

“Driving carbon-neutral” is impossible with fossil fuels

Complaint to the Competition Bureau of Canada against Shell’s misleading
promotion of forest-based “offsets” as sustainable, climate action

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1) Summary of the Complaint

Sustainability and climate change are mainstream issues for consumers and have become interlinked concepts as we work to meet our Paris Agreement climate goals and create a new zero-carbon economy.

In our work to reduce greenhouse gas emissions (GHG) and meet the Paris climate goals, there is a need for vigilance to ensure that companies present legitimate and measurable climate solutions. Sadly, greenwashing is a rapidly increasing marketing trend that uses misleading information to persuade consumers that a company's products and policies are environmentally sound. With fossil fuel companies, greenwashing takes the form of making dubious statements about the industry's direct and indirect impacts on the climate and environment, and more recently, about the sector's efforts to reduce carbon emissions.

Greenwashing is intentionally difficult to spot for the average consumer trying to make an environmentally-conscious purchasing decision. Shell's "Drive Carbon Neutral" program¹ is an example of greenwashing where the company claims that if Shell customers purchase from the Drive Carbon Neutral program they will be reducing the carbon emissions from their fuel purchases by offsetting those emissions from three forest-based offset projects that Shell supports. Instead, the reality is that Shell has not demonstrated the validity of their "carbon neutral" claim; is in fact using offsets from projects with serious legitimacy concerns; and ultimately is deflecting from the real issue which is the need for action to decrease the use of fossil fuels to reduce our greenhouse gas emissions.

2) The applicable rules: Competition Act and Competition Bureau Canada Guide "Environmental Claims: A Guide for Industry and Advertisers"

Competition Act²

Shell's "Drive Carbon Neutral" products (through carbon offsets) are making false and/or misleading representations to the public under s 52(1) or s 74.01(1)(a) of the Competition Act.

Both these provisions prohibit making false or misleading representations about a product in a material respect to the public.³ Material is defined by the Competition Bureau (the Bureau) as "the degree to which the purchaser is affected by the representation in deciding whether to purchase the product."⁴

s 52 (1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.

¹ See

https://www.shell.ca/en_ca/media/news-and-media-releases/news-releases-2020/shell-launches-drive-carbon-neutral-program-in-canada.html and https://twitter.com/Shell_Canada/status/1425577241623384065?s=20

² *Competition Act*, RSC 1985, c C-34 <https://laws.justice.gc.ca/eng/acts/C-34/index.html> last accessed Nov 1st, 2021

³ *Ibid* ss 52(1), 74.01(1)(a).

⁴ Competition Bureau Canada, "Additional information about the *Competition Act*" (5 November 2015) at para 4 online: *Government of Canada* <<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/01315.html>>.

s 74.01 (1) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,

(a) makes a representation to the public that is false or misleading in a material respect;

Climate change is a socially salient topic and it is reasonable that many consumers would prefer to purchase products that are climate safe/environmentally friendly. As such, advertisements promoting the idea of carbon neutrality could play a determinative role in which products consumers choose to purchase and thus such claims would qualify as “material”.

Competition Bureau Canada, “Environmental Claims: A Guide for Industry and Advertisers”⁵

Shell’s “Drive Carbon Neutral” product (through carbon offsets) contravenes the advice given in the Guide on multiple levels including s4.6, s5.2, s5.3, s5.11

3) Examining Shells’ Claim of Sustainability and Carbon Neutrality

In the voluntary offset market (voluntary because people or companies are voluntarily purchasing the offsets to compensate for their own emissions) each voluntary system gets to determine their own “rules” for calculating the emission reductions. As a result, there can be huge differences in the offset market in terms of how offsets are calculated. The “rules” establish both how to calculate the baseline scenario (or business-as-usual) and how to measure the forest-based carbon project scenario (the offset). As such, understanding the methodology of the calculation is crucial to determine if the accounting process is rigorous, transparent, and credible. Only then can the validity of the environmental claims be properly assessed.

There are four fundamental elements that must be evaluated to determine whether offsets are actually contributing to reducing GHG emissions. These four elements are the following:

- **Additionality:** is a central factor in assessing project quality. This test involves several key criteria 1) is the project not already mandated under existing laws or regulations? (2) is the activity already “widespread” and effectively a business-as-usual (BAU) practice within the region, and (3) will the offsets truly help overcome either financial, technological, or institutional barriers to enable the project to go forward? Additionality is determined by assessing whether a carbon offset project is distinct from its baseline⁶.

