

To: General Counsel, Chef Legal Officer or Head of
Legal Department

34 Drayton Park,
London N5 1PB,
United Kingdom

Dear Sir/Madam

Subject: **Legal ‘red lines’ for FMCG’s using plastic in their value chain**

1. We are writing to you from ClientEarth to highlight key legal ‘red lines’ for major companies reliant on plastic.
2. ClientEarth is an environmental law charity headquartered in London, with offices in Europe and Asia.
3. One of ClientEarth’s priorities is tackling the risks and harms of plastic.¹ Our actions in this area have included raising awareness about legal and business risks, regulatory complaints and litigation.²
4. Plastic now presents increasing regulatory and litigation risks, requiring businesses to reassess their reliance on plastics with greater urgency. A strategy focused predominantly on recycling is insufficient to mitigate these risks or address the broader harm associated with plastic use. Companies should therefore adopt more vigilant, upstream approaches that prioritise plastic reduction. This need for proactive management extends beyond packaging to plastics used throughout the value chain, including in product processing, chemical inputs, and finally, the generation and handling of plastic waste.
5. In the remainder of this letter, we set out our analysis of selected plastic-related legal requirements and associated risks for major companies in the plastics value chain, in light of recent legal developments. These legal requirements and risks require action to identify and prevent plastic pollution, to ensure that plastic-related marketing claims are not misleading

¹ [Plastics | ClientEarth](#)

² [Risk unwrapped: Plastic pollution as a material business risk | ClientEarth](#); [Supermarket group faces challenge over plastic failings | ClientEarth](#); [Nestlé Poland sued for greenwashing | ClientEarth](#); [Coca-Cola to revise ‘misleading’ recycling claims following legal complaint | ClientEarth](#); [Recycling claims mislead consumers: a legal analysis for EU and UK markets - the Law Society In-House Network Newsstand - Powered by Lexology](#); [Europe’s biggest plastics lawsuit launches as frontline US and Belgian communities unite | ClientEarth](#); [Due diligence and plastics: NGOs and Danone reach an agreement after mediation | ClientEarth](#)

and to provide the transparency demanded by mandatory reporting requirements. We conclude by identifying the key legal ‘red lines’ which should be respected.

6. A copy of this letter is being sent to the largest companies in the Fast-Moving Consumer Goods sector with a high likelihood of extensive use of plastics, selected on the basis of objective, publicly available data, including their activities within the sector and their size in terms of market capitalisation in Europe. ClientEarth will also publish these letters on its website.
7. This letter highlights legal risks relating to plastics. Receipt of this letter should not be taken as an assertion that your company falls within the scope of the legislation listed below, nor should receipt be taken as any assertion that your company has acted unlawfully. We are not providing legal advice in this letter, and independent legal advice should be sought.

Addressing the plastic crisis

8. Plastic pollution constitutes a multi-dimensional crisis, affecting climate, biodiversity and human health. It is driven by increasing production of fossil fuel-based materials and single-use applications.
9. In recent years, there has been a marked increase in litigation targeting the risks and harms associated with plastic use. These cases seek to hold companies accountable where insufficient mitigation measures expose human health and the environment to material and potentially irreversible harm.
10. A key implication is that a corporate strategy focused on recycling is not sufficient to mitigate risks to companies or contribution to harm. Plastic-related risks are systemic, arising across the entire lifecycle of products—from production and use to end-of-life. Globally, 460 million tons of plastic are produced each year, about two-thirds of which are single-use, yet only 9% of plastic is estimated to be recycled.³ The rest is incinerated, landfilled, or leaked into the environment – polluting rivers, oceans, and forests, while threatening wildlife and human health. Despite the ubiquitous ‘infinite loop’ symbol, the recycling process cannot stop plastic going to waste, landfill or incineration – it can only delay it. There is no such thing as ‘circular’ plastic. For further information, we enclose an infographic providing a concise overview of the key issues associated with plastics across the value chain.
11. These risks are not being - and cannot be - adequately addressed through waste management alone. Addressing this crisis requires plastic reduction and, therefore, upstream measures. Reducing reliance on plastic must begin at the product concept development and design stage and be embedded across the entire value chain. This necessitates the development and scaling of reuse-based systems and business models.
12. As the rest of this letter outlines, legal obligations, litigation risk and the associated reputational and market risks increasingly point towards the need to implement these plastic reduction measures.

