[This initiative proposal is written by legal professionals who were involved with winning the court case in The Hague. This court case was filed by the travel industry against the fossil ad ban through public law in The Hague. The travel industry lost on all points. The court case was for 98% about EU law, making the verdict and this initiative proposal suitable for more municipalities in the EU and in countries that operate under EU jurisdiction.

You can update this proposal with your local specifics]

Initiative proposal to ban fossil advertising through the ordinance (local law)

INTRODUCTION

Advertising significantly influences our behaviour. For example, advertising for fossil products and services (hereinafter 'fossil products') incites more consumption of such products, leading to increased emissions. Increased emissions contribute to dangerous climate change, lead to environmental damage and have strong negative impacts on public health, both directly and indirectly, both locally and beyond. Given the municipality's climate, environmental and public health policies, the initiator of this proposal wishes to reduce consumption of fossil products. In line with this objective, it is not appropriate for the municipality to continue to accept advertisements in public spaces that actually encourage more consumption of fossil products.

This initiative proposal contains a ban on advertising fossil products in the municipality's public space ('the Advertising Ban'). The Advertising Ban is an appropriate, necessary and proportionate measure given the public interests the municipality has to protect. This initiative proposal explains why the Advertising Ban contributes to limiting the negative effects of fossil consumption on climate change, the environment and public health. The initiative proposal also describes the grounds on which the municipality is authorised to proceed with the Advertising Ban.

ISSUE

Rationale: limiting consumption and normalisation

There is a strong link between advertising and people's consumption behaviour.[1] Advertisements are inherently aimed at increasing demand for the advertiser's products. Advertising for fossil products, such as fossil-fuel-based electricity, gas supply contracts, air and cruise travel or combustion engine vehicles, encourages additional consumption thereof. Consumption of fossil products is associated with emissions of harmful substances such as greenhouse gases, nitrogen and air pollution such as particulate matter. These emissions contribute to climate change and poorer air quality, and thus have negative effects on welfare and health - including that of residents and visitors to [Name of Municipality]. With the Advertising Ban, the initiator wants to avoid its public space being used to drive the consumption of fossil products.

In doing so, the Municipality notes that advertising has a normalising effect on (the consumption of) the products in question.[2] This undermines government policies aimed at limiting their consumption. The stronger the normalisation of fossil products, the harder it will be to curb their consumption. This also means that it will become more difficult for the Municipality to achieve its climate goals aimed at reducing greenhouse gas emissions. [Name of municipality] has the following climate targets: [insert information on climate targets]. [E.g.: The Municipality wishes to contribute to a world where global warming is limited to 1.5 °C. It is therefore not appropriate for products and services that undermine this goal to be promoted on the streets.]

Furthermore, [name of municipality] strives for a clean and healthy municipality, and therefore invests in clean air through [clean air/air quality policy]. Banning fossil fuels also fits within this ambition. Moreover, it is in line with the precautionary principle, which states that the government must take measures to protect residents from serious or irreversible damage to society or the environment. Besides climate change, fossil fuels also have a negative impact on working conditions, nature, the environment and human rights worldwide.

[If relevant: mention here any other relevant objectives of the municipality, such as climate neutral in a given year, climate emergency declared or robust climate adaptation measures to be taken by the municipality due to a vulnerability, such as high risks of flooding].

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[1] The IPCC 2022 report refers to advertising as a cause of increased fossil fuel consumption, see ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf. A report by Greenpeace Nordic and New Weather Institute shows that in 2019, between 202 and 606 Mtonnes of additional global emissions were caused by advertisements for combustion engine cars and airline holidays. By comparison, the Netherlands' total greenhouse gas emissions in 2023 were 118 Mtonnes. See greenpeace.org/static/planet4-sweden-stateless/2022/02/6652a35f-carbon-in-ads-report.pdf.

[2] The IPCC 2022 report describes, among other things, that advertising normalises the use of luxury products such as 'long distance holidays', see http://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf. A Dutch committee of 12 (behavioural) scientists also points to the normalising nature of advertisements in their advice to the Dutch government, see rijksoverheid.nl/documents/reports/2023/10/25/a-ban-on-fossil-advertising.

In view of the above, allowing fossil advertising in public spaces is contrary to the municipality's objectives.

