because Plaintiff's principal office is at City Hall Park, New York, NY 10007.

Dated: April 22, 2021

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Corporation Counsel of the City of New York

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**SUPREME COURT OF THE STATE OF NEW YORK
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Exxon Mobil Corp., ExxonMobil Oil
Corporation, Royal Dutch Shell plc, Shell Oil
Company, BP p.l.c., BP America Inc., and
American Petroleum Institute,

Defendants.

VERIFIED COMPLAINT

JURY TRIAL DEMANDED

Index No.

Date:

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The City of New York (“the City” or “Plaintiff”), by its attorney James E. Johnson, Corporation Counsel of the City of New York, brings this action against Exxon Mobil Corp., ExxonMobil Oil Corporation, Royal Dutch Shell plc, Shell Oil Company, BP p.l.c., and BP America Inc., and the American Petroleum Institute (collectively “Defendants”), for violations of the City’s Consumer Protection Law (“CPL”), New York City Administrative Code (“NYC Code”) §§ 20-700 *et seq.* In support of its claims, the City pleads as follows:

INTRODUCTION

1. Climate change is one of the greatest threats facing humanity and a central focus of consumers’ anxiety about the future. This concern is driving consumer choices between fossil fuels and transportation and energy alternatives.

2. Defendants—three of the largest oil and gas companies and their top industry trade association—have systematically and intentionally misled consumers in New York City (“NYC consumers”) about the central role their products play in causing the climate crisis. They have engaged in this deceptive conduct both to compete against growing safer energy options and to distinguish themselves from industry competitors as they vie for consumer dollars.

3. Defendants know that their crude oil, petroleum, natural gas, and related hydrocarbon products (together, “fossil fuels”) warm the planet by creating greenhouse gas pollution. They know that the extraction, refinement, and combustion of fossil fuels are the primary driver of climate change. And they know that continued use of their fossil fuel products will wreak havoc on the planet, causing irreversible changes to the climate system with severe and deadly consequences for people and the environment. In light of their sophisticated understanding of the causes and effects of climate change—and their products’ central role in causing it—Defendants’ multipronged efforts to mislead consumers about the climate impacts of their products and businesses are all the more the egregious.

4. As Defendants are aware, NYC consumers are seeking out products and services that have less of an adverse impact on the environment and are supporting companies that purport to align with these values. In particular, there is a growing desire among consumers to reduce fossil fuel consumption, and to find other opportunities to fulfill their energy needs with energy generated through means considered to be less harmful to the environment and to the climate in particular. *See* Section I, *infra*.

5. ExxonMobil, Shell, and BP deceive NYC consumers by misrepresenting the climate impacts of various gasoline products sold at their branded service stations in the City. In a bid to reassure consumers that purchasing these products is good for the planet, ExxonMobil, Shell, and BP advertise them as “cleaner” and “emissions-reducing,” but fail to disclose their harmful effects on the climate. This strategy comes straight out of the advertising playbook of Big Tobacco, which deceptively promoted “low tar” and “light” cigarettes as healthier smoking options, when they knew that any use of cigarettes was harmful. *See* Section II, *infra*.

6. At the same time, through advertisements, social media posts, and other promotional materials directed at NYC consumers, ExxonMobil, Shell, and BP falsely present themselves as corporate leaders in the fight against climate change, knowing that they can sell more products if they are viewed as environmentally responsible. They claim to invest substantially in low-emission technologies and zero-emission renewable energy, such as solar, wind, and battery storage (“clean energy resources”). In fact, as underscored in Figure 1 below, these investments constitute only a miniscule percentage of their total business. In light of this discrepancy, these defendants mislead NYC consumers by presenting clean energy resources as a significant portion of their overall businesses, which instead continues to be overwhelmingly focused on fossil fuel production and sales. Additionally, as with their gasoline products,

ExxonMobil, Shell, and BP misleadingly advertise their other fossil fuel products, such as natural gas, as “green” or “cleaner,” giving NYC consumers the false impression that they can help combat climate change by purchasing these products. In reality, though, Defendants know the supposed environmental benefits are a mirage. *See* Section III, *infra*.

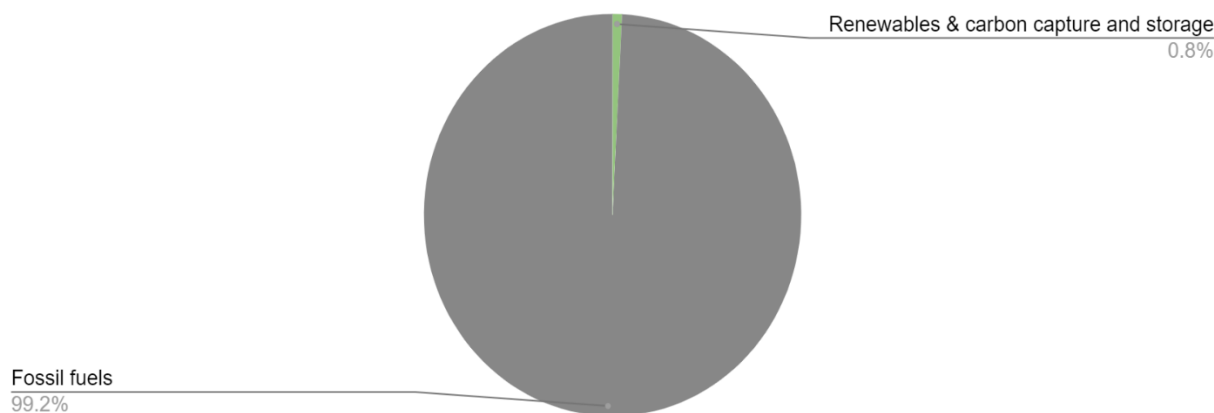


Figure 1: Oil and gas industry capital investment in 2019
Data source: International Energy Agency²

7. The American Petroleum Institute (“API”), the oil and gas industry’s largest trade association, spreads its own deceptive advertising on behalf of ExxonMobil, Shell, and BP (three of its leading members) and its other member companies. API misleads NYC consumers by promoting fossil fuels as integral to “climate solutions” without disclosing that fossil fuels are the primary *cause* of climate change. This and other messaging aim to ensure a continued and growing market for API’s member companies’ oil and gas products by deceptively portraying their use as compatible with NYC consumers’ environmental values. *See* Section IV, *infra*.

8. In waging these deceptive advertising campaigns, Defendants are intentionally depriving NYC consumers of information that is material to their purchasing decisions, all with the goal of attracting new consumers to their fossil fuel products and preventing the mass defection

² International Energy Agency, *The Oil and Gas Industry in Energy Transitions* (Jan. 2020), <https://www.iea.org/reports/the-oil-and-gas-industry-in-energy-transitions>.

of existing consumers to cleaner alternatives that contribute substantially less to climate change. That deception is working: ExxonMobil, Shell, and BP are realizing massive profits, which in turn have enabled the unabated and expanded extraction, production, promotion, marketing, and sale of fossil fuel products.

9. Defendants' conduct violates the CPL, NYC Code §§ 20-700 *et seq.* The City seeks injunctive relief, civil penalties, and costs to stop Defendants from continuing these and similar unlawful trade practices.

PARTIES

A. Plaintiff

10. Plaintiff City of New York is a municipal corporation incorporated under the laws of the State of New York. The City is responsible for the welfare of its more than 8.5 million residents, as well as the millions of additional people who work in or visit New York City each day. The CPL charges the City with protecting the public from deceptive and unconscionable business practices.

B. Defendants

11. ExxonMobil Entities

a. Exxon Mobil Corporation is a multi-national, vertically integrated, energy and chemicals company incorporated in New Jersey with its headquarters and principal place of business in Irving, Texas. Exxon Mobil Corporation is among the largest publicly traded oil and gas companies in the world. Exxon Mobil Corporation was formerly known as, did or does business as, and/or is the successor in liability to ExxonMobil Refining and Supply Company; Exxon Chemical U.S.A.; ExxonMobil Chemical Corporation; ExxonMobil Chemical U.S.A.; ExxonMobil Refining & Supply Corporation; Exxon Company, U.S.A.; Exxon Corporation; and Mobil Corporation.

b. Exxon Mobil Corporation controls and directs companywide decisions related to all aspects of the allegations contained herein, including but not limited to advertising and messaging strategy, and including, in particular, companywide advertising and public communications concerning climate change and the relationship between fossil fuel use and climate change. Exxon Mobil Corporation's control over companywide advertising and messaging includes control over positions taken in communications directed at NYC consumers.

c. Exxon Mobil Corporation has been registered to do business in New York since 1950. For decades, Exxon Corporation and Mobil Corporation (which later merged) were headquartered in the state of New York, and Mobil Corporation was headquartered in New York City for 30 years.

d. ExxonMobil Oil Corporation is a wholly owned subsidiary of Exxon Mobil Corporation that acts on Exxon Mobil Corporation's behalf and subject to Exxon Mobil Corporation's control. ExxonMobil Oil Corporation is incorporated in New York with its principal place of business in Irving, Texas. ExxonMobil Oil Corporation was formerly known as, did or does business as, and/or is the successor in liability to Mobil Oil Corporation.

e. As used in this Complaint, "ExxonMobil" refers collectively to Exxon Mobil Corporation and ExxonMobil Oil Corporation, and their predecessors, successors, parents, subsidiaries, affiliates, and divisions.

f. ExxonMobil consists of numerous divisions and affiliates in all areas of the fossil fuel industry, including exploration for and production of crude oil and natural gas; manufacture of petroleum products; and transportation, promotion, marketing, and sale of

crude oil, natural gas, and petroleum products. Exxon is also a major manufacturer and marketer of commodity petrochemical products.

g. ExxonMobil transacts and has transacted substantial fossil fuel-related business in New York City and New York State. ExxonMobil supplies gasoline to New York State from a number of its refineries to the New York Harbor area via the Colonial Pipeline and other pipelines, with a substantial portion supplying New York State. ExxonMobil markets or has marketed gasoline and other fossil fuel products to NYC consumers, including through Exxon-branded and Mobil-branded petroleum service stations in the City, displaying and using ExxonMobil trademarks, and selling ExxonMobil-branded gasoline and other branded products. ExxonMobil maintains gasoline stations throughout New York State and the New York City metropolitan area as well, all bearing the Exxon or Mobil banner.

h. ExxonMobil directs NYC consumers to this network of retail gas stations through its interactive website, which identifies the locations of such stations by street address following the input of the consumer's location or by zip code.³

i. ExxonMobil also markets and sells petroleum products to NYC consumers through retail automotive stores and other retail locations in the City. Those products include engine lubricants and motor oils sold under the Mobil 1 brand name, which is owned by ExxonMobil.

j. ExxonMobil offers NYC consumers a proprietary credit card known as the "ExxonMobil Smart Card," which allows NYC consumers to pay for gasoline and other products at Exxon- and Mobil-branded service stations, including in the City. Consumers

³ See ExxonMobil "Find a gas station near me," <https://www.exxon.com/en/find-station>.

who use the ExxonMobil Smart Card receive various rewards, including discounts on gasoline purchases.

k. ExxonMobil developed and supports a smartphone application known as Rewards+, through which NYC consumers set up personal accounts and use the application as a payment platform for buying gasoline, diesel fuel, and other products at Exxon- and Mobil-branded retail gas stations. Both the ExxonMobil Smart Card and the Rewards+ application are designed to induce customer affinity and brand loyalty and to capture ExxonMobil market share in the gasoline market.

l. ExxonMobil has engaged in national print and online advertising campaigns that have deliberately targeted consumers throughout the United States, including in New York City, in order to increase its sales. ExxonMobil has purposely availed itself of New York's marketplace through nationwide advertising it knew would reach NYC consumers.

12. **Shell Entities**

a. Royal Dutch Shell plc is a vertically integrated, multinational energy and petrochemical company. Royal Dutch Shell plc is incorporated in England and Wales, with its headquarters and principal place of business in the Hague, Netherlands. Royal Dutch Shell PLC consists of over a thousand divisions, subsidiaries, and affiliates engaged in all aspects of the fossil fuel industry, including exploration, development, extraction, manufacturing, and energy production, transport, trading, marketing, and sales.

b. Royal Dutch Shell plc controls and directs companywide decisions related to all aspects of all allegations contained herein, including but not limited to advertising and messaging strategy, such as companywide advertising and public communications concerning climate change and the relationship between fossil fuel use and climate change.