E.g. A forested section of land has been owned and conserved for years with no plans to log or do any other actions in the forest. Because there is no change in the forest ecosystem’s BAU, there is no “additional” carbon being stored and therefore no offsets can be claimed.

⁵ Competition Bureau Canada, “Environmental Claims: A Guide for Industry and Advertisers” (20 June 2019) online: *Government of Canada* <<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/02701.html>>.

⁶ Gillenwater, M. (2012). What is Additionality? Part 1: A long-standing problem. GHG Management Institute. 1-27. Retrieved from https://ghginstitute.org/wp-content/uploads/2015/04/AdditionalityPaper_Part-1ver3FINAL.pdf

- **Permanence:** To limit climate change, greenhouse gas emissions have to be kept out of the atmosphere forever. That can be a difficult action to guarantee especially when the project involves ecosystems and natural cycles that are beyond human control.

E.g. “Leaky” reservoirs like forest-based offset projects that count on keeping carbon in trees and soil can be at risk of a reversal process, as has been seen recently with massive fires in B.C., burning trees to the ground and emitting their stored carbon back into the atmosphere.

- **Double-counting:** Once an entity (e.g. a company) purchases an offset and counts it on their carbon balance sheet, the underlying emissions reduction should not be sold or transferred for use on another entity’s (e.g. a government) carbon balance sheet.

E.g. The Glengarry project, which is being developed by Scottish government agency Forestry and Land Scotland, is financially supported by Shell. Double counting is an issue with this project as Shell is advertising this project as supplying offsets for its UK “Drive Carbon Neutral” program while the Scottish government is also counting the trees towards its tree-planting targets, designed to offset UK wide emissions.⁷

- **Leakage:** An environmental rule to stop an action and avoid emissions in one location can sometimes drive people to go to another location where they can continue the action which results in the emissions occurring anyways.

E.g. In the case of forest offsets, leakage can occur when an area of forest is designated for protection and leads to increased logging in unprotected areas.

As we learned in the case of Microsoft’s search for high-quality carbon dioxide removal offsets, stringent and credible application of these four elements weeds out a vast majority of current carbon dioxide removal offset projects.⁸ Microsoft received 189 proposals offering 154 megatonnes of CO₂ (MtCO₂) over the coming years, yet determined that a mere 2 MtCO₂ met Microsoft’s criteria for high-quality CO₂ removal. Microsoft was particularly critical of nature-based solutions, noting that they “face risks of reversal by fires, pests, storms and changes in land use. These risks can be reduced with insurance and by accounting for carbon across larger areas. But reliable tools for tracking carbon at scale are lacking.”⁹

It is difficult to assess the standard Shell has applied to its purchase of offsets for its Drive Carbon Neutral program. There is no information provided on Shell Canada’s “Drive Carbon Neutral” website about the management system (the “voluntary offset system”) or the “rules” that are used for their offsets. Only after a rigorous search through other Shell websites and publications can one find evidence of the system and rules. As a result Shell is not making the management system (the “voluntary offset system”) and the “rules” accessible such that the claim of sustainability and carbon neutrality for their fossil fuel products can be verified. This

⁷ “Doubts over Shell’s ‘drive carbon neutral’ claim” UnEarthed
<https://uneearthed.greenpeace.org/2021/10/25/shell-oil-carbon-neutral-offsetting/>

⁸ Luis Joppa et al. “Microsoft’s million-tonne CO₂-removal purchase — lessons for net zero.” *Nature*, Vol 597 (30 September 2021). <https://doi.org/10.1038/d41586-021-02606-3>

⁹ Ibid.

appears to be in contravention with the Guidance provided in s4.6 of the Competition Bureau's "Environmental Claims: A Guide for Industry and Advertisers".

