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FAO: Elizabeth Barrett, Executive Director of Enforcement
FRC Conduct Committee,
Financial Reporting Council,
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By email only: E.Barrett@frc.org.uk

Dear FRC Conduct Committee

(1) Just Eat Takeaway.com N.V. and (2) Deloitte Accountants B.V. – climate change reporting and audit obligations

1. ClientEarth is a non-profit environmental law organisation headquartered in London. ClientEarth's Climate Finance initiative analyses the legal implications of climate change-related financial risks for a wide spectrum of market participants, including companies, investors, company directors, professional advisers and regulators.
2. We write to provide you with a copy of the enclosed referral of Just Eat Takeaway.com N.V. ("**Just Eat**") to the Financial Conduct Authority ("**FCA**") for investigation and enforcement action in relation to potential breaches of reporting obligations in Just Eat's 2020 annual report (the "**Referral**").
3. The FRC has responsibility for corporate reporting, auditing and corporate governance, including overseeing and enforcing compliance by companies and their auditors with the Companies Act 2006 and ensuring the quality of information provided in annual reports and accounts¹. This includes climate change-related reporting².
4. In carrying out its functions, the FRC is also responsible for promoting high quality corporate governance and risk management, consistent with its mission to promote transparency and integrity in business³.
5. As we explained in our correspondence with you in 2016 and 2018, under UK law companies must disclose material climate-related trends and risks facing their business to investors in their annual report⁴. Auditors in the UK must also give opinions about this information in their audit report to provide investors with greater confidence it can be trusted.

¹ Paragraph 3, [FRC Corporate Reporting Review Operating Procedures](#) (6 May 2021)

² See the FRC's [Climate Thematic Review](#) (2020)

³ '[Who We Are brochure: Acting in the public interest to increase market confidence](#)' (FRC)

⁴ See ClientEarth's referrals to the FRC of Cairn Energy plc (2016), SOCO International plc, now Pharos Energy plc (2016), Balfour Beatty plc (2018), Bodycote plc (2018), EnQuest plc (2018), and EasyJet plc (2018)

6. However, our report, 'Accountability Emergency: A review of UK-listed companies' climate change-related reporting (2019-20)', published in February this year, found that:
 - 6.1. only 4% of companies reviewed made a clear reference to climate change-related factors in their financial accounts;
 - 6.2. only 40% of companies clearly referred to climate change in their discussion of principal risks and uncertainties; and
 - 6.3. only 4% of audit reports clearly disclosed whether auditors had considered climate change-related factors in their audit⁵.
7. This mirrors the FRC's own finding in its 2020 Climate Thematic Review that the current level of disclosures did not yet meet the needs of investors and other users⁶.
8. Auditors claim to have extensive awareness of climate-related risks and their implications for financial reporting⁷. Deloitte Accountants B.V. ("**Deloitte**"), Just Eat's independent auditors, readily accepts that climate change risk is an increasingly significant driver in investment models⁸. Despite this, and wider acceptance of the materiality of climate change-related information to investors and other stakeholders⁹, Deloitte does not appear to be carrying this over when performing audits itself. There is, further, no evidence that Deloitte has considered these issues when performing its audit for Just Eat.
9. Accordingly, we are concerned that the lack of transparency on Deloitte's audit process manifests as a potentially material information gap for those who rely on this information to make informed investment decisions. We have sent a copy of this letter, and the Referral, to Deloitte.
10. Climate change risk must be dealt with just like any other risk to investor capital. In the circumstances, and given the FRC's mission and unique oversight, we request that the FRC Conduct Committee:
 - 10.1. carefully consider the contents of the Referral; and
 - 10.2. cooperate with the FCA (and the Dutch Authority for the Financial Markets insofar as required) to investigate the matters raised¹⁰.

⁵ '[Accountability Emergency: A review of UK-listed companies' climate change-related reporting \(2019-20\)](#)' (ClientEarth, February 2021)

⁶ See the FRC's [Climate Thematic Review](#) (2020)

⁷ See for example, Deloitte's climate change landing page, '[What does climate change mean for business? Understanding the role of finance professionals](#)', and its Dutch sustainability knowledge base, '[Guiding organisations to a more sustainable future](#)'

⁸ '[Building credible climate commitments: a road map to earning stakeholder trust](#)' (Deloitte Insights, 14 June 2021)

⁹ See the [Climate Action 100+ Net-Zero Company Benchmark](#), [Investor Expectations for Paris-aligned Accounts](#) (November 2020, IIGCC), and [Larry Fink's 2021 Letter to CEOs](#) (2021)

¹⁰ We refer you to the Memorandum of Understanding in place between the FRC and the FCA, dated 20 December 2017 ("**MoU**"), in particular clauses 5 (the commitment to pursue its aims and purposes in good faith, and intent to act in accordance with its terms), 13 (*Information-sharing*), 25 (*Co-operation*), 30(c) (*Cooperation in Monitoring and Supervision* concerning the behaviour and performance of accounting, actuarial, and auditing professionals), 31 to 36 (*Co-operation in Enforcement investigations*), and 40 to 42 (International Co-ordination)

11. We have, today, also provided you with a copy of another referral we have made to the FCA for investigation and enforcement action. These referrals represent examples of a number of issues we are seeing in companies' 2021 statutory reporting. As such, we have also asked the FCA to:

- 11.1. carry out a comprehensive review and assessment of company reporting;
- 11.2. report publicly on the results of that review; and
- 11.3. take appropriate enforcement action in respect of laggards it identifies.

A copy of our letter to the FCA dated 17 August 2021 is enclosed.

12. We call on the FRC to work with the FCA in the above to ensure that companies, and their auditors, comply in full with their legal duties in relation to climate change-related reporting.

13. We would welcome the opportunity to discuss the above matters with you. Please contact Maria Petzsch (mpetzsch@clientearth.org) or Joanne Etherton (jetherton@clientearth.org) to schedule a discussion on these and/or any related issues arising from this letter.

Yours faithfully,

Joanne Etherton

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Encl: FCA Referral Request: Just Eat Takeaway.com N.V. dated 17 August 2021; ClientEarth Letter to the FCA dated 17 August 2021

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