Royal Dutch Shell PLC's control over companywide advertising and messaging includes control over positions taken in communications directed at NYC consumers.

c. Shell Oil Company is a wholly owned subsidiary of Royal Dutch Shell PLC that acts on Royal Dutch Shell plc's behalf and subject to Royal Dutch Shell plc's control. Shell Oil Company is incorporated in Delaware with its principal place of business in Houston, Texas. Shell Oil Company was formerly known as, did or does business as, and/or is the successor in liability to Deer Park Refining LP; Shell Oil; Shell Oil Products; Shell Chemical; Shell Trading US; Shell Trading (US) Company; Shell Energy Services; The Pennzoil Company; Shell Oil Products Company LLC; Shell Oil Products Company; Star Enterprise LLC; and Pennzoil-Quaker State Company. Shell Oil Company has been registered to do business in New York since 1936. Shell's agent and subsidiary Shell Oil Company had an office in New York City at least as early 1939 and had its headquarters in New York City for over 20 years.

d. Defendants Royal Dutch Shell plc, Shell Oil Company, and their predecessors, successors, parents, subsidiaries, affiliates, and divisions are collectively referred to as "Shell."

e. Shell transacts and has transacted substantial fossil fuel-related business in New York, including the marketing and promotion of gasoline and other fossil fuel products to consumers, including through dozens of Shell-branded petroleum service stations in New York City, displaying and using Shell trademarks, and selling Shell-branded gasoline and other branded products. In 2006, after Shell added numerous branded gas stations in New York City, a spokesperson said: "By signing supply agreements with

the retail operators of the 59 sites in New York City, we are reinforcing our goal of becoming a preferred fuels supplier by doubling our presence in that market.”⁴

f. Shell markets and sells other products including engine lubricant and motor oils to NYC consumers under its Pennzoil brand name, at retail outlets within New York City, including Advance Auto Parts, Target, Autozone, Shell-branded service stations, and other local automotive supply businesses.

g. Shell offers a proprietary credit card known as the “Shell Fuel Rewards Card,” which allows NYC consumers to pay for gasoline and other products at Shell-branded service stations, including in the City. NYC Consumers who use the Shell Fuel Rewards Card receive various rewards, including discounts on gasoline purchases at Shell service stations and cash rebates.

h. Shell maintains an interactive website that allows NYC consumers to locate Shell-branded gas stations in the City.⁵ Shell further maintains a smartphone application known as the “Shell US App” that offers NYC consumers a cashless payment method for gasoline and other products at Shell-branded service stations. NYC consumers use the payment method by providing their credit card information through the application. NYC consumers can also receive rewards including discounts on gasoline purchases by registering their personal identifying information into the Shell US App and using the application to identify and activate gas pumps at Shell service stations during a purchase. Both the Shell Fuel Rewards Card and the Shell US App are designed to induce customer affinity and brand loyalty and to capture Shell market share in the gasoline market.

⁴ *Shell to ‘Make It There’ in NY, NY*, CSP DAILY NEWS (June 6, 2006), <https://www.cspdailynews.com/fuels/shell-make-it-there-ny-ny>.

⁵ Shell, “Gas station near me,” <https://www.shell.us/motorist/gas-station-near-me.html>.

i. Shell also owns and operates refineries that supply gasoline to the New York Harbor area and is a partial owner of the Colonial Pipeline which supplies substantial quantities of gasoline to the northeastern United States, including New York State.

j. Shell has engaged in national print and online advertising campaigns that have deliberately targeted consumers throughout the United States, including in New York City, in order to increase its sales. Shell has purposely availed itself of New York's marketplace through nationwide advertising it knew would reach NYC consumers.

13. BP Entities

a. BP p.l.c. is a multinational, vertically integrated energy and petrochemical public limited company, registered in England and Wales with its principal place of business in London, England. BP p.l.c. consists of three main operating segments: (1) exploration and production; (2) refining and marketing; and (3) gas power and renewables. BP p.l.c. is the ultimate parent company of numerous subsidiaries, which explore for and extract oil and gas worldwide; refine oil into fossil fuel products such as gasoline; and market and sell oil, fuel, other refined petroleum products, and natural gas worldwide. BP p.l.c.'s subsidiaries explore for oil and natural gas under a wide range of licensing, joint arrangement, and other contractual agreements.

b. BP p.l.c. controls and directs companywide decisions related to all aspects of all allegations contained herein, including but not limited to advertising and messaging strategy, including, in particular, companywide advertising and public communications concerning climate change and the relationship between fossil fuel use and climate change. BP p.l.c.'s control over companywide advertising and messaging includes control over positions taken in communications directed at NYC consumers.

c. BP America Inc. is a wholly owned subsidiary of BP p.l.c. that acts on BP p.l.c.'s behalf and is subject to BP p.l.c.'s control. BP America Inc. is a vertically integrated energy and petrochemical company incorporated in Delaware with its headquarters and principal place of business in Houston, Texas. BP America Inc. consists of numerous divisions and affiliates in all aspects of the fossil fuel industry, including exploration for and production of crude oil and natural gas; manufacture of petroleum products; and transportation, marketing, and sale of crude oil, natural gas, and petroleum products. BP America Inc. has been registered to do business in New York since 1978. BP America Inc. was formerly known as, did or does business as, and/or is the successor in liability to Amoco Corporation; Amoco Oil Company; ARCO Products Company; Atlantic Richfield Delaware Corporation; Atlantic Richfield Company (a Delaware Corporation); BP Exploration & Oil, Inc.; BP Products North America Inc.; BP Amoco Corporation; BP Amoco plc; BP Oil, Inc.; BP Oil Company; Sohio Oil Company; Standard Oil of Ohio (SOHIO); Standard Oil (Indiana); The Atlantic Richfield Company (a Pennsylvania corporation) and its division, the Arco Chemical Company. Atlantic Richfield Company's headquarters were located in New York State until 1972.

d. Defendants BP p.l.c. and BP America Inc., and their predecessors, successors, parents, subsidiaries, affiliates, and divisions are collectively referred to herein as "BP."

e. BP transacts and has transacted substantial fossil fuel-related business in New York, including the marketing and promotion of gasoline and other fossil fuel products to NYC consumers, including through BP-branded petroleum service stations in

the City, displaying and using BP trademarks, and selling BP-branded gasoline and other branded products.

f. BP markets and sells other products including engine lubricant and motor oils to NYC consumers under its Castrol brand name at retail outlets within the City, including Autozone, Advance Auto Parts, BP-branded service stations, and other local automotive supply businesses.

g. BP offers a proprietary credit card known as the “BP Credit Card,” which allows NYC consumers to pay for gasoline and other products at BP- and Amoco-branded service stations, including in the City. NYC consumers who use the BP Credit Card receive various rewards, including discounts on gasoline purchases at BP and Amoco service stations.

h. BP maintains an interactive website that allows consumers to locate BP- and Amoco-branded gas stations in New York City.⁶ BP further maintains a smartphone application known as “BPme Rewards” that offers NYC consumers a cashless payment method for gasoline and other products at BP- and Amoco-branded service stations. NYC consumers use the payment method by providing their credit card information through the application. NYC consumers can also receive rewards including discounts on gasoline purchases by registering their personal identifying information into the BPme Rewards application and using the application to identify and activate gas pumps at BP and Amoco service stations during a purchase. Both the BP Credit Card and BPme Rewards are

⁶ BP, “Find a gas station,” https://www.bp.com/en_us/united-states/home/find-a-gas-station.html.

designed to induce customer affinity and brand loyalty and to capture BP market share in the gasoline market.

i. BP has engaged in national print and online advertising campaigns that have deliberately targeted consumers throughout the United States, including in New York City, in order to increase its sales. BP has purposely availed itself of New York's marketplace through nationwide advertising it knew would reach NYC consumers.

14. American Petroleum Institute

a. Defendant American Petroleum Institute ("API") is a nonprofit corporation based in Washington, D.C., and is registered to do business in New York. API was founded in 1919 in New York City to advocate for the interests of the petroleum industry.⁷ Today, API has nearly 600 members, making it the United States' largest oil and gas trade association.

b. API's mission is to promote "a strong, viable U.S. oil and natural gas industry,"⁸ which includes increasing consumer consumption of oil and gas. Among other functions, API also coordinates among members of the petroleum industry to gather information of interest to that industry and disseminate that information to its members. In effect, API acts and has acted as a marketing arm for its member companies. API has published advertisements in New York City, including billboards in Times Square, and advertises in national media and social media that reaches NYC consumers.

c. API has participated in and led several coalitions, front groups, and organizations that have promoted disinformation about fossil fuel products to consumers,

⁷ API, *API History*, <https://web.archive.org/web/20130424045926/http://api.org/globalitems/globalheaderpages/about-api/api-history>.

⁸ API, *About API*, <https://www.api.org/about>.

including Partnership for a Better Energy Future, Coalition for American Jobs, Alliance for Energy and Economic Growth, and Alliance for Climate Strategies. These front groups were formed to provide misleading climate-related advocacy from an ostensibly objective source, when, in fact, they were financed and controlled by API.

d. Member companies participate in API strategy, governance, and operation through membership dues and by contributing company officers and other personnel to API boards, committees, and task forces. ExxonMobil, Shell, and BP are core API members. Executives from these companies frequently serve on the API Executive Committee and/or as API Chairman, which is akin to serving as a corporate officer. For example, ExxonMobil's CEO Darren Woods recently served as chairman of API's board from 2018 to 2020 and currently remains a member of the executive committee.⁹ The chairman and president of BP America also recently served on API's board, as did the president of Shell Oil Company.¹⁰

VENUE AND JURISDICTION

15. This Court has jurisdiction over this action pursuant to New York Constitution, article VI, § 7(a), and New York Civil Practice Law and Rules §§ 301 and 302.

16. Pursuant to New York Civil Practice Law and Rules § 503(a), venue is proper in New York County because that is the county of Plaintiff's principal place of business and because it is the county in which a substantial part of the events or omissions giving rise to the claim occurred.

⁹ Rigzone, *API Names New Chairman* (Jan. 23, 2020), https://www.rigzone.com/news/api_names_new_chairman-23-jan-2020-160869-article.

¹⁰ ProPublica, *American Petroleum Institute*, Nonprofit Explorer, <https://projects.propublica.org/nonprofits/organizations/130433430/201903199349305980/full>.

RELEVANT LAW

17. The New York City Consumer Protection Law (“CPL”) bars “any deceptive or unconscionable trade practice in the sale . . . or in the offering for sale . . . of any consumer goods or services[.]” NYC Code § 20-700. Deceptive trade practices are “[a]ny false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind made in connection with the sale . . . or in connection with the offering for sale . . . of consumer goods or services . . . which has the capacity, tendency or effect of deceiving or misleading consumers.” NYC Code § 20-701(a). Deceptive trade practices include but are not limited to “representations that goods or services have . . . characteristics, ingredients, uses, benefits, or quantities that they do not have” and “the use . . . of exaggeration, innuendo, or ambiguity as to a material fact or failure to state a material fact if such use deceives or tends to deceive[.]” *Id.* Deceptive trade practices are not limited to representations made directly to consumers but may include those made to third parties in a way that tends to deceive consumers.

STATEMENT OF FACTS

I. Information Regarding the Role of Defendants’ Fossil Fuel Products in Causing the Climate Crisis Is Material to NYC Consumers’ Purchasing Decisions.

18. Consumer use of fossil fuel products, by driving gasoline-powered cars and other vehicles as well as electric and home energy choices, is a significant contributor to climate change, which is driving up global temperatures, increasing the frequency of deadly weather events, eroding coastal shorelines, and creating other unprecedented threats to people in New York City and elsewhere.

19. By misleading NYC consumers about the climate impacts of using fossil fuel products, even to the point of claiming that certain of their fossil fuel products may benefit the environment, and by failing to disclose to consumers the climate risks associated with their use of

those products, Defendants have deprived and are continuing to deprive consumers of information about the consequences of their purchasing decisions—information Defendants know influences both public perception of their products and consumer purchasing behavior.

20. Additionally, as a result of Defendants' widespread advertising exaggerating their environmental credentials and investments in clean energy resources and failing to disclose the known climate harms from their products, many NYC consumers have been unaware of the magnitude of the threat posed by their use of fossil fuels, or of the relationship between their purchasing behavior and climate change. Defendants have sought to mislead consumers, and induce purchases and brand affinity, with greenwashing advertisements designed to represent Defendants as environmentally responsible companies developing innovative green technologies and products. In reality, Defendants' investment in clean energy sources is miniscule and their business models continue to center on developing, producing, and selling more of the very same fossil fuel products driving climate change.

21. Knowledge of the risks associated with the routine use of fossil fuel products is material to NYC consumers' decisions to purchase and use those products. Numerous consumer surveys back this up. In a Harris Poll conducted in December 2019 on behalf of the American Psychological Association, more than half of U.S. adults said climate change is the most important issue facing society today; 6 in 10 reported changing their habits to reduce their contribution to climate change, including becoming more reliant on renewable energy sources.¹¹

22. Defendants themselves recognize that consumers find the industry's environmental commitments material to their purchasing decisions. For example, API represents on its website that "88% of Americans favor energy companies helping meet environmental challenges."

