

# “Climate-washing” litigation deters misinformation, but can it help cut emissions?

*With corporate climate action and climate misinformation coming under greater scrutiny, ‘climate-washing’ is increasingly being targeted through litigation. **Juliana Vélez Echeverri, Catherine Higham and Joana Setzer** write that litigation can deter misleading practices, but further research is essential to understand the full impact of these legal battles on the pursuit of broader climate governance.*

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Join Catherine Higham and Joana Setzer in the event **Global trends in climate litigation**

Thursday 27 June 2024 6.30pm to 8.00pm

Hosted by the Grantham Research Institute on Climate Change and the Environment

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Companies are having to meet growing investor and consumer demand for products and services that align with international goals to reduce greenhouse gas emissions. Unfortunately, some resort to embellishing their credentials through ‘climate-washing’, a form of [greenwashing](#) whereby an entity misrepresents its progress towards climate goals. Increasingly, this is being [challenged](#) in the courts, as corporate – and sometimes governmental – climate communications come under greater scrutiny. Such cases surged from a mere handful in 2016 to more than 120 globally by the end of 2023. Not only has the number of cases grown, but non-governmental organisations, specialised agencies and watchdogs have seen success in these cases, bolstering transparency and accountability for climate action.

Recent landmark victories include the [groundbreaking verdict against KLM](#), delivered on 20 March 2024 by the District Court of Amsterdam, that deemed many of the airline’s claims regarding its use of carbon offsets and biofuels to be inaccurate and therefore illegal. This case not only has resonance for the aviation sector, but also sends a warning to all companies making net zero commitments. In another pivotal case, Australia’s Federal Court issued a [ruling against Vanguard Investments Australia](#) that

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found the company's claims about an ethical bond fund to be false and misleading. The case was initiated by a corporate regulator, the Australian Securities and Investments Commission, setting a critical precedent for sustainable investment claims.

*“...two current climate-washing cases that focus on the Brazilian Amazon use climate-washing arguments to demonstrate human rights violations by the defendants.”*

## Climate-washing litigation in numbers

The first [published assessment of climate-washing litigation](#) identified 43 cases between 2016 and 2021, highlighting an upward trend in the jurisdictions assessed over this period. We have since identified 120 climate-washing cases filed between 2016 and 2023, more than half from the last two years.

Climate litigation cases more generally against corporate actors have historically seen only limited or partial success (and many cases are still open). However, decided climate-washing cases specifically have mostly yielded positive outcomes for climate action. Half of the 120 climate-washing cases reviewed between 2016 and 2023 have reached official decisions; 42 of those 60 cases, 25 of which were filed in the past two years, have concluded in favour of the claimant.

The jurisdictions with the highest numbers of successful outcomes for climate-washing cases are Germany (13) and the UK (11), although these were decided by different types of adjudicating bodies (the courts in Germany and non-judicial channels in the UK). While the United States has hosted the highest total number of climate-washing cases (44), its success rate is comparatively low, with 11 of 20 decided cases being ruled unfavourable to climate action. These account for about 90 per cent of all unfavourable outcomes across the jurisdictions analysed.

The majority of successful cases (70 per cent) addressed misleading communication in advertising. The cases that remain open also involve non-disclosure of climate-related financial risks, or disinformation about the impacts of climate change.

Several cases employ novel arguments and legal frameworks that could be influential in combatting climate-washing from varied perspectives. Of particular note, two current

climate-washing cases that focus on the Brazilian Amazon use climate-washing arguments to demonstrate human rights violations by the defendants. The first, the case of [Amorema and Amoretgrap v. Sustainable Carbon and others](#), filed in Brazil, accuses companies of trading carbon credits in the Amazon as ‘social carbon credits’ without ensuring actual benefits to communities. The claimants allege misuse of community names, images and cultural heritage, and accuse the entities of misrepresenting their socio-environmental responsibility, thereby inflicting material and moral damage on local communities. The second, the case of [Comissão Pastoral da Terra and Notre Affaire à Tous v. BNP Paribas](#), filed in France, criticises bank BNP Paribas’s due diligence processes for failing to prevent human rights violations, specifically in its financial dealings with Marfrig, a major beef producer implicated in land-grabbing and deforestation in the Amazon.

*“The (...) escalation in the frequency and success of climate-washing litigation between 2016 and 2023 signifies a growing judicial and societal intolerance towards misleading communications around climate credentials...”*

These cases shed light on the nuanced and context-specific impacts of climate-washing, which not only mislead the public about companies’ environmental practices but can also conceal grave human rights abuses. The differing legal approaches and jurisdictions involved highlight the diverse legal strategies that need to be accounted for in our understanding of climate-washing litigation.

## **Holding all entities to account**

The discernible escalation in the frequency and success of climate-washing litigation between 2016 and 2023 signifies a growing judicial and societal intolerance towards misleading communications around climate credentials, and the viability of legal avenues for challenging them. This trend is likely to continue and have broader implications for corporate conduct. However, some sectors that are central to the dissemination of misleading claims have been [less frequently targeted](#) in climate-washing litigation to date. It is of utmost importance that all companies, irrespective of their visibility or the fields in which they operate, are subject to a similar level of scrutiny and accountability.

In particular, it is anticipated that advertising and public relations (PR) agencies, big tech

companies and media outlets will become increasingly embroiled in climate lawsuits as they come under greater public scrutiny for the role they play in climate misinformation. The establishment of [databases](#) and [campaigns](#) that focus on the largest [advertising and PR firms](#) and [corporate lobbying](#) will doubtless increase pressure on these industries.

An early indication of this came last month when the UK-based New Weather Institute filed a [complaint against Saudi Aramco and the Financial Times](#) for misleading advertisements promoting 'advanced fuels' as a solution for decarbonising Formula One racing. The complaint, one of the few climate-washing cases to target a media outlet, alleges that the Financial [Times produced misleading adverts](#) on behalf of Aramco, considering both parties co-authors of the ad and therefore liable for breaching the UK Advertising Standards Authority's rules.

## **Wider progress on net-zero goals**

Successful climate-washing litigation can serve as a deterrent against misleading practices and reinforces the importance of transparency and accountability. However, deterring misinformation is just one piece of the puzzle, and it is unclear to what extent positive courtroom outcomes directly contribute to reducing carbon emissions or achieving substantive climate action goals.

Further research is essential to understand the full impact of these legal battles on the pursuit of broader climate governance. There is also a need for systemic changes to corporate behaviour, regulatory frameworks and public awareness to achieve meaningful progress towards global climate objectives.

*Watch LSE's Joana Setzer on the reason behind the surge in legal cases and what it means for climate litigation. (1 min)*

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- *This blog post is [co-published](#) with the Grantham Research Institute on Climate Change and the Environment. It draws on data from the Sabin Center for Climate Change Law's [database](#) of climate litigation.*
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