³ [Everything you need to know about plastic pollution; Global Plastics Outlook | OECD](#)

Due diligence obligations and plastic

13. National due diligence frameworks in Europe illustrate how plastic-related risks give rise to enforceable legal obligations. Laws such as the French Loi de Vigilance, the German Supply Chain Due Diligence Act and the Norwegian Transparency Act impose obligations on companies to identify, prevent, and mitigate environmental and human rights risks across their value chains.
14. Mandatory due diligence laws are underpinned by international standards including the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, which reinforce expectations that companies identify, prevent and mitigate environmental and human rights risks associated with their activities. Where mandatory due diligence legislation does not exist or apply, these standards have been found to play a role in shaping tortious duties of care, which themselves encompass the harms of plastic pollution.
15. At EU level, the Corporate Sustainability Due Diligence Directive (CSDDD)⁴ introduces a general duty for companies to identify, prevent, mitigate, and remedy adverse environmental and human rights impacts across their value chains. This marks a shift from fragmented due diligence rules and standards to a harmonized EU-wide mandatory risk management and prevention obligation applicable to larger companies.
16. These frameworks share a common logic: companies must actively manage foreseeable risks across their operations and supply chains. This includes their use of plastic. Failure to do so creates exposure to legal action, both private litigation and public regulatory enforcement.
17. Developments in litigation are already giving specific content to these obligations for plastic pollution. In February 2025, a coalition of NGOs, including ClientEarth,⁵ concluded a settlement of a case brought under the French Loi de Vigilance in exchange for a set of concrete commitments by Danone. Under the agreement, Danone undertook to update its legally required vigilance plan, and to:
 - a. systematically identify and assess risks related to plastic use across its operations and value chain, including environmental, human rights and health impacts;
 - b. strengthen its policies for the prevention and mitigation of plastic-related risks, by developing and implementing reuse solutions and measures aimed at reducing reliance on single-use plastic packaging.
 - c. publish its plastic 'footprint'; and
 - d. engage in structured annual dialogue with the NGO coalition to facilitate ongoing monitoring and accountability of its commitments.
18. Danone's commitments indicate how legal obligations are applied. Due diligence obligations require that companies accurately identify the complete set of risks and impacts to human

⁴ Directive (EU) 2024/1760 on corporate sustainability due diligence (Corporate Sustainability Due Diligence Directive — CSDDD) entered into force on 25 July 2024.

⁵ [We've reached an agreement in our plastics case against Danone | ClientEarth](#)

rights, environment and health from plastic, implement plastic reduction measures (e.g. reuse) and disclose transparently their plastic pollution. A failure to do so attracts legal risk, which is only set to increase with the onset of the EU's CSDDD.

Liability risk for plastic pollution and health harms

19. Liability risk also exists outside environmental and human rights due diligence frameworks.
20. In 2024, a class action was brought against Tommee Tippee in the US. The claim alleges that baby bottles marketed as “BPA free” release microplastics during normal use, particularly when heated, resulting in microplastic ingestion by infants. The case positions microplastics not only as an environmental issue but as a potential health hazard, with alleged effects including accumulation in the body, disruption of gut function, inflammation, and long-term health impacts.⁶ A risk of similar litigation exists under the EU's Product Liability Directive, which has just been revised.⁷ Plastic products may be challenged where they expose consumers to harmful substances through foreseeable use, regardless of the absence of explicit regulatory limits.
21. In April 2025, the government of the US Virgin Islands filed a claim against Coca-Cola and PepsiCo alleging breach of consumer protection and public nuisance laws, and seeking financial penalties, the disgorgement of profits and an injunction against plastic pollution.⁸ In April 2026, a group of Filipino organisations representing fisherfolk, coastal residents and waste workers filed a complaint before the Pollution Adjudication Board of the Department of Environment and Natural Resources in the Philippines against Unilever plc and its subsidiary Unilever Philippines, Inc. The complaint alleges that Unilever has violated three Philippine environmental laws through its sales of over 475 billion plastic sachets from 2010 to 2020. It seeks orders for damages for affected communities and government units, a cease-and-desist order and clean-up of plastic pollution.⁹
22. There is a growing global trend of litigation over plastic pollution. Major FMCG companies face not only compensation claims but also the risk of binding orders requiring fundamental changes—or cessation—of plastic packaging use. Cases from outside the EU target local plastic pollution harms and damages and allege liability against parent companies. Legal challenges regarding plastics are no longer assessed solely in environmental terms, but also focus on human health impacts across the product lifecycle. Alleged corporate liability for plastic pollution and health harms can be expected to continue to increase.