¹¹ American Psychological Association, *Majority of US Adults Believe Climate Change Is Most Important Issue Today* (Feb. 6, 2020), <https://www.apa.org/news/press/releases/2020/02/climate-change>.

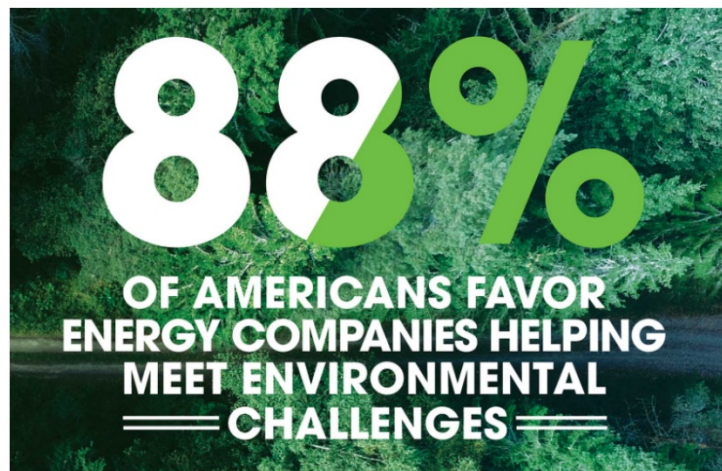


Figure 2: API “Energy for a Cleaner Environment” website¹²

23. As in the case of cigarettes, history demonstrates that when consumers are made aware of the harmful effects or qualities of the products they purchase, they often choose not to purchase them, to reduce their purchases, or to make different purchasing decisions. This phenomenon holds especially true when products have been shown to harm public health or the environment. For example, increased consumer awareness of the role of pesticides in harming human health, worker health, and the environment has spurred a growing market for food grown organically and without the use of pesticides. With access to information about how their food is grown, consumers have demanded healthier choices, and the market has responded.

24. A NYC consumer might purchase fewer—or no—fossil fuel products if provided with accurate information that fossil fuel use was a primary driver of climate change and the resultant dangers to the environment and people. NYC consumers might opt to use the City’s vast public transit system, bike, or walk; avoid or combine car travel trips; carpool; switch to more fuel-efficient vehicles, hybrid vehicles, or electric vehicles; use a car-sharing service; purchase electric instead of natural gas appliances; or choose any combination of these.

¹² API, “Energy for a Cleaner Environment,” <https://www.api.org/news-policy-and-issues/state-of-american-energy/soae-2019-cleaner>.

25. Informed consumers contribute toward solving environmental problems by supporting companies that they perceive to be developing “green” or more environmentally friendly products. Defendants take advantage of NYC consumers and prevent them from making informed choices by falsely buying consumer goodwill, and by misrepresenting their investments in renewable energy or playing up environmental aspects of their products without disclosing that their primary business—fossil fuels—is also the primary driver of climate change.

II. ExxonMobil, Shell, and BP Mislead NYC Consumers by Misrepresenting the Climate Impacts of Specific Fossil Fuel Products.

26. ExxonMobil, Shell, and BP misrepresent the environmental benefits of various fossil fuel products sold at their gasoline service stations in the City, knowing that NYC consumers want their purchases to help—not hinder—the fight against climate change. In a strategic move to protect and expand their share of the energy market, ExxonMobil, Shell, and BP promote these gasoline products as environmentally beneficial and “emissions-reducing.” Yet they conceal from consumers the material fact that using these products still significantly increases greenhouse gas emissions. And they never disclose the material fact that fossil fuels—“emissions-reducing” or otherwise—are the primary cause of climate change.

27. This marketing strategy is reminiscent of the tobacco industry’s advertising campaigns to conceal and downplay the deadly effects of cigarettes. Just as tobacco companies promoted “low-tar” and “light” cigarettes as healthy alternatives to quitting smoking, so too are ExxonMobil, Shell, and BP promoting “emissions-reducing” gasoline products as climate-friendly alternatives to quitting fossil fuels. And just as tobacco companies failed to disclose that smoking “low-tar” and “light” cigarettes is deadly to human health,¹³ so too are ExxonMobil, Shell, and BP

¹³ National Cancer Institute, “*Light*” Cigarettes and Cancer Risk (Oct. 28, 2010), <https://www.cancer.gov/about-cancer/causes-prevention/risk/tobacco/light-cigarettes-fact-sheet> (“The bottom line is that light cigarettes do not reduce the health risks of smoking.”).

hiding that using their “cleaner” and “emissions-reducing” gasoline products is harmful to the climate, the planet, and its people.

28. Indeed, ExxonMobil, Shell, and BP even use the same kind of scientific jargon that Big Tobacco deployed to give their misleading statements the imprimatur of scientific credibility. Advertising for Decade brand cigarettes, for example, referenced a “patented tobacco flavorant,” “modern laser technology,” “exclusive research design,” and the “total system” of cigarette manufacturing developed by Decade over a ten-year period to deliver a “low tar cigarette.” In a similar vein, for example, Exxon’s advertisements of its Synergy™ products reference “meticulous[] engineer[ing]” and “rigorously test[ing] in the lab.”¹⁴

29. As with the tobacco companies’ use of scientific terms to promote “light” cigarettes, ExxonMobil, Shell, and BP’s claims that their purportedly high-tech new fossil fuel products help consumers reduce emissions renders their promotional materials misleading, because they seek to convey—under the guise of scientific rigor—an overall message that is false, and contradicted by ExxonMobil, Shell, and BP’s own knowledge regarding the dangers of fossil fuel use in causing climate change.

30. Below is a selection of fossil fuel products that ExxonMobil, Shell, and BP advertise to NYC consumers as environmentally beneficial, while simultaneously omitting any mention of the products’ role in aggravating climate change. These advertisements are representative of other advertisements and public communications, all of which reinforce ExxonMobil, Shell, and BP’s strategies to influence consumer demand for their products by misleading consumers that their fossil fuel products will help consumers reduce emissions.

¹⁴ ExxonMobil, “Fuels,” <https://www.exxon.com/en/fuels>; ExxonMobil, “New Synergy Diesel Efficient™ Fuel,” <https://www.exxon.com/en/diesel-fuel>.

31. **ExxonMobil Synergy™ Fuels**

a. In July 2016, ExxonMobil began to supply and market its Synergy™ fuel, including at Exxon- and Mobil-branded gas stations in New York City.

b. All gasoline sold at ExxonMobil-branded stations in the New York City has received the Synergy additive, and therefore constitutes Exxon Synergy™ fuel.

c. In July 2019, ExxonMobil began offering “Synergy™ Supreme+,” targeted to purchasers of so-called “premium” gasoline, including NYC consumers. The messaging for this product states that Synergy™ Supreme+ is “Our Best Fuel Ever,” and “2X cleaner for better gas mileage.” According to ExxonMobil, Synergy Supreme+ will enhance vehicle fuel economy in newer engines designed to meet tougher vehicle emissions standards.

d. Similarly, ExxonMobil advertises its Synergy Diesel Efficient™ fuel as a “breakthrough formulation” that helps consumers “[r]educe emissions and burn cleaner,” and “was created to let you drive cleaner, smarter and longer.”¹⁵

e. As shown in the screenshot below, ExxonMobil’s website advertises that Synergy™ gasolines are “engineered for” “[l]ower emissions”—but then explains in smaller print that it “[h]elps remove deposits, which can lead to fewer emissions.”¹⁶

¹⁵ ExxonMobil, “Synergy Diesel Efficient™ fuel for passenger vehicles,” <https://www.exxon.com/en/synergy-diesel-efficient-passenger>.

¹⁶ ExxonMobil Fuels, “Synergy Unleaded Gasoline,” <https://www.exxon.com/en/unleaded-gasoline>.

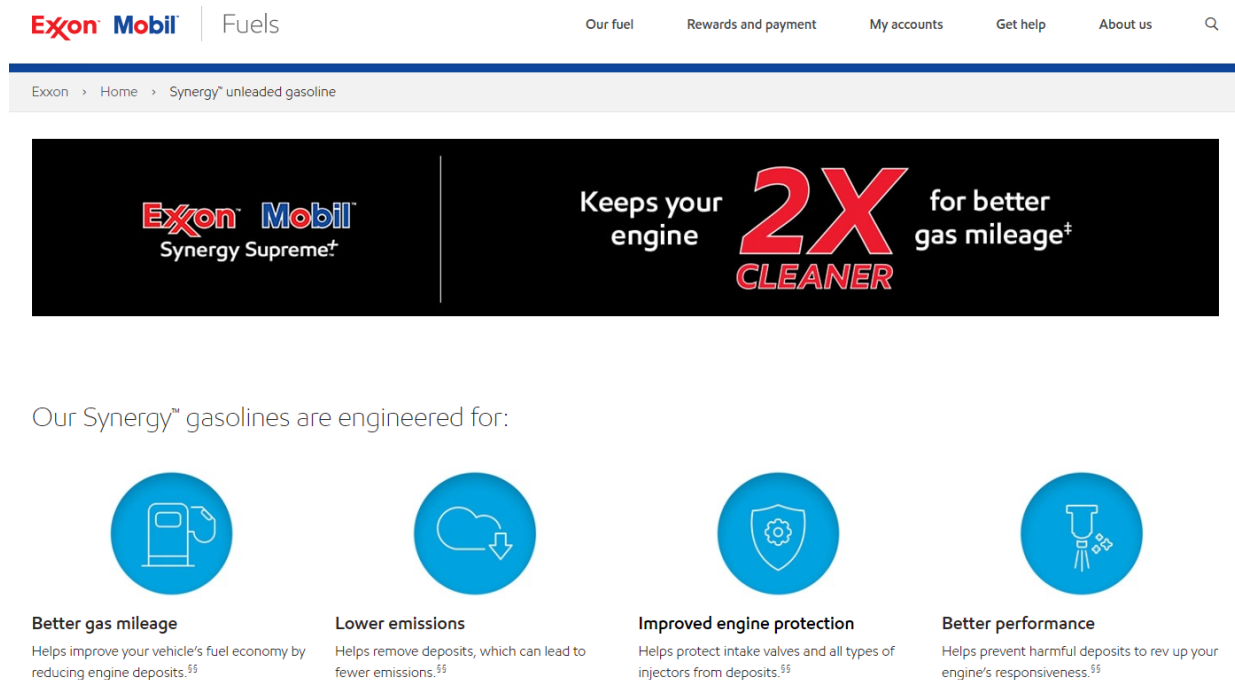


Figure 3: ExxonMobil Fuels website screenshot

f. Additional promotional materials for Synergy™ gasolines appearing on ExxonMobil's website features a photograph of a mountain sunrise with trees in the foreground and text expressly suggesting that its Synergy™ products help reduce greenhouse gas emissions (emphasis added):

Environmental performance

Conscientious practices. Rigorous standards.

Continually ***improving environmental performance*** while pursuing reliable and affordable energy

Ten years ago, we introduced Protect Tomorrow. Today. – a set of expectations that serves as the foundation for our environmental performance. Guided by a scientific understanding of the environmental impacts and related risks of our operations, these rigorous standards and good practices have become an integral part of our day-to-day operations. . . .

The following are the three major areas in which we've concentrated our efforts to ***reduce environmental impacts***. . . .

Improve efficiency in consumer use of fuels

We're continually innovating to develop products that enable customers ***to reduce their energy use and CO2 emissions***. For example, we have:

. . . .