4) Issues with Forest-Based Offset Projects

Shell is using offsets from forest-based projects (see section below for more details on Shells's specific projects). There are well documented and significant problems with forest-based offset projects that significantly impact the validity of the offsets and their climate benefit claims. The significant problems with these types of offsets include:

- **Impermanence:** Any benefits from offsetting carbon with forests are only as certain as the futures of the forests themselves — which is to say, not at all, given climate change's impact on forest and increased natural dangers ¹⁰(fires, logging, droughts, pests) and program failures¹¹. The benefits of phasing out fossil fuels and keeping all that carbon in the ground instead of burning it are, by contrast, permanent.
- **Timing:** Fossil fuel emissions happen immediately. On the other hand, forest-based offset projects remove carbon at a much slower timescale: creating forest offsets takes much longer as tree growth takes decades, while other ecological processes may take thousands or even millions of years, making the permanent removal of carbon from the Earth's carbon system a goal only achievable in the very long-run¹². If we continue our current fossil fuel use, we create a time lag that fuels higher temperature increases and larger climate impacts before atmospheric CO₂ can be reduced. The carbon cycle in our biosphere is not the place to store hundreds of thousands of years' worth of extracted and burned geological fossil carbon¹³.
- **Leakage:** At the global level, protecting forests in one location can be counterproductive if it only serves to cause logging elsewhere¹⁴. This leakage risk seriously undermines the climate benefits that are claimed in forest related offsets, as there is a credible risk that the forest offsetting project creates no net benefit¹⁵.
- **Voluntary Systems:** Forest-based offsets are mostly created through voluntary offset systems where each project in these voluntary systems gets to determine their own "rules" for what is "additional"¹⁶ or for calculating the emission reductions. With no

¹⁰ Climate change Impacts on Forest. NRCan.

<https://www.nrcan.gc.ca/climate-change/impacts-adaptations/climate-change-impacts-forests/impacts/13095> last accessed Oct 22nd, 2021

¹¹ "An Even More Inconvenient Truth" by Lisa Song ProPublica.

<https://features.propublica.org/brazil-carbon-offsets/inconvenient-truth-carbon-credits-dont-work-deforestation-r-edd-acre-cambodia/> last accessed Oct 22nd, 2021

¹² Greenpeace Netherlands. (2021). "Driving CO₂-neutral is impossible". 1-96.

¹³ "The Carbon Cycle and Atmospheric Carbon Dioxide" IPCC

<https://www.ipcc.ch/site/assets/uploads/2018/02/TAR-03.pdf> last accessed Oct 22nd 2021

¹⁴ Rethinking forest carbon offsets By Dr. Charles D. Canham

<https://www.caryinstitute.org/news-insights/feature/rethinking-forest-carbon-offsets> last access Oct 22nd, 2021

¹⁵ Greenpeace Netherlands. (2021). "Driving CO₂-neutral is impossible". 1-96.

¹⁶ Rethinking forest carbon offsets By Dr. Charles D. Canham

<https://www.caryinstitute.org/news-insights/feature/rethinking-forest-carbon-offsets> last access Oct 22nd, 2021

standardized regulatory oversight, it is well documented¹⁷ that there are serious concerns regarding the quality and legitimacy of the climate benefits being claimed.

5) Specific Issues with the Environmental benefit of Shell's offset projects

There are three offset projects that Shell is using for its Canadian "Drive Carbon Neutral" program.¹⁸ Katingan project in Indonesia; the Cordillera Azul project in Peru; and the Darkwoods Project in Southwestern BC. There are concerns with the validity of the offset claims for each of the three projects.

- **Katingan project in Indonesia**: A project that began selling credits in 2017 with the aim of protecting peat bogs from illegal logging. However, in 2019 a new law came into force placing areas of Indonesia's peatland forests into protected areas. As a result, the majority of the Katingan project is now located in a protected area irrespective of the offset initiative. According to Nick Mawdsley, an expert on peatland who has worked in Indonesia for decades, this new law "greatly reduces Katingan's additionality and would lead to the project needing to update its methodology".¹⁹
- **Cordillera Azul project in Peru**: The project in Peru is established on a territory that has been a national park since 2001, long before the forest-based offset project was established.²⁰ Moreover, no deforestation in the national park could be detected in the years before the project was initiated.²¹ Therefore, the establishment of the project did not lead to any additional protection from deforestation since the area was already a national park that had already enjoyed 7 years of protected status by 2008, when the company started claiming credits. Consequently, there is no evidence that the Cordillera Azul project is distinct from its baseline, and as a result this "offset" project does not demonstrably meet the additionality requirement.
- **Darkwoods Project in BC**: the project is a 54,792-hectare property that the Nature Conservancy of Canada has managed for ecological conservation since 2008 in Southwestern BC. In 2013 BC's Auditor General reviewed the Darkwoods' project as part of the office's overall audit of the BC government's Carbon Neutral program.²² In this

¹⁷ "An Even More Inconvenient Truth" by Lisa Song ProPublica.

