

TWO LAWSUITS

Challenge Deceptive Environmental Practices by Major Corporations

Beyond Pesticides Sues ExxonMobil and TruGreen for making fraudulent claims about their practices to protect people and the environment

Corporations, fighting the facts, desperately try to align their messaging with environmental issues that the public increasingly understands are critical to their health and the sustainability of the planet. TruGreen, a nationwide chemical-intensive lawn treatment company, has long characterized its practices as good for the environment and healthy for those who purchase their toxic pesticide service. ExxonMobil, as a oil and gas producer of petrochemicals that are the basis for pesticides, has invested

significant advertising dollars to tell the public that they are a green company, heavily invested in addressing and solving the climate crisis. In both cases, the companies are engaging in fraudulent and misleading practices that misstate the truth and the facts, leading the public to believe that they are offering solutions that people want to support with their purchasing power, according to separate lawsuits filed by Beyond Pesticides in Washington, DC. Beyond Pesticides is represented by the Richman Law Group, headquartered in New York City.

Alamy/Dennis MacDonald



THE CASE AGAINST EXXONMOBIL

On May 15, 2020, Beyond Pesticides sued ExxonMobil Corporation (Exxon) for “false and deceptive marketing,” misrepresenting to consumers that it “has invested significantly in the production and use of “clean” energy and environmentally beneficial technology.” The truth, according to the complaint (*Beyond Pesticides v. Exxon Mobil Corporation*) filed in DC Superior Court in May, is that the vast majority of Exxon’s business continues to be in the production and use of petroleum, natural gas, and petrochemicals, including pesticides. These activities are significant contributors to the climate crisis and the decline of pollinators and biodiversity, threatening the viability of biological systems that sustain life.

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“ExxonMobil’s advertising and marketing mislead the public by presenting ExxonMobil’s clean energy activities as a significant proportion of its overall business,” according to the lawsuit. In an age where consumers are looking to support responsible companies that are supporting and transitioning away from fossil fuel-based energy and chemical products, “ExxonMobil is able to capture the growing market of consumers,” according to the complaint.

Surveys have found that consumers are more likely to buy products and services based on corporate image. For example, a 2015 Nielsen survey finds that the majority of consumers are more likely to buy products and services from companies “known for” being environmentally friendly or committed to social value.

“We cannot afford to be misled by corporations that are tinkering with solutions to the environmental crises of climate change and biodiversity devastation, which threaten our future over an ever-shortening time horizon,” said Jay Feldman, executive director of Beyond Pesticides. “Overselling half-hearted attempts to solve these environmental crises head-on is doing dramatic damage to the large scale and meaningful changes that must take place now,” Mr. Feldman continued.

Beyond Pesticides is working with consumers, farmers, landscapers, and communities across the country and worldwide to expedite a transition to organic land management practices (defined under the *Organic Foods Production Act*), eliminating petrochemical pesticides and fertilizers, which release human-caused carbon into the atmosphere and are destructive of soil biology and organic matter, nutrient cycling, and carbon sequestration. Drawing down carbon from the atmosphere on a massive scale is critical to a holistic strategy for reversing the climate crisis—which is feasible with

regenerative organic systems that could, if universally adopted, capture more than 100 percent of carbon dioxide (CO₂) emissions.

Exxon espouses a “commitment to develop new resources to ensure the world has the energy it needs while also minimizing the environmental impacts, including the risks associated with greenhouse gas emissions and climate change.”

Exxon has invested heavily in its image as a “clean” and “green” company with advertising on its leadership on carbon capture and storage technology to the tune of 1.8 billion advertising impressions for this one campaign. Yet, according to the complaint, “Since 2000, ExxonMobil’s capital expenditures total well over \$465 billion. Thus, the \$9 billion in environmentally beneficial investments touted by ExxonMobil demonstrate that no more than 2% of ExxonMobil’s capital expenditures in the past 20 years was invested in lower-emission solutions, carbon capture and storage technology, biofuels, cogeneration, and more efficient manufacturing processes, combined.”

“Deceiving the public into believing that one of the largest petroleum companies in the world is committed to solving the climate crisis, while it continues to devastate the planet, is dangerous and inexcusable, especially given what’s at stake,” said Mr. Feldman. “This is especially problematic, given that real solutions to the climate crisis and biodiversity destruction are within our reach if not slowed by deceptive practices of Exxon and other powerful corporations,” Mr. Feldman continued.