- ***Engineered Fuel Technology Synergy™ fuels to help improve fuel economy and reduce CO2 emissions***

Below is a screenshot of the portion of the ExxonMobil webpage featuring this promotion:

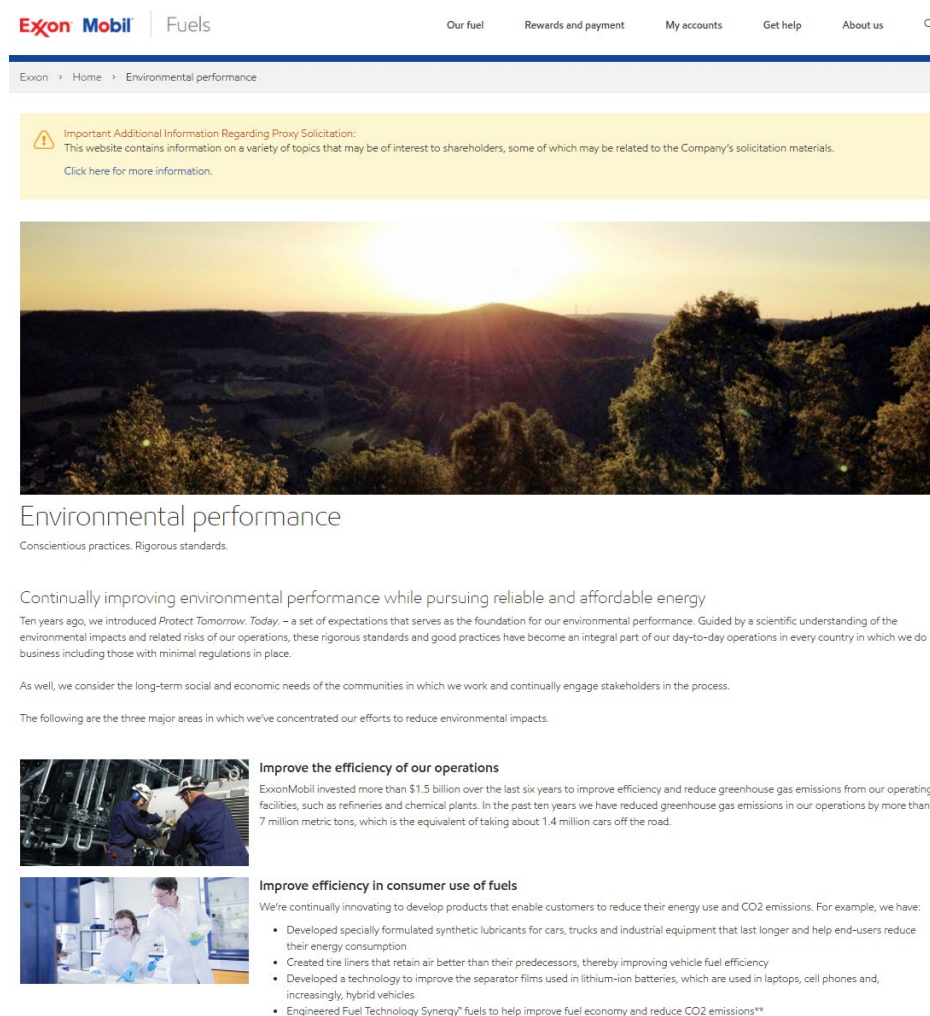


Figure 4: ExxonMobil Fuels Environmental Performance webpage screenshot¹⁷

g. ExxonMobil’s 2021 Energy and Carbon Summary sets forth “four pillars of the Company’s climate strategy” in support of its “commit[ment] to supporting efforts to mitigate the risk of climate change.”¹⁸ One of those pillars is “providing products to help customers reduce

¹⁷ ExxonMobil, “Environmental performance,” <https://www.exxon.com/en/environment>.

¹⁸ ExxonMobil, *2021 Energy & Carbon Summary* (Jan. 2021), at 3, <https://corporate.exxonmobil.com/-/media/Global/Files/energy-and-carbon-summary/Energy-and-Carbon-Summary.pdf>. In previous years ExxonMobil has released similar Energy & Carbon Summary reports with similar deceptive statements about ExxonMobil fuels helping to reduce greenhouse gas emissions.

their emissions,” and ExxonMobil specifically represents that its Synergy™ fossil fuel product line reduces greenhouse gas emissions:

Premium fuels such as Synergy™ gasoline and diesel also help consumers improve gas mileage. By improving engine efficiency and fuel economy, these products can help reduce greenhouse gas emissions compared to conventional lubricants and fuels. ExxonMobil is progressing several multibillion-dollar refinery expansion projects to supply the growing demand for these advanced fuel products.¹⁹



Figure 5: ExxonMobil 2021 Energy & Carbon Summary²⁰

h. In its advertising to NYC consumers, including at City gas and service stations, ExxonMobil emphasizes positive environmental qualities, e.g., the “cleanliness,” fuel efficiency benefits, and “lower emissions,” of its Synergy™ fossil fuel products, which are misleading without mention of the key role these fossil fuels play in causing climate change.

32. Shell Nitrogen Enriched Cleaning System and Shell V-Power NITRO+ Premium

a. All grades of Shell gasoline sold in New York City have the Shell Nitrogen Enriched Cleaning System, and Shell introduced a line for its premium-grade gasoline called V-Power Nitro+ Premium.

¹⁹ *Id.* at 31.

²⁰ *Id.* at 4.

b. Shell advertises on its website that these fuels “produce[] fewer emissions”²¹ and that not using them can lead to “higher emissions.”²²

c. Such representations are misleading because they emphasize the fuels’ supposedly environmentally beneficial qualities without disclosing the key role these fossil fuels play in causing climate change.

33. **BP Invigorate Fuels**

a. All grades of BP gasoline sold in the New York City have Invigorate, an additive that BP describes on its website as better than “ordinary fuels” that have problems like “increased emissions.”

b. BP’s website advertises its fuel selection as “including a growing number of lower-carbon and carbon-neutral products.”²³

c. Such representations are misleading because they emphasize the fuels’ supposedly environmentally beneficial qualities without disclosing the key role these fossil fuels play in causing climate change.

III. ExxonMobil, Shell, and BP Misleadingly Greenwash Their Corporate Brands by Exaggerating Their Investments in Clean Energy Resources and by Inflating the Climate Benefits of Their Natural Gas Products and Investments in “Alternative Energy Sources.”

34. Defendants know that today’s consumers are more likely to buy from companies that are perceived to be environmental stewards. In response to growing public concern over climate change, ExxonMobil, Shell, and BP have worked tirelessly to greenwash their corporate

²¹ Shell, “Nitrogen Enriched Gasolines,” <https://www.shell.us/motorist/shell-fuels/shell-nitrogen-enriched-gasolines.html>.

²² Shell, “Shell V-Power NiTRO+ Premium Gasoline,” <https://www.shell.us/motorist/shell-fuels/shell-v-power-nitro-plus-premium-gasoline.html>.

²³ BP, “Fuels and lubricants,” https://www.bp.com/en_us/united-states/home/who-we-are/what-we-do/fuels-and-lubricants.html.

brands and reputations, going to great lengths to portray themselves as leaders in the fight against climate change, even though their products are the primary driver in causing it.

35. These misleading greenwashing campaigns primarily take two forms. First, in advertisements directed at the NYC consumers, ExxonMobil, Shell, and BP exaggerate their overall investments in non-fossil fuel energy resources. These advertisements create the impression that these investments are substantial, and that ExxonMobil, Shell, and BP are diligently working to reduce the carbon footprint of their business models. But in fact, ExxonMobil, Shell, and BP each spend negligible amounts on clean energy resources, and they continue to ramp up fossil fuel production and invest in new fossil fuel development.

36. Second, ExxonMobil, Shell, and BP misrepresent the climate benefits associated with their investments in what they call “alternative energy sources.” For example, they play up their natural gas products as evidence of their supposed leadership in bringing about a clean energy future. But these advertisements fail to disclose the lifecycle emissions of methane, which is a highly potent greenhouse gas, with more than 80 times the climate change impact compared to CO₂ over the short term, and thus such advertisements fail to acknowledge that natural gas is a major contributor to climate change. Likewise, ExxonMobil and Shell advertise their research on fuel sources such as algae biofuels and hydrogen fuel cells, claiming that these energy sources are clean, cheap, and capable of mitigating climate change. Defendants conceal, however, that these fuels release significant amounts of greenhouse gases and that they are currently not scalable for mass production. The prominence of these “alternative energy sources” in their promotions is likely to mislead NYC consumers into believing ExxonMobil, Shell, and BP are substantially shifting away from what in reality remains their primary products: fossil fuels.

37. Through these various greenwashing campaigns, ExxonMobil, Shell, and BP seek

to divert attention away from the existential threats posed by their core business of selling fossil fuels, and instead reposition themselves in the eyes of consumers as diversified energy companies that are serious about tackling climate change. In doing so, ExxonMobil, Shell, and BP are deploying deceptive marketing tactics in a transparent bid to capture the large and growing segment of consumers—including NYC consumers—who care about the planet and who want to make purchases that contribute to the solution to, rather than the problem of, climate change. They recognize that their corporate image matters to their bottom line, and so they are spending millions of dollars trying to cut greenhouse gas emissions from their brand but not their business. Indeed, one recent report estimates that, in 2019 alone, ExxonMobil spent \$56 million, Shell spent \$55 million, and BP \$30 million on “climate branding” initiatives—efforts to underscore the company’s commitment to clean energy and climate change mitigation, position the company as a climate expert, and conceal the central role of fossil fuels in causing climate change.²⁴

38. Defendants were also on notice that these types of greenwashing campaigns are deceptive and misleading. In 2017, Shell and ExxonMobil were censured for such misleading advertising by the Dutch Advertising Code Authority for describing natural gas as “the cleanest fossil fuel.” The agency’s ruling stated that this description was misleading because it “suggested that fossil fuels can be clean in that they do not cause environmental damage. It is firm . . . that that suggestion is not correct.”²⁵

39. Defendants have nevertheless continued to engage in similarly deceptive advertising practices in the City. As detailed below and in the attached Appendix, such deceptive

²⁴ InfluenceMap, *Big Oil’s Real Agenda on Climate Change* 12 (March 2019), <https://influencemap.org/report/How-Big-Oil-Continues-to-Oppose-the-Paris-Agreement-38212275958aa21196dae3b76220bdc>.

²⁵ Arthur Nelsen, *Shell and Exxon Face Censure Over Claim Gas Was ‘Cleanest Fossil Fuel’*, THE GUARDIAN (Aug. 14, 2017), <https://www.theguardian.com/environment/2017/aug/14/shell-and-exxon-face-censure-over-claim-gas-was-cleanest-fossil-fuel>.

greenwashing advertisements are squarely prohibited by the CPL, and they cannot be allowed to continue.

A. Misrepresentations About Investments in Clean Energy Resources

40. Although clean energy resources play a negligible part in ExxonMobil, Shell, and BP's businesses, they are front and center when it comes to their advertising. To create brand loyalty and to enlarge their customer base, ExxonMobil, Shell, and BP are bombarding NYC consumers with advertisements that give the false impression that renewable and low-carbon energy is an extensive portion of their business. Yet in none of their consumer messaging do they disclose that those investments are negligible in comparison to the billions of dollars that they spend (and make) annually on fossil fuels.

41. ExxonMobil, Shell, and BP invest minimally in clean energy resources. Between 2010 and 2018, for example, ExxonMobil expended just 0.2% of total capital spending on low carbon energy sources; Shell spent 1.2%; and BP, 2.3%.²⁶ The actual energy they produced from clean energy resources compared to fossil fuels during those years is smaller still.

42. ExxonMobil, Shell, and BP show little sign of increasing those shares in the near future. To the contrary, they have been doubling down on fossil fuel extraction, production, and sales. ExxonMobil, Shell, and BP have adjusted their projections somewhat in response to the COVID-19 pandemic, but they have not wavered in their commitment to maintaining fossil fuels as the core driver of their business model during the next decade, the crucial window of time in which the world must drastically slash greenhouse gas emissions in order to avoid the most catastrophic effects of the climate crisis.

a. Indeed, according to a recent report published in 2019 by a reputable oil and gas

²⁶ Anjali Raval & Leslie Hook, *Oil and Gas Advertising Spree Signals Industry's Dilemma*, FINANCIAL TIMES (Mar. 6, 2019), <https://www.ft.com/content/5ab7edb2-3366-11e9-bd3a-8b2a211d90d5>.

consulting firm, ExxonMobil is projected to increase oil production by more than 35% between 2018 and 2030—a sharper rise than over the previous 12 years.²⁷ In October 2020, leaked ExxonMobil internal documents show that, due to its expanded fossil fuel production growth strategy, the company was projecting a 17% *increase* in greenhouse gas emissions by 2025 (not including emissions from consumer use of its products).²⁸ As one top ExxonMobil executive put it succinctly in September 2020: “We believe in the fundamentals of the oil and gas business We believe societies and economies will continue to need oil and gas. In the upcoming years, *the alternatives really can only fulfill a small amount, or a relatively modest amount*, of the overall demand that exists” (emphasis added).²⁹

- b. Shell recently forecast to increase output by 38% by 2030, expanding its crude oil production by more than half and its gas production by over a quarter.³⁰
- c. And BP is predicted to increase production of oil and gas by 20% by 2030.³¹

43. ExxonMobil, Shell, and BP’s advertising campaigns therefore misleadingly “greenwash” their businesses to make them appear substantially more in line with consumers’ preferences for forms of energy that do not contribute to climate change or other environmental

²⁷ Jonathan Watts et al., *Oil Firms to Pour Extra 7m Barrels Per Day Into Markets, Data Shows*, THE GUARDIAN (Oct. 10, 2019), <https://www.theguardian.com/environment/2019/oct/10/oil-firms-barrels-markets>.

²⁸ Kevin Crowley & Ashkat Rathi, *Exxon’s Plan for Surging Carbon Emissions Revealed in Leaked Documents, Internal Projections From One of World’s Largest Oil Producers Show an Increase in Its Enormous Contribution to Global Warming*, BLOOMBERG (Oct. 5, 2020), <https://www.bloomberg.com/news/articles/2020-10-05/exxon-carbon-emissions-and-climate-leaked-plans-reveal-rising-co2-output>.