<https://features.propublica.org/brazil-carbon-offsets/inconvenient-truth-carbon-credits-dont-work-deforestation-redd-acre-cambodia/> last accessed Oct 22nd, 2021

¹⁸ Shell webpage for its "Drive carbon neutral" program

https://www.shell.ca/en_ca/media/news-and-media-releases/news-releases-2020/shell-launches-drive-carbon-neutral-program-in-canada.html

¹⁹ <https://unearthed.greenpeace.org/2021/10/25/shell-oil-carbon-neutral-offsetting/>

²⁰ CIMA, 'Cordillera Azul National Park REDD Project' (2012)

https://s3.amazonaws.com/CCBA/Projects/Cordillera_Azul_National_Park_REDD_project/PNCAZPDDVCSV3September62012.pdf last accessed Nov 1st

²¹ Chris Lang, "'Worse than doing nothing": Shell's REDD offsets in Indonesia and Peru' REDD Monitor (19 November 2020)

<https://redd-monitor.org/2020/11/19/worse-than-doing-nothing-shells-redd-offsets-in-indonesia-and-peru/> last accessed Nov 1st

²² "An Audit of Carbon Neutral Government" BC Auditor General 2012/2013 Report 14

https://www.bcauditor.com/sites/default/files/publications/2013/report_14/report/OAG%20Carbon%20Neutral.pdf last accessed Nov 1st, 2021

audit, the Auditor General found that the project did not show it was “additional” as the land had been purchased and protected before the value of offsets were even evaluated. Second, the report found that the project’s calculation of offsets was over-stated as the forest would not have been completely clear-cut, and instead follow the same sustainable forest practice that the previous owner conducted.²³ Again, the Darkwoods project does not verifiably meet the additionality requirement, as well as over-estimating baseline emissions that would have occurred.

6) Deflecting from real issue

Another concerning element in Shell’s Carbon Neutral Drive program is the use of offsets as a very public part of Shell’s action to address climate change. This program uses greenwashing to distract from the need to reduce the use of Shell’s fossil fuel products and for Shell to take their own actions to reduce GHG emissions. Shell is using the program to provide cover for its current unsustainable business practices and for the 5MT Scope 1 emissions and 1.8MT Scope 2 emissions in Canada in 2020.²⁴

The science is clear: transitioning the economy away from fossil fuels is a must for stopping climate change.

Even if Shell presented offsets from a more credible voluntary offset system that follows the “rules” discussed above, the fact remains that Shell’s forest-based offsets would not be a credible climate solution for mitigating the company’s enormous fossil fuel emissions. Moreover these offsets are certainly not a credible alternative to fossil fuel reductions or sufficient to make a claim of carbon neutrality.

This is consistent with the advice from Canada’s Net-Zero Advisory Body (NZAB), an independent group of experts established by the federal government with a mandate to engage with Canadians and provide advice to the Minister on pathways to achieve net-zero emissions by 2050.²⁵ In their June 2021 report, the NZAB warned that offsets or the removal of carbon dioxide from the atmosphere (e.g. direct air capture) must only be considered for emissions where - unlike gasoline or diesel used for transportation which are being addressed under the federal government’s zero-emissions vehicle regulation - we don’t currently have solutions to eliminate those emissions:

“An appropriate role for removals and offsets should be defined and focus on balancing out emissions from sources where we do not yet have the solutions to eliminate emissions, like some agricultural activities or heavy industries like cement production. However, the “net” in “net zero” cannot become an excuse to allow continued emitting,

²³ ibid

²⁴ Shell webpage from its “Drive carbon neutral” program
https://www.shell.com/sustainability/transparency-and-sustainability-reporting/performance-data/greenhouse-gas-emissions/_jcr_content/par/tabbedcontent/tab/textimage.stream/1628079231812/f4d6057f94612b61bd0442e13ab3bfef37215589/climate-change-submission-final.pdf

²⁵ “Net Zero Advisory Body”, Government of Canada.
<https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/net-zero-emissions-2050/advisory-body.html>. Last accessed November 2, 2021.