Importance of limiting fossil advertising

For the sake of the climate, the environment and public health, it is important to reduce fossil consumption and thus not drive it with advertisements. There is a direct link between fossil fuel combustion and its contribution to dangerous climate change. A crucial part of the emission reduction needed must come from a change in consumer behaviour, both for the sake of air quality and climate. According to the IPCC[3], as much as 40-70% of the climate reduction target to 2050 depends on this.[4] According to the municipality, the need for that behavioural change is inconsistent with allowing advertisements that encourage higher consumption of fossil products.

Advertisements that increase fossil consumption and thus the combustion of fossil fuels also lead to negative impacts on the environment (e.g. through nitrogen emissions and deposition) and public health (directly through air pollution and indirectly through climate change).

First, air pollution leads to an increased risk of various forms of lung diseases, such as asthma, COPD and lung cancer. Furthermore, air pollution also leads to an increased risk of cardiovascular disease, dementia and premature births. In children, unhealthy air harms lung and brain development. Every year, many premature deaths are due to air pollution.[5] [Should the municipality fail to meet WHO's air quality advisory values, this can be added to the justification here].

Second, climate change has negative effects on public health. Among other things, climate change leads to more heat waves, drought and extreme precipitation. This leads to various negative health effects, including more deaths and health complaints during heat waves and high temperatures. International research shows that [add number]% of heat deaths [in your country] are due to climate change.[6] Heat stress particularly affects vulnerable groups.

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[3] The Intergovernmental Panel on Climate Change (IPCC), part of the United Nations.

[4] "The evidence is clear: the time for action is now. We can halve emissions by 2030.", *IPCC*, 4 april 2022, ipcc.ch/2022/04/04/ipcc-ar6-wgiii-pressrelease/.

[5] For the effects of air pollution on health, see also Jos Lelieveld et al, 'Cardiovascular disease burden from ambient air pollution in Europe reassessed 65 using novel hazard ratio functions' (2019) 40 European Heart Journal 1590; European Environment Agency, 'Healthy environment, healthy lives: how the environment influences health and well-being in Europe' (EEA Report No 21/2019) p. 81 ff.; See also Karn Vohra e.a., "Global mortality from outdoor fine particle pollution generated by fossil fuel combustion: Results from GEOS-Chem", Environmental Research, Volume 195, 2021, doi.org/10.1016/j.envres.2021.110754.

[6] Vicedo-Cabrera, A.M., Scovronick, N., Sera, F. *et al.*, 'The burden of heat-related mortality attributable to recent human-induced climate change', *Nature Climate Change*, 2021, 11, pp. 492–500, doi.org/10.1038/s41558-021-01058-x.

The Municipality concludes that fossil consumption and associated emissions directly and indirectly pose a significant threat to the well-being of people, including residents within the municipality.

Reports and organisations supporting a fossil advertising ban

Various organisations, advisory bodies and scientific publications in the Netherlands point to the importance and effectiveness of a ban on fossil advertising. [The initiator] refers to publications [Feel free to adjust to national context or research. If there are no local or national examples, you could also consider adding international ones, which are already included below. If you want to add more, you can find more research in our database: https://www.worldwithoutfossilads.org/research/]:

- by the Dutch independent research organisation (TNO)[7],
- the Dutch independent climate policy advisory body (WKR)[8],
- the Netherlands Environmental Assessment Agency (PBL)[9],
- the Netherlands Scientific Council for Government Policy (WRR)[10],
- the Dutch advisory board for Environment and Infrastructure (Rli)[11], and
- the independent research and consultancy organisation CE Delft[12], among others.

A committee of 12 (behavioural) scientists even calls a ban on fossil advertising an essential measure in their advice the Dutch House of Representatives, noting that other measures are

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[7] Paradies, G, & R. van den Brink, 'Anders Consumere om klimaatdoelen te halen - een verkenning van manieren om het systeem te veranderen en hoe iedereen daaraan bij kan dragen' (translation: 'Consuming differently to meet climate targets - an exploration of ways to change the system and how everyone can contribute to it'), Februari 2023, *TNO*, open.overheid.nl/documenten/9b2b13e2-0b47-49bd-8f1e-ecd078ae5ea3/file.