⁶ [Tommee Tippee bottles not BPA-free, contain microplastics, class action claims](#)

⁷ [Directive - 2024/2853 - EN - Product Liability Directive - EUR-Lex](#)

⁸ [VI government sues Coca-Cola, PepsiCo, local affiliates over plastic pollution, deceptive practices; 7aa2f37e-f306-437a-a3db-ad8702186a2e](#)

⁹ [The bill is due: Filipino communities demand Unilever pay for decades of plastic pollution - Greenpeace Philippines](#)

Liability risk for false or misleading plastic marketing claims

23. Plastic recycling-related marketing claims have become a focal point of anti-greenwashing enforcement in the EU under the Unfair Commercial Practices Directive.¹⁰
24. Recycling claims (e.g. “100% recyclable”) often overstate the environmental benefits of plastic packaging while failing to reflect the technical and systemic limitations of recycling systems. Similarly, the claim “100% recycled” does not accurately reflect the material composition of plastic bottles. Bottle caps cannot be made from recycled material under the UE law¹¹, labels are rarely made from recycled material, and bottle bodies often include a proportion of virgin plastic. These claims, therefore, risk creating a false impression in the average consumer of full circularity, suggesting a closed material loop that does not exist in practice.
25. Green imagery and circularity messaging further amplify the risk. The use of closed-loop symbols, green logos or nature imagery can suggest environmental neutrality, endless recyclability or even a positive environmental impact. Such suggestions are, in our assessment, misleading where they imply a level of circularity that current recycling infrastructure does not deliver in practice. Plastic industry statements from as long ago as the 1980s recognised that: “[r]ecycling cannot go on indefinitely, and does not solve the solid waste problem” and “recycling cannot be considered a permanent solid waste solution, as it merely prolongs the time until an item is disposed of.”¹²
26. Furthermore, claims regarding the alleged recyclability of unrecyclable ‘soft plastic’ attract clear legal risk. A 2024 investigation in the UK found that the majority of soft plastic collected by major supermarkets for recycling was going to incineration.¹³
27. In 2023, the Bureau Européen des Unions de Consommateurs (BEUC) filed an EU-wide legal complaint to the European Commission and the Consumer Protection Network of EU consumer authorities against Coca-Cola, Nestlé and Danone over their use of misleading ‘100% recyclable’ and ‘100% recycled’ claims on plastic water bottles sold across Europe. ClientEarth, along with the Environmental Coalition on Standards (ECOS), supported the complaint. Since then, two of the targeted companies have made commitments to the EU regulators to cease various recycling-related claims.¹⁴ Coca-Cola’s commitments were published in May 2025,¹⁵ Nestlé’s in March 2026.¹⁶ At the time of writing, Danone’s commitments remain outstanding.

