



Airlines operating at Amsterdam Schiphol

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Subject: **Red lines for climate-related advertising**

Dear Sirs,

1. Fossielvrij NL, Reclame Fossielvrij and ClientEarth are writing to you in this letter to set out the legal red lines governing environmental advertising by the aviation industry. This letter is being sent to every airline which operates at Amsterdam Schiphol.¹ It will be made public.
2. Fossielvrij NL² is a foundation that aims to promote, support and realise social, ecological and economic justice and health for current and future generations, by organising a strong people powered movement ('the fossil free movement'). It aims to break the power of the fossil fuel industry, by removing the social legitimacy of coal, oil and gas companies (the "fossil companies") or those highly dependent on it, dismantle their myths and speed up the transition towards a just society, based on renewable energy.
3. Reclame Fossielvrij² is a campaign group within the fossil free movement that campaigns for a municipal national, European and worldwide legal ban on fossil fuel advertising and sponsorship, which includes all airline advertising. The group also fights greenwashing.

¹ [Schiphol | Airlines at Schiphol](#)

² <https://verbiedfossielereclame.nl/>

4. ClientEarth³ is an international non-profit environmental law organisation headquartered in London, with offices in Europe, Asia, and the US. One of ClientEarth's priorities is challenging the communication practices which mislead the public and obstruct the attainment of environmental goals.
5. On 24 May 2022, we wrote to KLM demanding that it cease certain climate-related advertising claims. After KLM refused to comply with the demands, Fossilvrij NL filed legal proceedings in the Amsterdam District Court.³
6. We believed that the public was being misled by KLM's marketing and advertising practices regarding the feasibility of 'sustainable' flying. There is, however, no such thing as 'sustainable' flying. Nor is there any indication that it will exist in the foreseeable future, and certainly not in time to contribute to preventing the dangerous consequences of climate change. An immediate decrease ('*degrowth*') of air traffic is required for aviation to contribute to climate objectives, alongside efforts for future technological innovation.⁴ Despite this, KLM was not and is not committed to decreasing – or even limiting - air traffic. Instead, KLM's marketing activities perpetuated aviation growth and thus contributed to the current climate pathway of widespread and escalating harms and instability for current and future generations.⁵ This pathway is projected to lead to >3°C of global heating, with substantial parts of the world becoming uninhabitable for humans, which is not in the interests of the aviation industry.⁶
7. Irrespective of compliance with consumer protection legal requirements, Fossilvrij NL, Reclame Fossilvrij and ClientEarth believe that, at a time when we need to reduce the production and use of fossil fuels as quickly as possible to prevent serious damage to our environment and to current and future generations, advertisements that encourage fossil fuel use should not exist.⁷
8. In a judgment dated 20 March 2024, the Amsterdam District Court declared that

³ Fossilvrij NL's writ is available (in English automatic translation) online. [writ-fossilvrij-against-klm-non-official-english-translation.pdf \(clientearth.org\)](#)

⁴ "The two pillars to such an approach are an end to airport expansion in Europe, which has driven much of the growth in emissions, and reduction in corporate travel to 50% of pre-Covid levels" [T&E aviation decarbonisation roadmap - DRAFT - clean copy Proofread.docx \(ams3.cdn.digitaloceanspaces.com\)](#)

⁵ The IPCC estimates that current policies would lead to around 3.2°C of warming. [WGIII Summary for Policymakers Headline Statements \(ipcc.ch\)](#); Europe heats at twice the global rate. [Communication on managing climate risks \(europa.eu\)](#)

⁶ "Parts of the Middle East and the Indus River Valley experience brief exceedances with only 1.5 °C warming. More widespread, but brief, dangerous heat stress occurs in a +2 °C climate, including in eastern China and sub-Saharan Africa, while the US Midwest emerges as a moist heat stress hotspot in a +3 °C climate. In the future, moist heat extremes will lie outside the bounds of past human experience and beyond current heat mitigation strategies for billions of people." [Greatly enhanced risk to humans as a consequence of empirically determined lower moist heat stress tolerance | PNAS; Visualizing Life in a 3°C Warmer World - Climate Adaptation Platform](#)

⁷ [Climate change: Ban fossil fuel advertising says UN chief - BBC News](#)

“advertisements [...] described in this judgment which suggest that flying can be or become sustainable and the advertisements [...] which suggest that the purchase or contribution to a “compensation” product actually reduces absorbs or compensates for part of the climate impact of flying are misleading and unlawful and that KLM thereby contravenes the Unfair Commercial Practices Act”.