[8] Advice from the Wetenschappelijke Klimaatraad (Scientific Climate Council), 'Met iedereen de transities in - Richtinggevende keuzes voor een klimaatneutraal en klimaatbestendig Nederland' (translation: 'Into the transitions with everyone - Directional choices for a climate neutral and climate-proof Netherlands'), advice for the benefit of the Climate Plan 2025-2035, 15 December 2023, *WKR*, p. 42, beschikbaar via wkr.nl/documenten/rapporten/2023/12/15/adviesrapport-met-iedereen-de-transities-in.

[9] Report from the Planbureau voor de Leefomgeving (PBL), 'Integrale Circulaire Economie Rapportage 2023' (translation: 'Integral Circular Economy Report 2023', *PBL*, 2023, pbl.nl/publicaties/integrale-circulaire-economie-rapportage-2023.

[10] Report from the Wetenschappelijke Raad voor het Regeringsbeleid, 'Goede zaken. Naar een grotere maatschappelijke bijdrage van ondernemingen' (translation: Good business. Towards greater corporate social contribution'). *WRR*, 2023, p. 13, available through wrr.nl/publicaties/rapporten/2023/09/14/goede-zaken.

[11] Advice from the Raad voor leefomgeving en infrastructuur, 'Weg van de Wegwerpmaatschappij', (translation: Away from the Single-use Society'), *Rli*, November 2023, p. 41, available through rli.nl/weg-van-de-wegwerpmaatschappij.

[12] Report from CE Delft, De Vries, J., P. Bouwman, et al., 'True Pricing van consumptiegoederen, van verborgen kosten naar zichtbare prijzen' (translation: True Pricing of consumer goods, from hidden costs to visible prices', *CE Delft,* December 2024, tweedekamer.nl/kamerstukken/detail?id=2025D07784&did=2025D07784.

(of course) also needed.[13] These advisory opinions are also relevant for local governments, as advertisements in municipal public spaces call for more consumption. The reports of the Dutch independent climate policy advisory body (WKR) and the Dutch advisory board for Environment and Infrastructure (Rli) explicitly refer to banning advertisements locally in public spaces, which is primarily the competence of the municipality.

Several other organisations also point to the importance of limiting fossil advertisements as a policy option on an international level and have all called for a ban on fossil advertising:

- the IPCC[14],
- the UN Environment Programme[15] ,
- the German research institute Potsdam Institute for Climate Impact Research[16],
- the UN Secretary-General[17],
- the UN High Commissioner for Human Rights[18], and
- the UN Special Rapporteur on Climate Change[19].

Other scientific publications also in general point to the importance of curbing fossil consumption.

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[13] Scientific opinion in response to debate in the House of Representatives, 2022-2023 session, 36200, XIII, nr. 122, Bouman, Bolderdijk, et al., 'Een verbod op fossiele reclame: essentieel, maar niet voldoende' (translation: 'A ban on fossil advertising: essential but not sufficient'), 25 October 2023 rijksoverheid.nl/documenten/rapporten/2023/10/25/een-verbod-op-fossiele-reclame.

[14] See e.g. IPCC 2022 (6th Assessment Working Group 3), which refers to advertisements leading to and normalising more fossil use. 'Climate Change 2022 - Mitigation of Climate Change', Working Group III contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, IPCC, Chapter 2 "Emission Trends and Drivers", p. 264, available via ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf.

[15]The UNEP Emission Gap Report (2020) calls regulating a mechanism for lifestyle change, explicitly referring to banning air travel and carbon-intensive cars. 'UNEP Emission Gap Report 2020', UN Environment Programm, p. 66, available at unep.org/emissions-gap-report-2020.

[16] The Potsdam Institute for Climate Impact Research (2020) also mentions a ban on fossil advertising as a measure that contributes to the social tipping point for the rapid decarbonisation needed. Otto, I. M., J. F. Donges, et al, 'Social tipping dynamics for stabilising Earth's climate by 2050', Proceedings Of The National Academy Of Sciences, 2020, 117(5), pp. 2354-2365, pnas.org/doi/epdf/10.1073/pnas.1900577117.

[17] Secretary-General's special address on climate action, *"*A Moment of Truth*", United Nations Secretary-General*, 5 June 2024, un.org/sg/en/content/secretary-general/speeches/2024-06-05/discurso-especial-sobre-la-acci%C3%B3n-clim%C3%A1tica-%E2%80%9Cla-hora-de-la-verdad%E2%80%9D.