¹⁰ [Directive - 2005/29 - EN - Unfair Commercial Practices Directive - EUR-Lex](#)

¹¹ Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food; Commission Regulation (EU) 2022/1616 of 15 September 2022 on recycled plastic materials and articles intended to come into contact with foods, and repealing Regulation (EC) No 282/2008

¹² [Fraud-of-Plastic-Recycling-2024.pdf](#)

¹³ [Lawyers warn of risk of legal action over misleading recycling claims, amid new revelations | ClientEarth](#)

¹⁴ [We’re supporting legal action against Coca-Cola, Nestlé and Danone for their misleading claims about recycling | ClientEarth](#)

¹⁵ [84d8241d-8c53-499b-b53f-bf4ecad85309_en](#)

¹⁶ [08443cdb-1fa9-4274-b1ea-73d963853ce0_en](#)

28. It is to be expected that national consumer authorities across the EU will now monitor the implementation of these commitments, will consider enforcement measures for any failure to correctly implement them and will assess the practices of other FMCG companies operating in the EU in order to require the same commitments.¹⁷ The European Commission's 2030 Consumer Agenda states that regulatory enforcement will remain a priority, with forthcoming reforms set to increase enforcement powers.¹⁸
29. Alongside the coordinated EU regulatory enforcement, private enforcement is underway. In September 2025, ClientEarth filed a claim against Nestlé in Poland¹⁹, seeking to enforce the Unfair Commercial Practices Directive (as implemented in Poland) against recycling marketing claims on Nestlé's bottled water brand. Among the evidence ClientEarth has submitted to the Court is an Ipsos survey. The survey demonstrates that common "fully recyclable" or "contains recycled plastic" labels mislead consumers into believing that plastic packaging is environmentally positive.²⁰ The litigation continues, and Nestlé is defending the claim.
30. The EU's Unfair Commercial Practices Directive prohibits recycling claims which mislead consumers as to the environmental impact of plastic packaging. The EU-wide regulatory enforcement and private litigation signify clear 'red lines' for plastic recycling claims:
- a. Claims that plastic packaging is made from 'recycled' materials must be strictly accurate, may refer only to recycled post-consumer waste, and must clarify which components are from recycled materials and which are not.
 - b. Claims that plastic packaging is 'recyclable' must reflect real-world conditions.
 - c. The use of circular imagery (e.g. mobius or infinite loop), which gives the impression that the plastic is environmentally positive or neutral, or broader green claims in relation to single-use plastic, are not permitted.
31. Disposal instructions and accurate product information are permitted. Misleading consumers about the environmental impact of plastic packaging is not. Misleading recycling claims attract significant legal risk under EU consumer protection law.

Plastic and reporting obligations

32. The Corporate Sustainability Reporting Directive (CSRD)²¹ introduces a significantly strengthened framework for corporate sustainability disclosures and transparency in the EU,

¹⁷ See, for example, the more advanced action against airlines. [Twenty-one European airlines agree to modify their practices regarding environmental claims](#)

¹⁸ Page 13, [84cfc60e-f264-4f31-9f79-9ec83dce064d_en](#)

¹⁹ [Koncern Nestlé Polska pozwany za greenwashing plastikowych butelek | ClientEarth Prawnicy dla Ziemi](#)

²⁰ [Recycling claims mislead consumers, survey finds | ClientEarth](#)

²¹ Directive (EU) 2022/2464 on corporate sustainability reporting (Corporate Sustainability Reporting Directive — CSRD) entered into force on 5 January 2023.

with detailed reporting requirements set out in the European Sustainability Reporting Standards (ESRS).