²⁹ S&P Global, *ExxonMobil Focused on Core Oil and Gas as Renewable Returns Too Weak: Official*, (Sept. 30, 2020), <https://www.spglobal.com/platts/en/market-insights/latest-news/electric-power/093020-exxonmobil-focused-on-core-oil-and-gas-as-renewable-returns-too-weak-official>.

³⁰ Watts et al., *supra* note 26.

³¹ *Id.*

harms, all the while masking their core business in fossil fuels. The examples below illustrate this deceptive conduct.

44. ExxonMobil touts its investments in clean energy resources while failing to disclose to consumers that those investments represent a fringe part of its fossil fuel-focused business.

45. For example, in one *New York Times* advertisement titled “The Future of Energy? It May Come From Where You Least Expect: How scientists are tapping algae and plant waste to fuel a sustainable energy future,” ExxonMobil claims that the company is “working to decrease our overall carbon footprint,” markets itself as an innovator in the development of alternative fuels, such as fuel from algae and from farm waste, and falsely represents itself as an environmentally responsible company, concluding with the statement: “A Greener Energy Future. Literally.”³² In another *New York Times* advertisement titled “From Farm Waste to Fuel Tank,” ExxonMobil declares that its scientists are “exploring how to . . . create biofuel on a vast scale,” adding that biofuels have “the power to make a big difference” because biomass (one of the primary ingredients in biofuels) is “cheap and abundant.”³³

46. None of ExxonMobil’s consumer-facing advertisements, however, disclose that its current investments in biofuels research and production are dwarfed by its fossil-fuel operations. (In 2016, for example, ExxonMobil invested less than 1% of its \$ 198 billion in revenue in biofuels research). And none of them disclose that Exxon’s biofuel production will continue to be dwarfed by its fossil fuel production. Indeed, one 2019 analysis shows that ExxonMobil’s advertised goal

³² *The Future of Energy? It May Come From Where You Least Expect* (ExxonMobil Paid Post), N.Y. TIMES, <https://www.nytimes.com/paidpost/exxonmobil/the-future-of-energy-it-may-come-from-where-you-least-expect.html>.

³³ *From Farm Waste to Fuel* (ExxonMobil Paid Post), N.Y. TIMES, <https://www.nytimes.com/paidpost/exxonmobil/from-farm-waste-to-fuel-tank.html#100000006080624>.

of producing 10,000 barrels of biofuel per day by 2025 would equate to only 0.2% of its current refinery capacity—what the report called “a rounding error.”³⁴ By contrast, Exxon’s oil production is projected to increase by more than 35% in the coming years, meaning that any marginal emission reductions achieved through its proposed biofuel efforts would be offset by massive emission increases from its oil operations.³⁵

47. Similarly, in countless social media advertisements posted on Instagram, Twitter, Facebook, and LinkedIn and viewed by hundreds of thousands of consumers (including NYC consumers), ExxonMobil extolls its plans to reduce greenhouse gas emissions, boasts of its investments and research in clean energy resources, and characterizes itself as a corporate leader in the fight against climate change.

48. To take just few recent examples, in a LinkedIn post from March 2021, ExxonMobil wrote: “We recently announced a plan to further reduce greenhouse gas emissions in our global operations by 2025, while aiming for industry-leading GHG performance by 2030. We are positioning for a lower-carbon-energy future and this plan represents some of the most aggressive reductions in the industry.” The accompanying image with a blue sky and green grass continued: “our 2025 plans are expected to reduce absolute greenhouse gas emissions by an estimated ~30%,” and in smaller text, “for the company’s upstream business.”³⁶

³⁴ INFLUENCEMAP, *Big Oil’s Real Agenda on Climate Change* (Mar. 2019), <https://influencemap.org/report/How-Big-Oil-Continues-to-Oppose-the-Paris-Agreement-38212275958aa21196dae3b76220bddc>.

³⁵ Watts et al., *supra* note 25.

³⁶ ExxonMobil, LinkedIn (March 2021), https://www.linkedin.com/posts/exxonmobil_energy-carbon-summary-activity-6769727442681655296-CoDp.



Figure 6: ExxonMobil March 2021 LinkedIn post

49. In a January 2021 tweet, ExxonMobil stated: “We support the ambition to achieve net-zero emissions by 2050 and the goals of the Paris Agreement. Our newly released Energy & Carbon Summary outlines efforts to develop energy solutions that power modern life and progress toward a lower-carbon future.”³⁷

50. In a November 2020 Instagram post, ExxonMobil boasted that, “over the last 40 years, we have cumulatively captured the most CO₂ of any company.” The ad omitted that during that same period of time, ExxonMobil’s operations and the use of its fossil fuel products have been one of the single largest sources of greenhouse gas emissions emitted into the earth’s atmosphere.³⁸ It also failed to disclose that ExxonMobil captures only about 2 percent of its annual emissions, and that the company’s investments in carbon capture and sequestration are a drop in the bucket

³⁷ @exxonmobil, Twitter (Jan. 5, 2021), <https://twitter.com/exxonmobil/status/1346526004223877126>.

³⁸ @exxonmobil, Instagram (Nov. 24, 2020), https://www.instagram.com/p/CH_JQugBNjc.

when compared to its current and planned spending on fossil fuel exploration, extraction, and development.³⁹

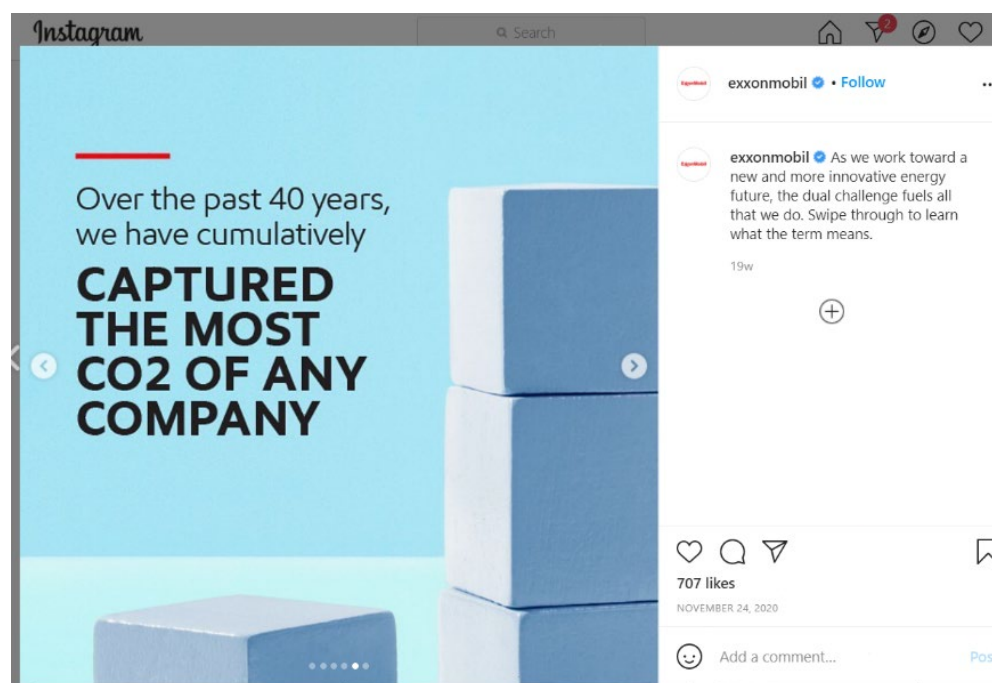


Figure 7: ExxonMobil March 2021 Instagram post

51. And as of April 12, 2021, the description of ExxonMobil's profile page on Instagram including the following subtitle:

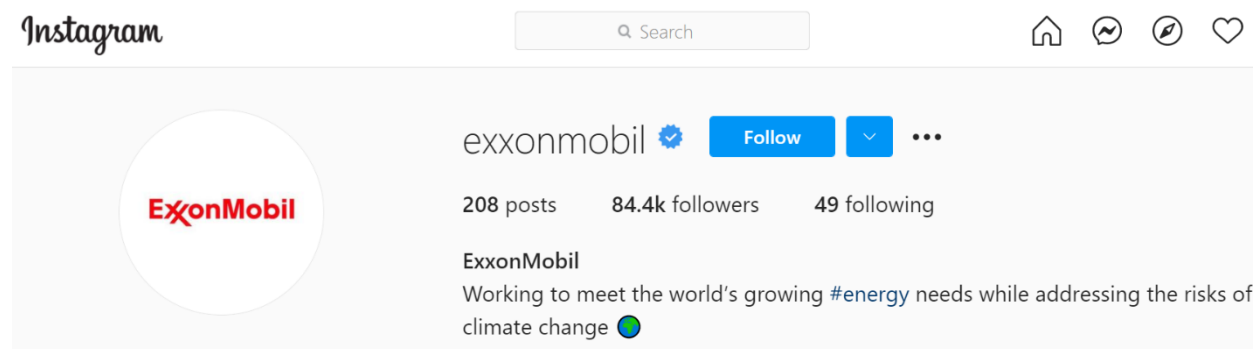


Figure 8: ExxonMobil Instagram Bio

³⁹ See, e.g., Greenwashing Files: ExxonMobil, ClientEarth, <https://www.clientearth.org/the-greenwashing-files/exxonmobil>.

52. None of ExxonMobil's social media advertisements tell consumers that its primary business remains the extraction, production, and sale of planet-warming fossil fuels. None of them disclose the company's plans to *increase* the sale of fossil fuels in the next decade. And none of them reveal that Exxon's clean energy portfolio continues to constitute a negligible part of its business model. As a result, these and countless other ExxonMobil advertisements leave consumers with the false impression that the company is taking ambitious steps towards cutting greenhouse gas emissions, shifting its investments towards clean energy, and researching next generation solutions to climate change.

53. Meanwhile, Shell has mastered the art of greenwashing their corporate brand with misleading advertisements designed to look like newspaper articles in the *New York Times* and *Washington Post*, rather than paid ads. Consider, for instance, Shell's interactive tutorial titled "The Making of Sustainable Mobility."⁴⁰ In it, Shell outlines the challenges of reducing greenhouse gas emissions from the transportation sector. It then situates itself at the center of the solution. "Thankfully," the ad states, "an array of scientists, innovators and businesses are hard at work creating more efficient ways of moving around." And "Shell," the ad continues in the next sentence, "is one of them." The advertisement proceeds to extoll Shell's investments in so-called "lower-carbon transport fuels," focusing on its projects in liquified natural gas, biofuels, hydrogen, and charging stations for electric vehicles.

⁴⁰ *The Making of Sustainable Mobility* (Content from Shell), WASH. POST, <https://www.washingtonpost.com/brand-studio/shell/the-making-of-sustainable-mobility>.