[18] Türk, V., "Open Letter from the United Nations High Commissioner for Human Rights, Volker Türk, on priorities for human rights-based climate action at the 29th Conference of the Parties to the United Nations Framework Convention on Climate Change", *United Nations*, 6 November 2024, ohchr.org/sites/default/files/documents/issues/climatechange/24-11-06-HC-letter.pdf.

[19] United Nations Special Rapporteurs Elisa Morgera & Astrid Puentes Riaño, "Fossil Fuel Ad Bans Protect our rights to life, health a healthy environment and information in the context of climate change", *United Nations*, 10 April 2025, ohchr.org/en/specialprocedures/sr-climate-change/activities.

Furthermore, medical professionals and public health experts confirm the importance of banning fossil advertising.[20] The Global Climate and Health Alliance, a global network of more than 200 health organisations, including the WHO, is also clear about the importance of an advertising ban. The organisation calls for "proven public health measures to be applied to fossil fuels as for other health harming commodities such as tobacco", with one of the recommended measures being "Ban fossil fuel advertising".[21]

Other studies point to the importance of banning fossil advertising in addition to its support, including a support rate analysis by CAPABLE[22] and a scientific study published in *Nature Climate Change*[23]. Both studies refer to a ban on fossil advertising as a 'low-hanging fruit', as it is a relatively simple measure with high support, aimed at limiting consumption. Moreover, a recent scientific study shows that an advertising ban can accelerate the sustainable transition, as it stimulates product innovation: companies will start developing and promoting sustainable alternatives.[24]

Based on the above, the municipality has good reasons to proceed with a ban on fossil advertising.

APPROACH AND LEGAL ANALYSIS

Intended effect

This proposal aims to ban fossil advertising from the public spaces of [Name of municipality]. With the Advertising Ban, the municipality aims to no longer allow advertisements in public spaces to call for more fossil consumption and contribute to the normalisation of such consumption. The aim is to reduce harmful emissions and stimulate positive effects on the climate, the environment and public health. The proposal aims to contribute to preventing increasingly worse effects of climate change and protecting the health and livability of the city.

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[20] Mahmood, T.S.J., & J. Miller, 'Fossil fuel adverts are today's tobacco. Cities must ban them', *Context*, 20 May 2025, context.news/just-transition/opinion/fossil-fuel-adverts-are-todays-tobacco-cities-must-ban-them.

[21] Beagley, J., 'Cradle to grave: The health harms of fossil fuel dependence and the case for a just phase-out', 2022, *Global Climate and Health Alliance,* p. 12, available via climateandhealthalliance.org/wp-content/uploads/2022/07/Cradle-To-Grave-Fossil-Fuels-Brief.pdf.

[22] Research by EU-funded research team, 'Fossil fuel advertising bans are broadly supported across Europe', CAPABLE, 21 March 2025, capableclimate.eu/fossil-fuel-ad-ban-support/.

[23] Bouman, T., Bolderdijk, J.W. & Smith, E.K., 'Local fossil fuel ad ban as a catalyst for global change', *Nature Climate Change,* 15, 2025, pp. 348–350, doi.org/10.1038/s41558-025-02267-4.

[24] McDowall, W. & A. Underthun, 'Advertising restrictions and sustainability transitions: does banning advertising of harmful products induce innovation in benign alternatives?', *Environmental Innovation and Societal Transitions,* Volume 56, 2025, doi.org/10.1016/j.eist.2025.101000.

Definition of fossil advertising

The Advertising Ban focuses on the fossil advertisements as further defined in this initiative proposal. These are a number of fossil products whose consumption is associated with strong negative effects on the climate, the environment and public health.

The ban covers the following:

> *"Fossil advertising is commercial advertising that manifestly aims to promote the products and/or services: fossil fuels, airline holidays, airline tickets, gas supply contracts, fossil-fuel-based electricity, cruise travel, or fossil-fuel-powered vehicles."*

In other words, fossil advertising includes:

- travel involving transport by air plane or cruise ship (including travel to destinations that can only reasonably be reached by air or cruise travel);
- vehicles with a fossil-fuel-powered engine, which also denotes hybrid vehicles;
- gas supply contracts and fossil-fuel-based electricity;
- fossil fuels for road transport (petrol, diesel, etc.).