“The coronavirus pandemic challenges us to think differently and act urgently to prioritize the importance of science in government and corporate decision making, take the necessary steps to avert looming crises that affect public health and the environment, and hold companies accountable to practices that protect life,” said Mr. Feldman. Beyond Pesticides advocates for the adoption of organic land management, a systems approach that eliminates toxic petrochemical pesticides and fertilizers and builds organic matter and soil biology as a means of cycling nutrients for plant health, sequestering carbon on a massive scale, and protecting biodiversity. Organic methods are successfully and economically used in managing agriculture, lawns, parks, and playing fields across the country.

Exxon’s false and misleading representations and omissions violate the District of Columbia *Consumer Protection Procedures Act* (“DC CPPA”), D.C. Code §§ 28-3901, et seq., according to the complaint.

THE CASE AGAINST TRUGREEN

Beyond Pesticides sued TruGreen for misrepresenting the safety of the toxic chemicals that it uses to treat lawns. The case, *Beyond Pesticides v. TruGreen* (DC Superior Court, Case No. 2020CA001973B), was filed in March 2020. At the same time, Beyond Pesticides urged all states to prohibit toxic chemical spraying in neighborhoods as nonessential and hazardous, especially during the coronavirus pandemic. Widespread



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exposure to lawn pesticides, which are immune system and respiratory toxicants, can elevate serious risk factors associated with Covid-19 (coronavirus).

As part of its marketing, TruGreen tells consumers that it offers environmentally friendly, sustainable lawn care services without chemicals that cause cancer, allergic reactions, or other health or environmental harms. These claims, according to Beyond Pesticides' complaint, are false and deceptive and illegal under the laws of the District of Columbia.

Advocates suggest that during the Covid-19 crisis the cessation of pesticide applications in neighborhoods across the U.S. will reduce involuntary exposure to chemicals that exacerbate respiratory and immune system illness and risk factors associated with coronavirus. Lawn care services have been determined by some states to be nonessential services and are prohibited from applying chemicals and delivering other lawn services during phase I of the pandemic. However, TruGreen has notified customers that it will continue to deliver services where permitted. Some companies are reporting cancellations. The litigation is intended to curtail use of hazardous pesticides long-term.

TruGreen makes several claims to consumers that, according to the lawsuit, the company knows to be false. As stated in the complaint, "TruGreen purports to offer environmentally friendly, sustainable lawn care services that use no chemicals that may cause cancer, allergic reactions, or other health or environmental harms." Beyond Pesticides shows that these claims are false and deceptive.

Quoting from TruGreen's information to consumers, identified as false and deceptive in the litigation:

"We will not approve products containing known or probable human carcinogens as defined by the U.S. EPA, the National Toxicology Program, or the International Agency for Research in Cancer [IARC]."

"We do not approve products that are known skin sensitizers or that may produce allergic reactions."

"We do not approve products known or thought likely to leach to groundwater when applied to lawns."

In fact, TruGreen uses the weed killer glyphosate (Roundup), which is identified by IARC of the World Health Organization as probably carcinogenic. It uses a chlorophenoxy (Tri-Power), another weed killer whose label warns of "irreversible eye damage" and "allergic reactions." Another hazardous pesticide identified in the lawsuit is triclofon (Dylox), a neurotoxic organophosphate insecticide. As stated in the complaint, TruGreen's representations are intended to, and do, portray to consumers that its lawn care services are environmentally responsible and free from harmful chemicals.

"It's time that chemical lawn care companies stop deceiving the public and their customers with deceptive, misleading, and false information on the real hazards of the pesticide they use," said Jay Feldman, executive director of Beyond Pesticides. "These practices are particularly abhorrent, given the availability of organic compatible products that do not cause harm," said Mr. Feldman.

Beyond Pesticides advocates for the adoption of organic land management, a systems approach that eliminates toxic chemical pesticides and fertilizers and builds organic matter and soil biology as a means of cycling nutrients for plant health. This approach is successfully and economically used in managing lawns, parks, and playing fields across the country.

TruGreen's false and misleading representations and omissions violate the District of Columbia *Consumer Protection Procedures Act* ("DC CPPA"), D.C. Code §§ 28-3901, et seq.

For more information on organic land management of lawns, parks, and playing fields, see Beyond Pesticides Lawns and Landscapes page at www.bp-dc.org/lawns.