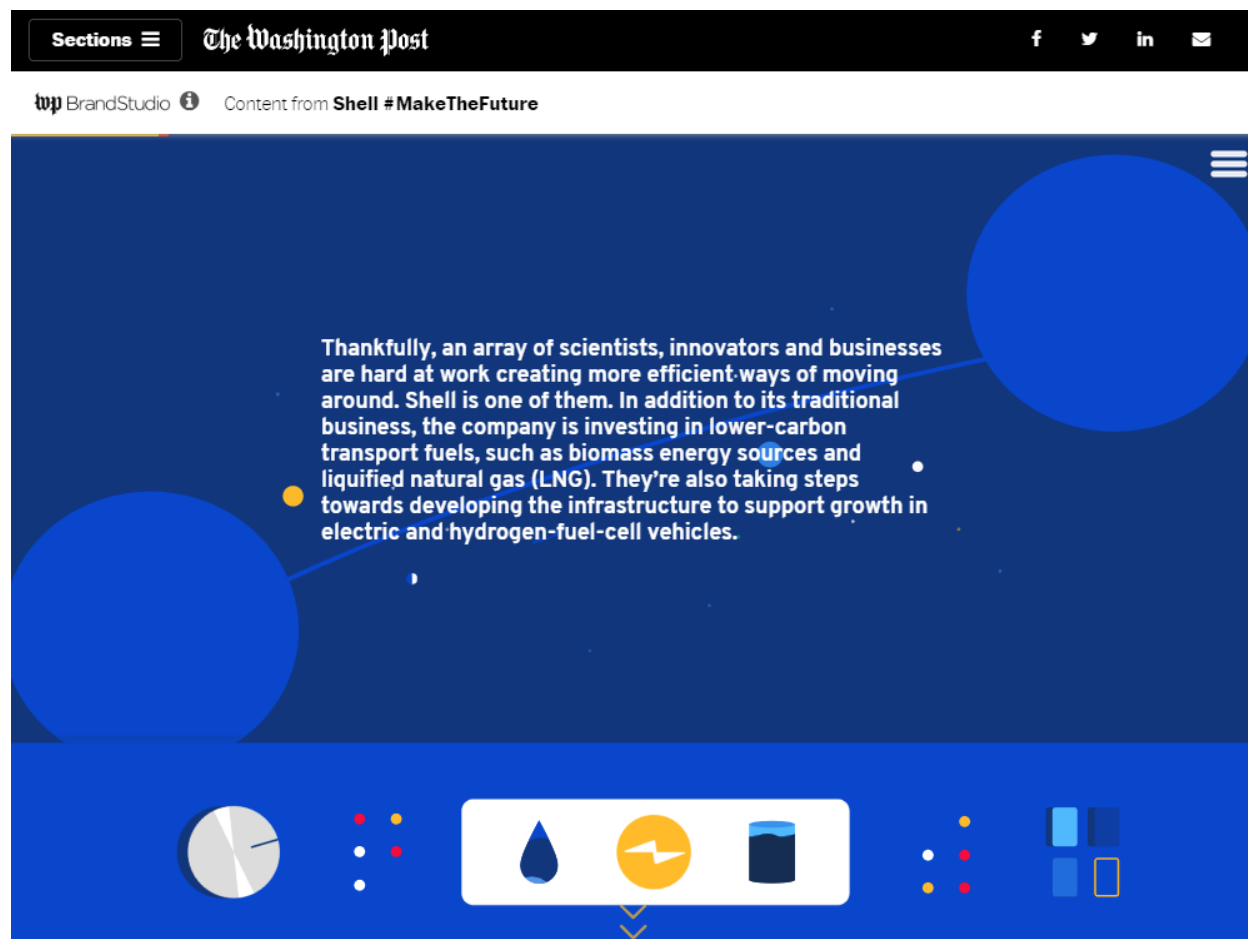


Figure 9: Shell The Making of Sustainable Mobility Advertisement

54. As displayed in the figure below, the ad ends by portraying Shell's leadership in "setting the course" to develop the "cleaner fuel alternatives" that "[t]he world will need."

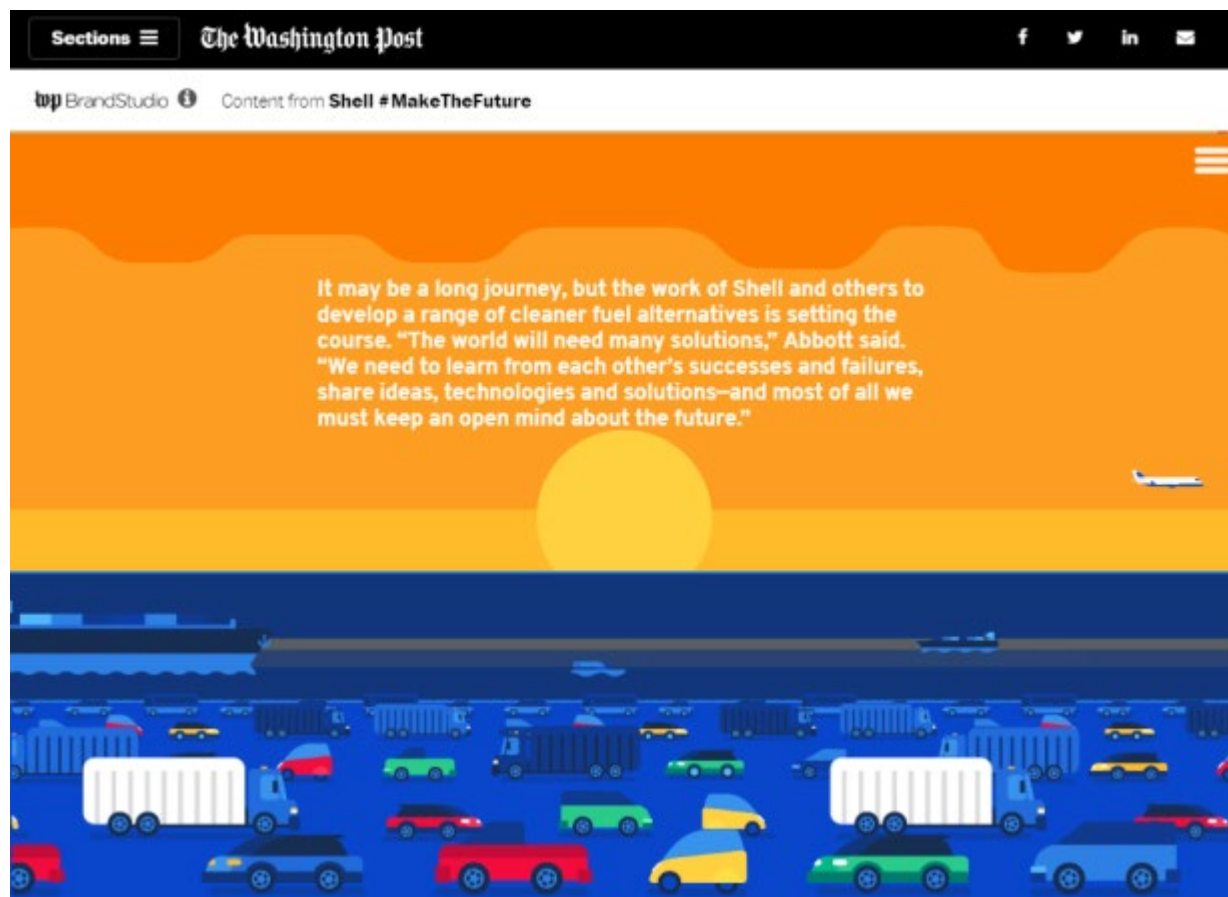


Figure 10: Shell The Making of Sustainable Mobility Advertisement

55. Shell never discloses, however, that natural gas is a leading cause of climate change; that its investments in clean energy resources are negligible when compared to its spending on fossil fuels; or that it plans to continue to ramp up the production and sale of fossil fuels, including those used in transportation. As a result, NYC consumers are left with the misleading impression that Shell's business is significantly involved in developing and producing clean energy resources.

56. Another advertisement from Shell in the *New York Times* describes "a path towards net-zero emissions," stating that if "the world's nations are going to meet the aims of the Paris Agreement, they'll have to completely transform the way energy is used—and produced—across the global economy." Despite this and other public-facing endorsements of Shell's role in an

overhaul of the energy system and the possibility of addressing climate change, a disclaimer in Shell's recent public "Climate Target" report reveals their misleading and illusory nature:

As of February 11, 2021, Shell's operating plans and budgets do not reflect Shell's Net-Zero Emissions targets. Shell's aim is that, in the future, its operating plans and budgets will change to reflect this movement towards its new Net-Zero Emissions target. However, these plans and budgets need to be in step with the movement towards a Net Zero Emissions economy within society and among Shell's customers.⁴¹

In fact, Shell's actual "plans and budgets" call for it to expand its liquefied-natural gas production capacity throughout the next decade.⁴²

57. As for BP, in 2019, the company launched an advertising campaign called "Possibilities Everywhere." The advertisements were targeted at NYC consumers, appearing in media targeting and circulated to NYC consumers, including, for example, the New York City-based *Wall Street Journal*, as well as Twitter, CNN, the *Financial Times*, and *The Economist*, and *POLITICO*.⁴³

58. One Possibilities Everywhere advertisement, called "Better fuels to power your busy life," stated:

We [] want—and need—[] energy to be kinder to the planet. At BP, we're working to make our energy cleaner and better. [...] At BP, we're leaving no stone unturned to provide [the] extra energy the world needs while finding new ways to produce and deliver it with fewer emissions. [...] We're bringing solar and wind energy to homes from the US to India. We're boosting supplies of cleaner-burning natural

⁴¹ Shell, *Our Climate Target*, 2021, <https://web.archive.org/web/20210307100028/https://www.shell.com/energy-and-innovation/the-energy-future/our-climate-target.html#iframe=L3dlYi8yMDIxMDMwNzEyMjgwMm9lXy9odHRwczovL2ZvdXJsZWVmZGlnaXRhbC5zaGVsbC5jb20vd2ViYXBwcy9jbGltYXRlX2FtYml0aW9uLw>.

⁴² Jillian Ambrose, *Shell to expand business despite pledge to speed up net zero carbon drive*, THE GUARDIAN (Feb. 11, 2021), <https://www.theguardian.com/business/2021/feb/11/shell-grow-gas-business-energy-net-zero-carbon>.

⁴³ Campaign US, *BP Launches Biggest Campaign in a Decade*, January 21, 2019, <https://www.campaignlive.com/article/bp-launches-biggest-global-campaign-decade/1523391>.

gas. [...] More energy with fewer emissions? We see possibilities everywhere to help the world keep advancing.⁴⁴

The accompanying video showed a busy household while a voiceover said, “We all want more energy, but with less carbon footprint. That’s why at BP we’re working to make energy that’s cleaner and better.”⁴⁵

59. In another advertisement called “Blade runners,” BP boasts that it is “one of the major wind energy businesses in the US.”⁴⁶

60. In yet another promotion titled “Rise and shine,” BP touts its investments in solar. “Our economics gurus believe [solar power] could account for 10% of the world’s power by 2040,” it states, and “to help make that a reality, we’ve teamed up with Europe’s largest solar company, [Lightsource BP].”⁴⁷ The ad highlights Lightsource BP’s 6.3 MW floating solar power station near London and Lightsource BP’s deal with Budweiser to supply renewable energy to its U.K. breweries. “Projects like these are advancing the possibilities of solar,” BP declares, “and even rainy days can’t dampen the excitement for this fast-growing energy source. That’s because, whatever the weather, our cleaner-burning natural gas can play a supporting role to still keep your kettle ready for action.”

61. Together and individually, these advertisements create the false and misleading impression that BP is a leading developer of wind, solar, and other clean energy resources.

⁴⁴ BP, *Better fuels to power your busy life*, <https://web.archive.org/web/20191130155554/https://www.bp.com/en/global/corporate/who-we-are/possibilities-everywhere/energy-for-busy-lives.html>.

⁴⁵ *Id.*

⁴⁶ BP, *Blade runners*, <https://web.archive.org/web/20191130192545/https://www.bp.com/en/global/corporate/who-we-are/possibilities-everywhere/wind-and-natural-gas.html>.

⁴⁷ BP, *Rise and Shine*, <https://web.archive.org/web/20190329004210/https://www.bp.com/en/global/corporate/who-we-are/possibilities-everywhere/solar-and-natural-gas.html>.

Between 2010 and 2018, for example, BP expended just 2.3% of its total capital on clean energy resources.⁴⁸

- a. BP's investments in wind energy are negligible, both when compared to its own investments in fossil fuels and to other companies' investments in wind resources. Indeed, as summarized in the chart below, when NYC consumers were viewing these advertisements, BP owned only approximately 1 gigawatt ("GW") of wind capacity, less than 5% of the wind capacity owned by GE, Siemens, and Vestas (39 GW, 26 GW, and 23 GW, respectively),⁴⁹ and a mere 1% of total installed wind capacity in the United States (approximately 100 GW).⁵⁰

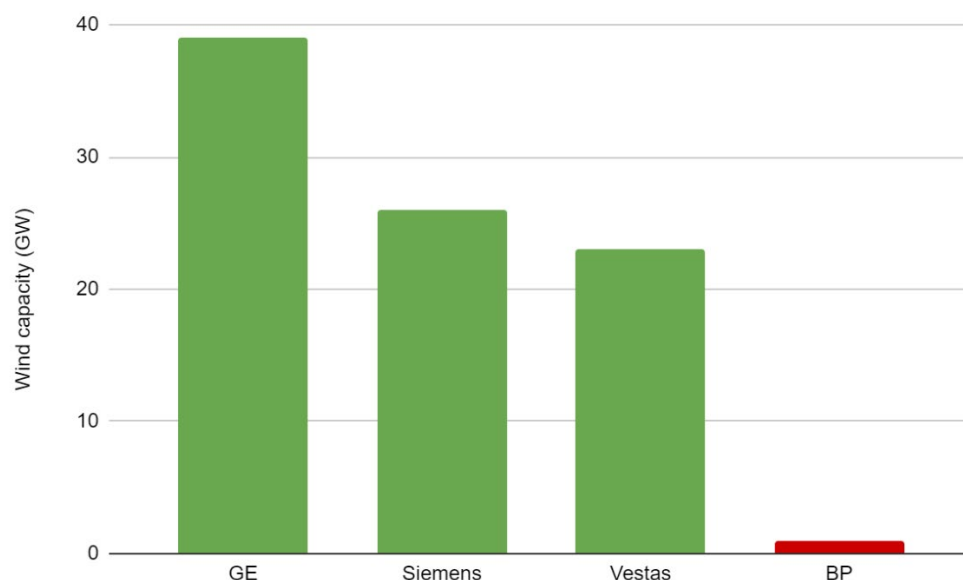


Figure 11: U.S. Wind Energy Capacity 2018–2019

⁴⁸ Raval & Hook, *supra* note 25.