Below, the initiator gives some examples of what would be covered by the Advertising Ban:

- An advertisement by an airline for air travel or a destination offered by the airline (air travel included);
- An advertisement by a travel organisation for a destination that is reached, or can reasonably only be reached, by air or cruise ship and for which the organisation concerned offers air and/or cruise travel;
- An advertisement for a vehicle (such as a car, motorbike or motorboat) with a fossil-fuel-powered engine. This includes advertisements for hybrid vehicles as they also have a fossil-fuel-powered engine;
- An advertisement for the supply of natural gas or fossil-fuel-based electricity;
- An advertisement for petrol or diesel or other type of fuels containing petrol or diesel.

[Note: your initiative proposal could also refer to a broader ban, such as commercial advertising by the aviation or fossil fuel industries in which they are not directly selling a product or service, but which is still aimed at commercial purposes, e.g. an expression from the fossil or aviation industries aimed at a certain issue (e.g. a campaign for 'natural gas as a necessary transition fuel') or for the image of a company or industry. There must be a solid justification for this and a ban should only concern commercial advertising. There is no legal precedent yet confirming that such a ban is legally possible. If the initiator wants to add it to the above list, the definition of commercial advertising should also be different, namely:

> *"Fossil advertising is commercial advertising that manifestly aims to promote the following products, services and/or industries: fossil fuels, airline holidays, airline tickets, gas supply contracts, fossil-fuel-based electricity contracts, cruise travel, fossil-fuel-powered vehicles, the fossil industry and/or the aviation industry."*]

[Initiator] proposes adding the definition to [the local ordinance or by-law] and requests the local government to include it in the public space advertising policy. Below, the initiator elaborates on the legal analysis, referring to previous analyses in the Netherlands[25] and in Europe[26]. In this context, the initiator also refers to the judgment of the District Court of The Hague on 25 April 2025.[27]

Competence Municipality

Based on [article in national law regarding municipalities or districts], the municipal council is authorised to make or amend regulations that the council deems necessary in the interest of the municipality. The above shows that a ban on fossil advertising in public spaces serves the public interest of the municipality. Therefore, the municipality has the power to ban advertising in the public domain to the extent that a public interest is involved. The relevant interest for the municipality is related to the fulfilment of its duty of care as regards the environment, climate and local public health. Furthermore, there currently is no regulation at the European, national or provincial level that already exhaustively regulates this issue. Thus, there are no higher regulations that stand in the way of the Advertising Ban.

Choice of local ordinance

[There are currently two types of ways to ban fossil advertisements: through a municipal law or through the private contracts that municipalities have with third parties. The latter means that the municipality has an advertising ban in its policy and not in law. Moreover, the advertising ban cannot be imposed until all current contracts expire, which can sometimes take years before the ban is implemented in practice. If this discussion exists in your municipality, you can add the following paragraph. If not, please omit it.]

The choice to adjust the [local ordinance or by-law] rather than the current contracts on outdoor advertising has two reasons. First, the outlined problems associated with fossil consumption are so urgent that the promoter does not see sufficient reason to wait for the municipality's current contracts to expire and only then enter into new, adjusted contracts. [Optional: add context of contractual situation in the municipality]. Thus, the instrument of a local ordinance has a quicker effect. Secondly, an advertising ban in the [local ordinance or

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[25] See, amongst others, the advice by consultancy bureau Eiffel, "Het weren van fossiele reclame uit de openbare ruimte in Utrecht' (translation: 'Banning fossil advertising from public spaces in Utrecht'), 2021, available via utrecht.bestuurlijkeinformatie.nl/Agenda/Document/231e8bf0-acd9-44f2-bc54-b3b48a470c3c?documentId=8f90267a-3014-40cf-bfd7-c45f39217a31&agendaItemId=5b0b1861-b4db-4445-92e8-c0e283cab812; the report by Circulaw, a knowledge platform from the municipality of Amsterdam, 'Reguleren ongewenste reclames' (translation: 'Regulating unwanted advertisements'), available via circulaw.nl/nieuws/reguleren-ongewenste-reclames; the article by B. Brouwer and B. van Werven, 'Een verbod op fossiele reclame: bittere noodzaak of ongeoorloofde overheidsbemoeienis?' (translation: A ban on fossil advertising: dire necessity or unauthorised government interference?), *Mediaforum,* September 2023, 4, available via waldengrene.law/2023/09/08/artikel-in-mediaforum-over-beperking-van-fossiele-reclame-versus-de-uitingsvrijheid/;

[26] the article by I. Venzke en L. Ankersmit, "The Legality of Banning Fossil Advertising", *European Law Blog*, January 2024, p. 4 and 7, doi.org/10.21428/9885764c.5d6f472b.