*growth of emissions, or slow action.*²⁶

As more credible and rigorous guidance emerges on climate action, the fossil fuel industry should not use forest and nature-based offsets to avoid or delay action to reduce emissions from their company's operations.²⁷ Presenting offsets as a climate solution promotes a scientific impossibility that short-term carbon sinks like forests can compensate for continued fossil fuel emissions in the equivalent timeframe. In reality, Shell - as a key actor in the fossil fuel industry - needs to take immediate action to reduce its own emissions. We need to use the limited additional carbon we can sequester in forests to offset our past fossil fuel emissions, not enable tomorrow's pollution.

7) Conclusion

Shell promotes a product that does not, and cannot, do what it promises. Shell thereby violates sections 74.01(1)(a) and 52(1) of the Competition Act and is not adhering to the Guidance provided by the CSA's "Environmental claims: A guide for industry and advertisers".

As we tackle the huge challenge of meeting our Paris climate goals, it is critical that companies are not able to make false or misleading claims about alleged climate benefits (in this specific instance, carbon-neutrality claims) of the products they are selling and to deflect from the need to transition away from fossil fuels. In an era of greenwashing, we must be diligent to prevent the expansion of this marketing technique that misleads Canadian consumers and must hold companies to account for this behaviour.

Shell's "Drive Carbon Neutral" program is an example of greenwashing that should be addressed. Shell is making misleading and false claims that customers purchasing from the "Drive Carbon Neutral" program will be offsetting emissions via three forest-based offset projects to such an extent that driving while using fossil fuels becomes carbon neutral.

In summary:

- Shell does not provide direct and accessible evidence of its climate and sustainability claim that customers purchasing from the "Drive Carbon Neutral" program will be reducing the carbon emissions from their fuel purchases by wholly offsetting those emissions from three forest-based offset projects that Shell supports;
- There are known and proven problems with forest-based offset projects in general (as listed in section 4) that compromise the legitimate claims of carbon benefits from these types of projects;
- The specific projects Shell is using for the Drive Carbon Neutral program have documented and verified problems; and
- Shell is ultimately using the program as a tool to deflect the Canadian public from the real issue of reducing fossil fuel production and the associated greenhouse gas

²⁶ Net Zero Advisory Body, "Net-Zero Pathways: Initial Observations" (June 2021).

https://nzab2050.ca/publications/news_feed/documents. Last accessed November 2, 2021.

²⁷ "Nature-based solutions in science-based targets" The Science Based Targets initiative (SBTi). Oct 11th 2021

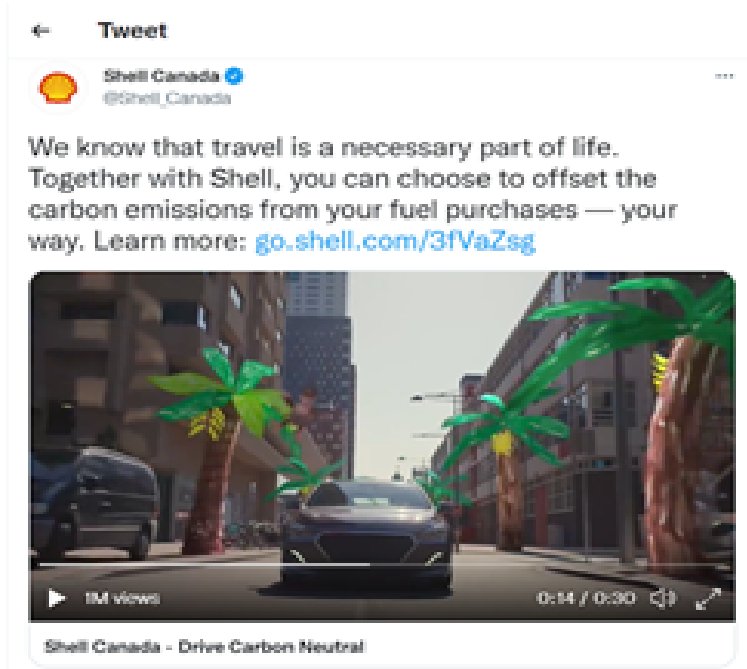
<https://sciencebasedtargets.org/blog/nature-based-solutions-in-science-based-targets>. Last accessed October 29th, 2021

emissions

Sadly, greenwashing is a rapidly increasing marketing trend. It is critical that action be taken to stop these false and misleading claims to ensure: (1) consumer confidence; and (2) the fulsome public support of legitimate actions to meet our Paris climate goals.