⁴⁹ For BP's wind capacity, see Press Release, *BP restructures U.S. Wind Energy Business for growth* (Dec. 21, 2018), <https://www.bp.com/en/global/corporate/news-and-insights/press-releases/bp-restructures-us-wind-energy-business-for-growth.html>. For wind capacity of GE, Siemens, and Vestas, see Greg Zimmerman, *Who's Powering the Wind Industry in 2019? Top 10 Wind Power Companies*, ENERGY ACUITY (Jan. 7, 2019), <https://energyacuity.com/blog/top-wind-power-companies>.

⁵⁰ See Elizabeth Ingram, *U.S. wind capacity grew 8% in 2019, AWEA says*, RENEWABLE ENERGY WORLD (Apr. 10, 2019), <https://www.renewableenergyworld.com/articles/2019/04/u-s-wind-capacity-grew-8-in-2018-awea-says.html>.

- b. The same is true for BP's activities in solar energy, which consist predominantly of its purchase of a minority interest in the solar company Lightsource (rebranded Lightsource BP).⁵¹ The purchase price for this interest represents only 0.4% of BP's annual capital expenditure of approximately \$16 billion, nearly all of which focuses on fossil fuels.⁵² These investments are a far cry from BP's claim that it was "leaving no stone unturned" to find "new" ways to produce lower-emissions energy⁵³ and that it was playing a "leading role" in "a rapid transition to a low carbon future."⁵⁴ Following a complaint filed against BP at the Organisation for Economic Co-operation and Development, BP announced that it would "stop corporate reputation advertising" and pulled down the Possibilities Everywhere campaign worldwide.

62. These advertisements are illustrative of Defendants' efforts to greenwash their corporate image by exaggerating their businesses' involvement in the clean energy sector. They are not exhaustive, however. The Appendix identifies additional deceptive advertisements of this kind, and there are many more blitzing NYC consumers on a daily basis through newspapers, social media, and other advertising platforms. This deceptive conduct violates the CPL, and it must be stopped.

⁵¹ BP ANNUAL REPORT AND FORM 20-F 42 (2017), <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/investors/bp-annual-report-and-form-20f-2017.pdf>.

⁵² See *BP to maintain reduced capital spending through 2021*, OIL & GAS JOURNAL (Feb. 28, 2017), <https://www.ogj.com/general-interest/article/17290398/bp-to-maintain-reduced-capital-spending-through-2021>.

⁵³ @bp_plc, Twitter (March 1, 2019), https://twitter.com/bp_plc/status/1101522924245151744.

⁵⁴ @bp_plc, Twitter (Aug. 18, 2019), https://twitter.com/bp_plc/status/1163077936452259840?lang=en.

B. ExxonMobil, Shell, and BP's Misrepresentations About the Climate Benefits of Natural Gas, Biofuels, and "Alternative Energy Resources"

63. ExxonMobil, Shell, and BP also misrepresent the climate benefits from their natural gas products and their so-called "alternative energy portfolio," which they typically define to include investments in liquified natural gas (LNG), hydrogen fuel cells, and biofuels.

64. Natural gas is a significant driver of climate change because the extraction, transportation, and combustion of this fossil fuel releases large quantities of greenhouse gas emissions—with particularly significant extraction and transportation emissions of methane, a greenhouse gas that is more than 80 times more potent than carbon dioxide at trapping heat in the atmosphere in the near term, and that therefore accelerates climate disruption at a faster rate than carbon dioxide. In fact, reducing methane emissions is among the most immediate and highest impact actions to be taken to combat climate change.

65. In advertisements directed at NYC consumers, however, Defendants omit those material facts about the lifecycle emissions of natural gas. They misleadingly portray gas as a "cleaner burning" or "sustainable" source of low-emission energy that is critical to combatting climate change.⁵⁵ For example:

- a. In Shell's "In for the Long Haul" advertisement, for instance, the company claimed that expanding LNG would "help prevent climate change from advancing," including by fueling ships "with low to no emissions."⁵⁶ And in Shell's "The Making of Sustainable Mobility" advertisement, Shell misleadingly associates

⁵⁵ See, e.g., *The Mobility Quandary* (Content from Shell), WASH. POST, <https://www.washingtonpost.com/brand-studio/shell/the-mobility-quandary> ("Another critical component of a sustainable energy mix in transportation is further investment in natural gas, a cleaner-burning fossil fuel . . .").

⁵⁶ *Moving Forward: A Path to Net-Zero Emissions by 2070* (Content from Shell), N.Y. TIMES, <https://www.nytimes.com/paidpost/shell/ul/moving-forward-a-path-to-net-zero-emissions-by-2070.html>.

LNG with non-fossil fuel energy by calling it “part of a mosaic of alternative energy sources.”⁵⁷

- b. ExxonMobil partners natural gas with renewables in its advertisements and social media posts, comparing them to “peanut butter and jelly”⁵⁸ or “chips and guacamole.” ExxonMobil boasted in these ads: “When it comes to cleaner energy, some things just work better together. We’re leaders in natural gas which is reliable and abundant and supports renewable energy. Combined they’re the perfect pair for a cleaner energy future.”⁵⁹
- c. And in a similar vein, BP has consistently portrayed its “cleaner-burning” natural gas products as necessary to the scale up of renewable energy sources, telling consumers, for instance, that wind power without natural gas would be like “fish without chips, peanut butter without jelly, and bread without butter.”⁶⁰

66. Yet LNG produces more emissions than natural gas due to the liquefaction process; only a small fraction of natural gas products is paired with the deployment of wind, solar, or other clean energy sources; and gas is not necessary to scaling up clean energy resources, which can be accomplished, instead, with battery storage or other zero-emission technologies. By focusing only on consumer use (“cleaner burning”) and ignoring natural gas’s significant greenhouse gas emissions during production and transportation, these advertisements (as well as countless others like them) tell a half-truth and create the misleading impression that expanding the production of

⁵⁷ Shell, *The Making of Sustainable Mobility*, *supra* note 37.

⁵⁸ ExxonMobil, Peanut Butter & Jelly, Natural Gas & Renewables (Aug. 26, 2020), <https://www.youtube.com/watch?v=6K9f2uy2JzU>.

⁵⁹ Facebook Ad Library, <https://www.facebook.com/ads/library/?id=452326435699710>.

⁶⁰ See BP, *Blade runners*, <https://web.archive.org/web/20191130192545/https://www.bp.com/en/global/corporate/who-we-are/possibilities-everywhere/wind-and-natural-gas.html>.

natural gas is a win-win investment in the fight against climate change, with little to no downsides for the planet or its people.

67. Defendants have advanced a similar tactic when advertising their investments in biofuels, hydrogen fuels, and other so-called “alternative energy resources.” In ads directed to NYC consumers, Defendants misleadingly downplay the emissions produced by these resources in order to greenwash their corporate image, distinguish themselves from competitors by exaggerating their environmental credentials, build brand loyalty, and attract customers to their products.

68. To take one stark example: In a *New York Times* advertisement, Shell promoted its hydrogen fuel cells as “[o]ne of the cleaner sources” that power electric vehicles, telling consumers that “[h]ydrogen fuel cell vehicles . . . emit nothing from their tailpipes but water vapor.”⁶¹ Yet Shell failed to disclose that almost all of the hydrogen fuel in the United States is produced by reforming natural gas, a process that releases significant amounts of greenhouse gases. Shell’s focus on tailpipe emissions is therefore highly misleading, because it creates the false impression that hydrogen fuel is a zero-emission fuel for transportation.

69. These advertisements are illustrative of ExxonMobil, Shell, and BP’s efforts to greenwash their corporate image by exaggerating the climate benefits of their investments in natural gas and other “alternative fuels.” They are not exhaustive, however. The Appendix identifies additional advertisements of this kind, and NYC consumers are viewing many more on a daily basis through newspapers, social media, and other advertising platforms. These greenwashing advertisements are deceptive and violate the CPL.

⁶¹ Shell, *The Mobility Quandary*, *supra* note 51.

IV. API Misleadingly Greenwashes Fossil Fuels' Role in Climate Change

70. In lockstep with its member companies—including three of its largest and most influential members, ExxonMobil, Shell, and BP—API's public messaging, including in advertising and statements directed at NYC consumers, misleadingly greenwashes fossil fuels' role in climate change. API touts its members' purported commitments to reducing their products' carbon footprints while continuing its core mission of promoting its members' extraction, production, and sale of fossil fuels to consumers in New York City and throughout the United States at unprecedented rates.

71. During the 2017 Super Bowl, the most-watched television program in the United States, API debuted its "Power Past Impossible" campaign, with advertisements that told Americans that the petroleum industry could help them "live better lives." From November 2017 to the end of January 2018, the campaign specifically targeted New York City with billboards in Times Square.⁶² As of July 21, 2020, the Power Past Impossible website called oil and natural gas "Energy for a Cleaner Environment," language API still uses on its website.⁶³ In touting the environmental benefits of fossil fuels, the website induces a false consumer affinity for oil and natural gas products that cannot be reconciled with those products' leading role in contributing to climate change and its attendant environmental and human health risks.

72. A 2018 study of the advertisements by Dr. Kim Sheehan, a professor at the University of Oregon, concluded that the "campaign provides evidence of greenwashing through

⁶² American Petroleum Institute, *'Power Past Impossible' Hits Times Square* (Nov. 28, 2017), <https://www.api.org/news-policy-and-issues/blog/2017/11/28/power-past-impossible-hits-new-yorks-times-square>.

⁶³ American Petroleum Institute, "Energy for a Cleaner Environment," <https://www.api.org/news-policy-and-issues/state-of-american-energy/soae-2019-cleaner>.

both explicit communications (such as unsubstantiated claims that ‘gas comes cleaner’ and ‘oil runs cleaner’) and implicit communications (the use of green imagery).”⁶⁴

73. Recently, API has run ads in the *Washington Post* touting the environmental and climate benefits of natural gas with titles like “natural gas will thrive in the age of renewables,” “real climate solutions won’t happen without natural gas and oil,” and “low and no carbon future starts with natural gas.”⁶⁵ These statements are deceptive without providing information that the very products they claim to be the “solution” to climate change—natural gas and oil—are also its primary cause.

74. Many of API’s television, radio, and social media advertisements, including those that reached NYC consumers, directed viewers to a website for a campaign run by API entitled “Energy for Progress,” which falsely portrays the oil and gas industry as a leader in reducing greenhouse gas emissions. For at least six months, the campaign’s website cast natural gas as a “clean” fuel before that description was revised to “cleaner” sometime in summer 2020. Among many articles and images promoting fossil fuel companies’ claimed contributions to clean energy, the website advertises “5 Ways We’re Helping to Cut Greenhouse Gas Emissions” and “4 Ways We’re Protecting Wildlife.”⁶⁶ These messages misleadingly portray the oil and gas industry as an environmental leader by focusing on marginal improvements in operational emissions while ignoring the much greater emissions from continued and expanded fossil fuel production.⁶⁷ By obfuscating the reality that fossil fuels are the driving force behind climate change, API’s

⁶⁴ Kim Sheehan, *This Ain’t Your Daddy’s Greenwashing: An Assessment of the American Petroleum Institute’s Power Past Impossible Campaign*, in INTELLECTUAL PROPERTY AND CLEAN ENERGY 301–21 (Matthew Rimmer ed., 2018).

⁶⁵ Sponsored Content, API, WP Brand Studio, WASH. POST <https://www.washingtonpost.com/brand-studio/wp/tag/api/>.

⁶⁶ American Petroleum Institute, “Energy for Progress,” <https://energyforprogress.org>.

⁶⁷ American Petroleum Institute, “5 Ways We’re Using Energy for Progress,” <https://energyforprogress.org/the-basics>.

promotional messages are designed to increase NYC consumers' use of fossil fuels—and to reassure NYC consumers that choosing fossil fuel products is compatible with their environmental values—in order to advance API's core mission of growing its member companies' oil and natural gas businesses.



Figure 12: API advertisement from its Energy for Progress campaign, used as the campaign's Facebook banner.

75. As part of its Energy for Progress campaign, API has run a series of Facebook advertisements, many of which have reached a substantial number of NYC consumers. The social media ads are among thousands from the American Petroleum Institute that have reached New York. For example, in 2020, API ran advertisements with statements such as:

- “We can tackle climate change and meet the world’s energy needs by embracing new innovations together.”⁶⁸

⁶⁸ See Facebook Ad Library, API, Facebook Ad ID: 1554734221395483, <https://www.facebook.com/ads/library/?id=1554734221395483>.