[27] Court of The Hague, 25 April 2025, C/09/681480, ECLI:NL:RBDHA:2025:6874.

by-law] has a wider scope, as it covers all advertising in public spaces and not just those displayed under a contract with the municipality.

The Advertising Ban is appropriate, necessary and proportionate

The Advertising Ban is aimed at protecting public interests related to climate, environment and public health. The Municipality sees the Advertising Ban as an important measure for limiting the consumption of fossil products, partly in view of the normalising and policy-destroying nature of fossil advertisements. The Municipality thus sees sound reasons for the measure.

Moreover, the above explanation and aforementioned publications show that the Advertising Ban is an appropriate, necessary and proportionate measure. The Advertising Ban is a proportionate measure given the considerable importance of achieving climate, environmental and public health objectives and also given the need to take measures within the available instruments in response to excessive consumption of fossil products.

The Municipality may put the public interests involved before the (financial) private interests of suppliers selling fossil products. Measures aimed at limiting the consumption of fossil products may, by their nature, have an effect on companies that (continue to) exclusively or primarily offer such products. The Advertising Ban thereby makes it easier for companies to highlight more sustainable choices, such as more sustainable holidays or green electricity contracts. This may provide an additional incentive for providers to switch more quickly to a more sustainable business model.

For proportionality, it is also relevant that the Advertising Ban only deals with advertisements for the fossil products mentioned above. It contains no ban on the fossil products themselves. Furthermore, the Advertising Ban only deals with advertisements in public spaces, as these fall within the municipality's sphere of influence. This includes public transport stations. The Advertising Ban does not cover fossil advertisements distributed, for example, via print, radio, TV or digital in [Name of municipality]. However, the proposal does call on the college to address this to the State. The initiative proposal also provides a clause that still allows company names, logos and advertisements on or in the immediate vicinity of shop premises, for example. The business operations of these companies that have a branch in the municipality will thus be limited, namely only if they advertise in the public space covered by the ban. At the same time, this does take a step towards addressing the climate crisis.

Freedom of expression

The Advertising Ban is in line with the protection of freedom of expression. The Advertising Ban is in line with freedom of expression as protected by Article 10 ECHR. While the Advertising Ban constitutes an ‘interference’ with freedom of expression (Article 10(1) ECHR), that interference is justified (Article 10(2) ECHR). The interference is provided for by law (prescribed by law), namely through a local ordinance. Furthermore, the interference serves a legitimate purpose. The Municipality wishes to stop using public space to promote the consumption of fossil products. In doing so, it contributes, among other things, to policies to protect the environment, public health and the rights of others. Moreover, there is a pressing

social need for the interference; the aforementioned reports, among others, demonstrate the need for a ban in a democratic society. For Article 10 ECHR, the proportionality requirement is also relevant. The Municipality refers to the above in this regard.

It is also important that the municipality has a duty of care to protect residents. That duty of care extends to preventing dangerous climate change as much as possible, as well as protecting the environment and public health resulting from air pollution from fossil products. In this regard, the Municipality considers that it has a broader discretion as it is concerned with restricting commercial expressions and not political expressions. In view of the above, there is a fair balance between the various interests.

EU law

The Advertising Ban does not violate EU internal market rules. To the extent that there would be any relevant restriction of the free movement rules, this restriction is justified. Indeed, the Advertising Ban serves a legitimate purpose and meets the proportionality requirement.[28]

The Advertising Ban contributes to the protection of the environment (including countering dangerous climate change as much as possible) as well as the protection of public health.[29] The Advertising Ban is suitable for the stated purpose and also necessary given the importance of limiting the consumption of fossil products.[30] The measure does not go beyond what is necessary for that purpose. On the contrary, additional measures are also needed to protect the interests involved. The Advertising Ban is indispensable, but not sufficient on its own. There is no reason to believe that the Advertising Ban would have a discriminatory effect or constitute any barrier to market access.

