

Media alert

Wednesday 28 September 2022

Duty of Vigilance: Nestlé, Danone, others on legal notice over threadbare plastics approach

Lawyers and NGOs have put nine major 'Big Food' corporations including Nestlé and Danone on notice for alleged inadequate acknowledgement and management of plastic pollution stemming from their business models.

Nestlé France, Danone, McDonald's France, Carrefour, Groupe Casino, Les Mousquetaires, Auchan, Lactalis and Picard now have three months to provide an adequate response, addressing their plastic impacts across the full value chain – or they could face legal action.

The French 'Duty of Vigilance' law demands that companies assess and mitigate the impacts their operations have on the environment and human rights, via a 'vigilance plan'. But according to **Surfrider Europe**, **Zero Waste France** and **ClientEarth's** analysis, these companies' approach to plastic pollution means they are failing to live up to their duties under the law.

In their vigilance plans, some of the companies referred to incomplete or unsatisfactory measures on plastic; some omitted to mention plastic completely; and some have failed to publish a plan at all.

ClientEarth lawyer Rosa Pritchard said: "Companies who are not turning their attention to the global risks associated with plastics have their heads in the sand. This law requires companies to report environmental and human rights impacts of business activities, and mitigation plans must be in place. Unfortunately, these market-leading corporations seem to have a major blind spot in plastics.

"By now, we are all familiar with the disastrous effects of plastic litter. But plastic's harm goes beyond the end-of-life impact. From carbon emissions to the chemical compounds from which plastics are made, plastic also impacts our health and the environment when it's being produced and used. The fact that these companies are not addressing these harms adequately as part of their reporting under this law is a serious oversight and one we will not hesitate to challenge."

The companies put on notice are food and drink manufacturers, supermarket groups and a fast-food chain – all responsible for vast quantities of plastics entering the market and subsequently the environment. The use of these plastics can be obvious, including packaging, but they are also present in the production, distribution and promotion areas of the business. Several of the companies named are [some of the world's top plastic polluters](#).

Coalition spokesperson Antidia Citores said : "How can it be that in 2022, despite a clear legal obligation, these companies are not providing comprehensive reporting on their use of plastic and the inherent associated risks for the environment and human rights? In fact, some fail to provide any vigilance plan at all.

"Recycling is not a catch-all solution – far from it. These companies need to elevate the reduction of plastic use to top priority."

Surfrider Europe, Zero Waste France and ClientEarth have written formal notice letters to each company, starting a three-month countdown after which legal action could be taken.

ENDS

Notes to editors

How does the Duty of Vigilance law work?

Under this groundbreaking French law, adopted in 2017, large companies with more than 5,000 employees in France, or 10,000 employees in France and their foreign subsidiaries, must publish an annual vigilance plan identifying the environmental and social risks stemming from their activities and those of their subsidiaries, suppliers and subcontractors. These plans must include mitigation and prevention measures adapted to the severity of these risks, as well as a report on the implementation of these measures.

French law requires those alleging breach to put the potential defendant companies on notice through a formal letter setting out the law and details of the alleged breach. The companies have a period of three months to respond. If they fail to respond – or those alleging the breach deem the response to be inadequate – a formal demand can be filed in the French civil court (Tribunal judiciaire de Paris) for an injunction, ordering the company to produce a vigilance plan that conforms with the law.

What are Surfrider, Zero Waste France and ClientEarth asking for?

Each company should:

1. Produce a complete assessment of its use of plastic, encompassing all its activities throughout the value chain
2. On the basis of this assessment, put together a 'deplastification' plan with quantified and dated objectives and *act on it*.

About the coalition

ClientEarth is a non-profit organisation that uses the law to create systemic change that protects the Earth for – and with – its inhabitants. We are tackling climate change, protecting nature and stopping pollution, with partners and citizens around the globe. We hold industry and governments to account, and defend everyone's right to a healthy world. From our offices in Europe, Asia and the USA we shape, implement and enforce the law, to build a future for our planet in which people and nature can thrive together. Depuis plus de 30 ans,

Surfrider Foundation Europe is a non-profit organisation whose purpose is to protect and showcase the importance of lakes, rivers, the ocean, waves, and coastlines. It currently has over 18,000 members and is active across 12 countries through its volunteer-run branches. For more than 30 years, Surfrider Foundation Europe has been taking action as a recognized authority in three areas of expertise: marine litter, water quality and public health, coastal management and climate change.

Zero Waste France is a citizen organisation, created in 1997, that campaigns for waste reduction and better resource management.

Anaïs Rivalier

Senior Strategic Communications Officer | Clienearth

m. +44 (0) 7851 926 887

Lionel Cheylus

Presse Relations Officer | Surfrider Foundation Europe

m. +33 6 08 10 58 02