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Sasha Borissenko: Who needs an economy if we burn to the ground?

**Sasha Borissenko**

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'We'll have to see whether the world burning to the ground will meet a new 'national interest test'. Photo / George Heard

OPINION

The Crown's Olivia Coleman should win an Oscar for her role as "Oblivia Coalmine" for UK climate change campaign, [Make My Money Matter](#).

Donning a sinister smile and head-to-toe latex, Coalmine wished to thank the people of England for their support on behalf of the fossil fuel industry.

“People like you have pumped billions of your hard-earned pounds into our gas and oil businesses. The cash from your pensions has helped us dig, drill, and destroy more of the planet than ever before,” she said.

“We’ve even managed to build a few little wind turbines to keep Greta and her chums happy.”

While the global temperature could increase a “teensy weensy degree or two”, the industry’s profits were soaring, “so to guarantee us all a warmer, snugglier future, please keep sending your pensions our way. You know the drill”.

Beyond the clever scripting, the sentiment seems oddly familiar to [criticisms](#) of the fossil fuel industry’s links to Kiwisaver and other investment providers in recent years.

In October, [Mindful Money](#) released its Fossil Fuel Investment [report](#), which claimed New Zealand fund managers were chasing short-term profits by investing more in fossil fuels. It found there was an 80 per cent increase throughout 2022 in investment in fossil fuel companies that are expanding production.

The authors claimed fossil fuel giants weren’t meeting Paris Agreement targets yet were using ‘greenwashing’ tactics - a term used to describe companies that make empty claims they’re taking action to reduce climate change.

Greenwashing test case

This brings me to the Lawyers for Climate Action New Zealand (LCANZI) - a group of lawyers that donates its legal services to promote action on climate change. Together with Consumer NZ and the Environment Law Initiative (ELI), the group filed proceedings in the High Court against Z Energy (Z) for greenwashing claims last week. It’s the first greenwashing case of its kind in Aotearoa.

Last year, LCANZI made a complaint to the Commerce Commission under the Fair Trading Act, taking issue with Z’s advertising and messaging.

Although a campaign highlighted Z’s biofuel manufacturing and electric car charger initiatives, for example, claims the company was “well on track to achieving carbon reduction targets” could be misleading, LCANZI said in a statement.

Z was the second largest greenhouse gas emitter in New Zealand and was accountable for more than 10 per cent of the country’s emissions, the advocacy group said.

The Commerce Commission declined to investigate. And so it was, [the High Court it is, then](#).

A Z spokesperson said it took the claim extremely seriously and was now working to consider its response.

The devil is in the detail

The environmental law aficionados have been busy bees, having also appeared before the Court of Appeal against the Climate Change Commission and Minister of Climate Change last month.

The case dates back to a High Court decision last year that questioned whether the commission's maths to reduce greenhouse gas emissions and subsequent advice to form targets in the Zero Carbon Act stacked up.

Although the commission's "presentations of its analysis had the potential to mislead", the High Court's Justice Jillian Mallon dismissed the grounds for judicial review, saying the commission correctly interpreted the law and followed its decision-making mandate.

Last month, LCANZI sought to reverse the High Court's decision arguing the commission made mathematical, logical, and methodological errors. It also said the Act's purpose had been misinterpreted, as well as the extent of the commission's and minister's powers.

Citing unreasonableness, LCANZI claimed the commission's advice would see a rise in emissions. It asked the court to order the commission to restart its advice process for future targets.

The commission rejected LCANZI's claims, saying the country was on track with its international law obligations and was legally mandated to decide how targets could be calculated and how quickly targets could be met. The final decision was in the hands of the Government, it said.

Court of Appeal president Mark Cooper, Justice Murray Gilbert, and Justice David Goddard reserved their decision.

Meanwhile, LCANZI executive director Jessica Palairt told me it was important for the country that aspects of the law were tested and clarified.

The case was fundamentally about how serious the government was about meeting its international climate obligations under the Paris Agreement, Palairt said.

"Now is not the time to take the foot off the pedal in respect of climate change. It would be incredibly harmful for New Zealand's international reputation, and for the climate, to step back from our commitments under the Paris Agreement."

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Zero Carbon Act safe ... for now

Cue Prime Minister Chris Luxon's release of the Government's 100-day plan last week.

While there were plans to establish new public transport priorities and to double renewable energy production, gas-guzzlers came out on top among the 49 actions.

The Auckland fuel tax, ute tax, clean car discount, Lake Onslow pumped hydro, Auckland's light rail, and Let's Get Moving Wellington initiatives will be no more, for example.

Gas-guzzlers may be guzzling with abandon thanks to revitalising the Roads of National Significance, as well as cancelling fuel tax hikes altogether. Urban sprawl may continue to sprawl thanks to plans to make medium-

density housing standards optional for councils.

The Government appears to be taking an adaptation over mitigation approach to climate change by planning to meet councils and communities to establish regional requirements and orders for faster recovery from Cyclone Gabrielle and other major flooding events.

As for the Paris Agreement and our international legal obligations? If the Government's stance against adopting amendments to the World Health Organisation, or its position to cease work on implementing the United Nations Declaration on the Rights of Indigenous Peoples is anything to go by - it's not looking good.

New Climate Change Minister Simon Watts may be attending this year's United Nations global climate summit, but we'll have to see whether the world burning to the ground will meet a new 'national interest test'.

Sasha Borissenko is a freelance journalist who has reported extensively on the legal industry.