Dealing with existing contracts

The municipality has agreements with various parties regarding advertising in public places, such as at public transport, free-standing advertising display cases and billboards. [This section requires a check of the applicable contracts]. These contracts do not take away the municipality's ability to amend the [local ordinance or by-law]. This is because the municipal council has public authority to amend a local ordinance. Operators (and any other person or organisation) must comply with the applicable regulations, including a - modified - local bye-

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[28] This assessment should also take into account that the EU itself pursues a high level of protection of public health and the environment. See, inter alia, Article 114(3) TFEU (health, environment and consumer protection); Articles 9 and 168(1) TFEU and Article 35 EU Charter on Fundamental Rights (health); Article 191(2) TFEU and Article 37 EU Charter on Fundamental Rights (environmental protection).

[29] Article 36 TFEU. See also, inter alia, CJEU 20 September 1988, Case 302/86, ECLI:EU:C:1988:421 (Commission v Denmark).

[30] See, inter alia, CJEU 25 July 1991, joined cases C-1/90 and C-176/90, ECLI:EU:C:1991:327 (Aragonesa de Publicidad Exterior); CJEU 9 July 1997, joined cases C-34/95, C-35/95 and C-36/95, ECLI:EU:C:1997:344 (De Agostini). In Case C-429/02, the CJEU ruled that Member States have a fairly wide margin of discretion in establishing Advertising Bans; CJEU 13 July 2004, Case C-429/02, ECLI:EU:C:2004:432 (Bacardi France v TF1).

law. There is therefore no breach of contract or any other reason why the municipality would be liable for damages.

Finance

Banning fossil advertising from public spaces need not cause any loss of revenue for the municipality and operators, as this form of advertising can be replaced by other advertising. With this, the initiative proposal need not have any financial consequences. It will be up to the operators to demonstrate any substantially changed financial or commercial conditions following the amended regulations. This is not self-evident, as a very wide range of possible (non-fossil) advertisements remains and there will not be fewer places to advertise. In addition, it is part of entrepreneurial risk that regulations can fluctuate, which is also evidenced by the fact that the contracts assume the regulations in force at the time. Changing laws or regulations do not automatically and immediately lead to the need to adjust current commercial contracts. It is not like the current contracts and this advertising ban were used as leverage to demand a higher payment. The initiator sees no reason to assume financial consequences related to the current budget.

Planning and communication

If the proposed amendment to the [local ordinance or by-law] of [Name of Municipality] is adopted, operators will have to comply with it. Where appropriate, the Municipality will need to contact outdoor advertising operators to make them aware of the changes to the [local ordinance] and municipal advertising policy. Furthermore, the local government should urge the State to move towards a nationwide ban on fossil advertising and sponsorship. Finally, the initiator asks the local government to report on these adopted actions by [response deadline].

Decision

The municipal council of the municipality of [Name of Municipality], meeting on [date], having regard to the proposal of [name of initiator], [name of political party],

Decides:

1. To prohibit fossil advertising in the public spaces of [Name of Municipality] by:

a. Adding the following paragraph in the [local ordinance or by-law] under Article [Add relevant article]:

> *"Fossil advertising is commercial advertising that manifestly aims to promote the products and/or services: fossil fuels, airline holidays, airline tickets, gas supply contracts, fossil-fuel-based electricity, cruise travel, or fossil-fuel-powered vehicles."*

b. Adding the following paragraph in the [local ordinance or by-law] under Article [Add relevant article]:

> *"Fossil advertising, which is visible from a place accessible to the public, is prohibited, except for:*
>
> *a. company names, company logos and advertisements on or in the immediate vicinity of the premises where the activities to which the advertising relates take place;*
>
> *b. signposts in business parks."*

c. Adding "[penalty provision and indication of administrative fine]" to the paragraphs of [relevant articles] of the [local ordinance or by-law] under the [relevant articles].

2. To bring this [local ordinance or by-law] into force on [date].

3. To instruct the local government to amend their current policy to the policy adopted in accordance with this proposal.

4. To instruct the local government to notify the operators of advertising media in [Name of Municipality] of the amendment to the [local ordinance or by-law] and municipal advertising policy to exclude fossil advertisements in public transport stations, public transport stops, freestanding advertising display cases, billboards and other applicable places, among others. This will give operators ample time to prepare for the regulatory change.

5. Urge the State to achieve a nationwide ban on fossil advertisements. The nationwide ban should apply not only in outdoor spaces, but also in (social) media, cultural and educational institutions and sports.

6. To request the local government to report to the council in the [xxx] quarter of [year] the progress of the mentioned actions, as well as any other estimable (financial) consequences.