- “We can all agree we need strong climate solutions—and with natural gas as a dominant energy source, U.S. carbon emissions are the lowest levels in a generation.”⁶⁹
- “Let’s work together to find climate solutions while meeting our essential energy needs.”⁷⁰

These statements are deceptive because they falsely paint the fossil fuel industry as a leader on climate change action while omitting key information about the role of fossil fuels in causing the climate crisis.

FIRST CAUSE OF ACTION

Engaging in deceptive trade practices in violation of NYC Code § 20-700

(Against Defendants ExxonMobil, Shell, and BP)

ExxonMobil, Shell, and BP have deceived NYC consumers by misrepresenting the purported environmental benefit of using their fossil fuel products and failing to disclose the risks of climate change caused by those products.

76. The City realleges each and every allegation contained above, as though set forth herein in full.

77. NYC Code § 20-700 prohibits any “person” from “engag[ing] in any deceptive or unconscionable trade practice in the sale . . . of any consumer goods or services[.]” NYC Code § 20-700. “Any false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind made in connection with the sale . . . or in connection with the offering for sale . . . of consumer goods or services, . . . which has the capacity, tendency or effect of deceiving or misleading consumers” is a deceptive trade practice. NYC Code

⁶⁹ See Facebook Ad Library, API, Facebook Ad ID: 306269540617537, <https://www.facebook.com/ads/library/?id=306269540617537>.

⁷⁰ See Facebook Ad Library, API, Facebook Ad ID: 1252693268407536, <https://www.facebook.com/ads/library/?id=1252693268407536>.

§ 20-701(a). Deceptive trade practices include “representations that goods or services have . . . characteristics, ingredients, uses, [or] benefits . . . that they do not have” and “the use, in any oral or written representation, of exaggeration, innuendo, or ambiguity as to a material fact or failure to state a material fact if such use deceives or tends to deceive[.]” NYC Code § 20-701(a).

78. NYC Code § 20-700 is to be liberally construed to safeguard consumers and the public.

79. ExxonMobil, Shell, and BP are “persons” within the meaning of NYC Code § 20-700 and are required to comply with the provisions of NYC Code § 20-700 in their representations made in connection with the sale or offering for sale of their fossil fuel products and services.

80. Fossil fuel products, including but not limited to gasoline and diesel fuel, constitute “consumer goods or services” within the meaning of NYC Code § 20-701(c).

81. ExxonMobil, Shell, and BP violated NYC Code § 20-700, and each Defendant is liable for penalties of \$350 for each violation, or \$500 if the violation was knowing. NYC Code § 20-703(b). These defendants knew or should have known at the time of making or disseminating these statements that the material misrepresentations in their advertising and promotional materials directed to NYC consumers were and are deceptive and/or had the tendency to deceive reasonable consumers. Their omissions, which are deceptive and misleading in their own right, render even seemingly truthful statements about fossil fuel use false and misleading.

82. ExxonMobil, Shell, and BP’s deceptive practices involved the sale and offering for sale of consumer goods or services, in the form of gasoline, motor oil, natural gas, and other fossil fuel-related goods or services, within the meaning of NYC Code § 20-700. ExxonMobil, Shell,

and BP market and sell these products to NYC consumers primarily for personal, household, or family purposes, making their products consumer goods. NYC Code § 20-701(c).

83. ExxonMobil, Shell, and BP violated NYC Code § 20-700 by affirmatively misrepresenting the environmental benefits of various fossil fuel products sold at their gasoline stations in New York City. In advertisements and promotional materials published in connection with the sale or offering for sale of their fossil fuel products and services, ExxonMobil, Shell, and BP portray these fuels as good for the climate and the environment, without disclosing the material facts that those products significantly increase greenhouse gas emissions and are one of the primary drivers of climate change. Those representations, omissions, and half-truths create a misleading impression, are deceptive, and have the tendency and capacity to mislead and deceive consumers.

84. ExxonMobil, Shell, and BP's false and misleading representations and omissions are material because they are relevant and important to a consumer's decision to purchase their fossil fuel products, are capable of influencing a consumer's decision to purchase their fossil fuel products, have the capacity to affect consumer energy, transportation, and consumption choices, and deter consumers from adopting cleaner, safer alternatives to their fossil fuel products.

SECOND CAUSE OF ACTION

*Engaging in deceptive trade practices in violation of NYC Code § 20-700
(Against Defendants ExxonMobil, Shell, and BP)*

***ExxonMobil, Shell, and BP have deceived NYC consumers by
engaging in false and misleading greenwashing campaigns.***

85. The City realleges each and every allegation contained above, as though set forth herein in full.

86. NYC Code § 20-700 prohibits any "person" from "engag[ing] in any deceptive or unconscionable trade practice in the sale . . . of any consumer goods or services[.]" NYC Code

§ 20-700. “Any false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind made in connection with the sale . . . or in connection with the offering for sale . . . of consumer goods or services, . . . which has the capacity, tendency or effect of deceiving or misleading consumers” is a deceptive trade practice. NYC Code § 20-701(a). Deceptive trade practices include “representations that goods or services have . . . characteristics, ingredients, uses, [or] benefits . . . that they do not have” and “the use, in any oral or written representation, of exaggeration, innuendo, or ambiguity as to a material fact or failure to state a material fact if such use deceives or tends to deceive[.]” NYC Code § 20-701(a).

87. NYC Code § 20-700 is to be liberally construed to safeguard consumers and the public.

88. Defendants ExxonMobil, Shell, and BP are “persons” within the meaning of NYC Code § 20-700 and are required to comply with the provisions of NYC Code § 20-700 in their representations made in connection with the sale or offering for sale of their fossil fuel products and services.

89. Fossil fuel products, renewable energy, and other alternative energy sources constitute “consumer goods or services” within the meaning of NYC Code § 20-701(c).

90. ExxonMobil, Shell, and BP violated NYC Code § 20-700. Each Defendant is liable for penalties of \$350 for each violation, or \$500 if the violation was knowing. NYC Code § 20-703(b). These defendants knew or should have known at the time of making or disseminating these statements that the material misrepresentations in their advertising and promotional materials directed to NYC consumers were and are deceptive and/or had the tendency to deceive reasonable consumers. Their omissions, which are deceptive and misleading in their own right, render even seemingly truthful statements about fossil fuel use false and misleading.

91. ExxonMobil, Shell, and BP violated NYC Code § 20-700 by engaging in a number of deceptive practices in connection with the sale or offering for sale of their fossil fuel products and services, including:

- a. By creating a misleading impression of the role of renewables in their businesses through advertisements and other promotional statements directed at and viewed by NYC consumers. ExxonMobil, Shell, and BP deceitfully represent themselves as leaders in renewable energy, including by exaggerating the proportion of their investments in clean energy as a purportedly substantial proportion of their business, when in fact their investments in clean energy are negligibly small. Further, ExxonMobil, Shell, and BP make exaggerated or otherwise misleading claims about steps they have taken to reduce their overall carbon footprints, all the while failing to state material facts about continuing and increasing their fossil fuel production and thus directly contributing to climate change. In so doing, ExxonMobil, Shell, and BP used exaggeration as to material facts and failed to state material facts that tended to deceive consumers regarding their commitments to environmental sustainability. NYC Code § 20-701(a). Finally, by falsely representing that they operated diversified energy portfolios with meaningful renewable and low-carbon fuel components, ExxonMobil, Shell, and BP made representations that their goods or services had characteristics or benefits that they do not in fact possess, which tended to deceive consumers about the environmental sustainability of these defendants' practices. NYC Code § 20-701(a).
- b. By exaggerating or otherwise misrepresenting the purported environmental benefits of their fossil fuel products. Such deceptive practices include asserting misleading

claims that natural gas is “cleaner burning” while omitting the lifecycle emissions information for gas, misleading claims that natural gas only performs a back-up function in electricity generation, and misleading statements that gas is a “perfect pair” with renewables.

92. ExxonMobil, Shell, and BP’s false and misleading representations and omissions are material because they are relevant and important to a consumer’s decision to purchase fossil fuel products, are capable of influencing a consumer’s decision to purchase fossil fuel products, have the capacity to affect consumer energy, transportation, and consumption choices, and deter consumers from adopting cleaner, safer alternatives to fossil fuel products.

THIRD CAUSE OF ACTION

*Engaging in deceptive trade practices in violation of NYC Code § 20-700
(Against Defendant American Petroleum Institute)*

*API has deceived NYC consumers by
engaging in false and misleading greenwashing campaigns.*

93. The City realleges each and every allegation contained above, as though set forth herein in full.

94. NYC Code § 20-700 prohibits any “person” from “engag[ing] in any deceptive or unconscionable trade practice in the sale . . . of any consumer goods or services[.]” NYC Code § 20-700. “Any false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind made in connection with the sale . . . or in connection with the offering for sale . . . of consumer goods or services, . . . which has the capacity, tendency or effect of deceiving or misleading consumers” is a deceptive trade practice. NYC Code § 20-701(a). Deceptive trade practices include “representations that goods or services have . . . characteristics, ingredients, uses, [or] benefits . . . that they do not have” and “the use, in any oral

or written representation, of exaggeration, innuendo, or ambiguity as to a material fact or failure to state a material fact if such use deceives or tends to deceive[.]” NYC Code § 20-701(a).

95. NYC Code § 20-700 is to be liberally construed to safeguard consumers and the public.

96. Defendant API is a “person” within the meaning of NYC Code § 20-700 and is required to comply with the provisions of NYC Code § 20-700 in its representations made in connection with the sale or offering for sale of its members’ fossil fuel products and services.

97. Fossil fuel products, renewable energy, and other alternative energy sources constitute “consumer goods or services” within the meaning of NYC Code § 20-701(c).

98. API violated NYC Code § 20-700 and is liable for penalties of \$350 for each violation, or \$500 if the violation was knowing. NYC Code § 20-703(b). API knew or should have known at the time of making or disseminating these statements that the material misrepresentations in their advertising and promotional materials directed to NYC consumers were and are deceptive and/or had the tendency to deceive reasonable consumers. API’s omissions, which are deceptive and misleading in their own right, render even seemingly truthful statements about fossil fuel use false and misleading.

99. API violated NYC Code § 20-700 by engaging in a number of deceptive practices in connection with the sale or offering for sale of its members’ fossil fuel products and services, including:

- a. By misrepresenting the extent of their members’ investments in clean energy and the role of oil and natural gas in combatting climate change through their advertisements and other promotional statements directed at and viewed by NYC consumers. API deceitfully represents its oil and gas industry members as leaders

in renewable energy, including by exaggerating the proportion of their investments in clean energy as a purportedly substantial proportion of their business, when in fact their investments in clean energy are negligibly small.

- b. By exaggerating or otherwise misrepresenting the purported environmental benefits of API's members' fossil fuel products. Such deceptive practices include asserting misleading claims that natural gas is "cleaner burning" while omitting the lifecycle emissions information for gas, misleading claims that natural gas only performs a back-up function in electricity generation, and misleading statements that gas is a "partner to" renewables.

100. API's false and misleading representations and omissions are material because they are relevant and important to a consumer's decision to purchase fossil fuel products, are capable of influencing a consumer's decision to purchase fossil fuel products, have the capacity to affect consumer energy, transportation, and consumption choices, and deter consumers from adopting cleaner, safer alternatives to fossil fuel products.

RELIEF SOUGHT

WHEREFORE, Plaintiff requests that the Court enter a judgment in its favor and grant relief against Defendants as follows:

- a. Permanently enjoin Defendants, pursuant to NYC Code § 20-703(d), from engaging in any acts that violate the CPL, including, but not limited to, the deceptive acts and practices alleged herein;
- b. Award civil penalties in an amount to be proven at trial and as authorized per violation of the CPL, pursuant to NYC Code § 20-703(a), (b);

- c. Award Plaintiff the costs of this action and reasonable attorney's fees, pursuant to NYC Code § 20-703(c).
- d. Grant such further relief as the Court deems just and proper.

Respectfully Submitted,

Dated: April 22, 2021

JAMES E. JOHNSON
Corporation Counsel of the City of New York

/s/ Hilary Meltzer

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VERIFICATION

Hilary Meltzer, an attorney admitted to practice in the State of New York affirm under penalty of perjury:

I am the Chief of the Environmental Law Division for the New York City Law Department and am counsel for the Plaintiff.

I have read the foregoing Complaint and Appendix and know the contents thereof, which are to my knowledge true, except to those matters stated to be alleged on information and belief, and to these matters I believe them to be true. I base this verification on my personal knowledge, my review of books and records of the City of New York, my review of documents referred to in the Complaint and Appendix, and my discussions with employees of the City of New York.

Date: New York, New York
April 22, 2021

/s/ Hilary Meltzer