Appendix

A) Source: https://twitter.com/Shell_Canada/status/1425577241623384065?s=20



B) Source: https://www.shell.ca/en_ca/media/news-and-media-releases/news-releases-2020/shell-launches-drive-carbon-neutral-program-in-canada.html

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Shell Canada > Media > News and Media Releases > News Releases 2020 > Canadian drivers set to go carbon neutral with Shell

CANADIAN DRIVERS SET TO GO CARBON NEUTRAL WITH SHELL

Nov. 12, 2020

Calgary, AB – Shell will become the first retailer in Canada to offset carbon dioxide (CO₂) emissions from customers' fuel purchases at Shell service stations across the country. The offsets cover all emissions from the production through to the use of the fuel.

"Our customers have told us they want more ways to reduce their CO₂ emissions and make a difference, but they don't always know what actions to take," said Andrea Brecka, General Manager Retail, Shell Canada. "Our Drive Carbon Neutral program is designed to help make it simpler for Shell customers to address their carbon footprint today, by offsetting their fuel purchases." Starting November 12, Shell customers can opt into the program at no extra cost when they pay for fuel purchases through Shell EasyPay™ in the Shell app during the promotional period.** Shell will then offset customers' emissions by purchasing independently-verified carbon credits generated from Canadian and international projects that protect or restore natural landscapes.**

In Canada, Shell has sourced carbon credits from the Darkwoods Forest Carbon Project, an initiative of the Nature Conservancy of Canada. It markets carbon credits generated from the Darkwoods Conservation Area in Southeast British Columbia (B.C.). The conservation area protects 630km² of rare inland temperate rainforest, sub-alpine meadows and freshwater systems, and protects mature and old-growth forests from being intensively harvested for timber.

"Our customers expect us to do more to help with the transition to a low-carbon world," added Brecka. "Diversifying into lower-carbon energy and fuel options, and investing in nature-based credits to help offset emissions that are unavoidable, are ways we can better serve our customers' needs."

Shell is investing in nature as just one of the ways it is working to become a net-zero emissions energy business by 2050 or sooner, in step with society.*** Nature-based solutions are projects that protect, transform or restore the land, such as forests, grasslands and wetlands.

On the spot, Shell is making a better range of lower carbon transport options available to customers. But often, it's not just the number of emissions, but the number of emissions relative to others that matters.

C) Source:

https://www.shell.ca/en_ca/motorists/make-the-change-drive-carbon-neutral.html

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Shell Canada > Motorists > Make the change, drive carbon neutral

MAKE THE CHANGE, DRIVE CARBON NEUTRAL

Many of our customers have told us they want to reduce their CO₂ footprint, but they still need to drive. Some are thinking about purchasing an electric vehicle, but for many that's not yet possible. Some drivers are also following Shell's [fuel-efficient driving tips](#) to help them conserve energy, but they are looking for even more options. Introducing the Drive Carbon Neutral program, allowing all Shell customers, regardless of the vehicle they drive, an opportunity to reduce the carbon emissions from fuel purchases.

D) Source:

<https://www.bnnbloomberg.ca/dutch-ad-watchdog-tells-shell-to-pull-carbon-neutral-campaign-1.1644909>

Bloomberg Green

Dutch Ad Watchdog Tells Shell to Pull 'Carbon Neutral' Campaign

By Laura Hurst and Liederik Geuzen
August 27, 2021, 8:36 AM PDT

► Law students complained that advertisements were misleading
► Carbon offsets are crucial part of Shell's net-zero pledge

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The Netherlands' advertising watchdog ruled that a Royal Dutch Shell Plc advertising campaign that said customers can offset the carbon emissions from their fuel purchases is misleading.

Shell offers customers the option of paying extra for fuel, such as gasoline, saying it will use the proceeds to plant trees and re-absorb carbon dioxide from the atmosphere. The Advertising Code Committee agreed with a complaint from a group of nine law students who said the company could not prove it is fully offsetting the emissions, according to a statement.

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