33. In the context of plastics and related risks, two standards are particularly relevant: ESRS E2 (Pollution), ESRS E5 (Resource Use and Circular Economy) and ESRS 2 (General Disclosures).
34. The overarching reporting standard establishes the general architecture for sustainability disclosures, requiring companies to identify and report material impacts, risks and opportunities, together with their governance, strategy and due diligence processes. Within this framework, companies must disclose their environmental impacts across the value chain, including pollution-related risks and their mitigation measures. They are also required to report on how they use resources and manage waste, including efforts to improve circularity, recyclability and the reduction of material use. These requirements ensure that environmental disclosures are consistent, substantiated and decision-useful. They form an integrated system that aligns environmental performance with corporate strategy and requires evidence-based reporting.
35. Together, these standards create a framework in which plastics-related disclosures—particularly concerning recyclability, pollution and circularity—must be accurate, complete and evidence-based.
36. Particularly given the increasing attention, litigation and regulatory enforcement regarding plastic sustainability impacts and risks, failures to adequately disclose plastic-related harms and mitigations create direct legal exposure. Legal action, both litigation and regulatory enforcement, in respect of investor-facing misstatements has increased rapidly in recent years, even in the absence of detailed reporting requirements such as those in the CSRD and ESRS.²² This has also included cross-border enforcement action by securities regulators regarding ‘recyclable’ misstatements.²³ Inaccurate or misleading disclosures—such as overstating recyclability, underreporting pollution impacts or failing to identify material plastic-related risks—may give rise to regulatory enforcement or litigation.
37. Although the Dutch regulatory authorities did not open enforcement proceedings against Ahold Delhaize²⁴, the CSRD will increase the scope for this type of challenge to investor-facing statements. The European Securities Markets Association (ESMA) is monitoring EU national authorities’ steps to address listed company greenwashing, which include 13 enforcement actions against listed companies as of 2024.²⁵ ESMA states that authorities “*have been taking steps to challenge sustainability-related claims in non-financial statements and prospectuses, when they raise their concerns. Recent regulatory changes are expected to facilitate supervisors’ work*”.

²² [Greenwashing under scrutiny: Insights from the ACCR v Santos case - Insight - MinterEllison; Investigation into Drax Group | FCA; Report REP 763 ASIC’s recent greenwashing interventions](#)

²³ [Keurig Canada to pay \\$3 million penalty to settle Competition Bureau’s concerns over coffee pod recycling claims - Canada.ca; SEC charges Keurig Dr Pepper over K-Cup recyclability; Keurig to pay \\$1.5M settlement over recyclability of K-Cups | AP News](#)

²⁴ [Supermarket group faces challenge over plastic failings | ClientEarth](#)

²⁵ [ESMA36-287652198-2699 Final Report on Greenwashing](#)

38. In practical terms, the CSRD transforms sustainability reporting—particularly in areas such as plastics, pollution and circularity—into a core compliance and litigation risk area. Companies must ensure that disclosures under ESRS E2, E5 and ESRS 2 are not only formally compliant but also aligned with scientific evidence and real-world system performance, as failures may result in regulatory sanctions, private enforcement and reputational harm.
39. In this context, failure to properly identify plastic-related risks, including environmental impacts, pollution, and financial exposure, may constitute a failure to disclose material information. This includes both financial materiality (e.g. regulatory and litigation risks) and impact materiality (e.g. environmental harm), which must be assessed and disclosed in accordance with CSRD requirements. These two dimensions frequently overlap: environmental impacts and harm also translate into financially material risks (e.g. where they give rise to tortious liability, regulatory sanctions, or reputational damage).

Conclusion

40. Plastic-related risks are converging across regulatory, environmental, health, and litigation dimensions. As a result, they must be treated as a material, cross-cutting risk category requiring proactive management at board level. Plastic use should be treated as a source of legal liability rather than a purely operational or sustainability issue.
41. Recent developments in various areas point to clear legal ‘red line’ principles which we call on your company to respect.
 - I. In product marketing and advertising:
 - a. Claims that plastic packaging is made from ‘recycled’ materials must be strictly accurate, may refer only to recycled post-consumer waste, and must clarify which components are from recycled materials and which are not.
 - b. Claims that plastic packaging is ‘recyclable’ must reflect real world conditions.
 - c. The use of circular imagery (e.g. mobius or infinite loop), which gives the impression that the plastic is environmentally positive or neutral, or broader green claims in relation to single-use plastic are not permitted.
 - II. In business strategy and reporting:
 - a. Sustainability reporting and due diligence compliance must accurately include plastic-related business risks and human and environmental impacts across the entire value chain.
 - b. Reliance on recycling alone to address these risks and impacts is insufficient. Companies must implement adequate upstream measures, including plastic reduction and reuse-based solutions.

42. The central strategic priority underlying these legal 'red lines' is clear: reducing the use of plastic is essential to managing future legal and business risk.

Yours faithfully,

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