9. KLM has declined to appeal this judgment, which is now final. The judgment is available online.⁸
10. The remainder of this letter will:
11. set out the red lines for aviation ‘sustainability’ advertising clarified by the KLM judgment;
 - a. explain that aviation growth is not consistent with limiting dangerous climate change;
 - b. describe the aviation industry’s ‘license to grow’ communication strategy; and
 - c. conclude on the implications of the KLM judgment.

Red lines clarified by KLM judgment

12. The Amsterdam District Court applied the Dutch implementation of the EU Unfair Commercial Practices Directive (the UCPD) to KLM’s advertising.⁹ The European Commission’s Guidance on the interpretation and application of the Unfair Commercial Practices Directive states that:

“green claims must be truthful, not contain false information and be presented in a clear, specific, accurate and unambiguous manner, so that consumers are not misled.

Traders must have the evidence to support their claims and be ready to provide it to competent enforcement authorities in an understandable way if the claim is challenged. [...] [Environmental] claims should be based on robust, independent, verifiable and generally recognised evidence which takes into account updated scientific findings and methods.”

13. The Guidance also specifically identifies heightened requirements on “*highly polluting industries*” which nevertheless choose to make environmental claims.¹⁰ In view of its fossil fuel usage, CO2 emissions footprint, the still larger non-CO2 warming effects and the local air

⁸ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#) An English automatic translation is available on ClientEarth’s website. [Judgment in greenwashing verdict against KLM \(unofficial English translation\) | ClientEarth](#)

⁹ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 3.3

¹⁰ “*Highly polluting industries may be required by courts or authorities to make it clear to the consumer in their environmental claims that the product has an overall negative impact on the environment*” Page 78, [Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market \(europa.eu\)](#)

pollution harms of its activities,¹¹ the aviation industry is a highly polluting industry. This is particularly the case given its outsized role in consumer carbon footprints,¹² and given that it competes in the leisure travel market with train travel, a far less polluting alternative.

14. Below is a summary of the main legal boundaries clarified by the Amsterdam District Court's judgment. Any airline communicating to consumers should respect these limits in all the promotional advertising which it chooses to do, in order to comply with the UCPD.

Claims about climate action

15. Airlines which are on a similar path to KLM, and are failing to realise substantial emissions reductions because of continued growth, should not make statements in which they give the impression that they are acting in line with the Paris Agreement, are on their way to a more sustainable future, or are on a path to "net zero" by 2050.¹³ The Court ruled:

"the measures that KLM is introducing for this purpose, such as fleet renewal, operational improvements, CO2 compensation and "SAF", will only bring about a "marginal reduction [...] when it comes to CO2 emissions and the negative environmental aspects of flying".¹⁴

16. The Court found that *"in view of all the uncertain factors in that area [...] it is not appropriate for KLM to paint the rosy picture it has painted in its communications".¹⁵*
17. Furthermore, airlines cannot exaggerate the environmental impact of the proposed measures, such as fleet renewal, operational improvements or the use of alternative aviation fuels. KLM referred to these measures with terms such as *"an important milestone"*, a *"promising solution"* and *"a big step towards a sustainable future"*. Airlines may not paint too rosy a picture of these measures.¹⁶ The Court noted that these measures are only marginally reducing CO2 emissions and the negative environmental aspects of flying, and that substantial future improvements are uncertain.¹⁷

Claims about alternative fuels

18. Airlines should not describe alternative fuels with the misleading label "sustainable aviation fuel".¹⁸ It follows that the abbreviation SAF should no longer be used in consumer-oriented

¹¹ [Ultrafine particles from planes put 52... | Transport & Environment \(transportenvironment.org\)](#)

¹² [Get Information. - Stay Grounded \(stay-grounded.org\)](#)

¹³ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.32, 4.36, 4.37.

¹⁴ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.37.

¹⁵ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.38.

¹⁶ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.27, 4.30, 4.31 and 4.45.

¹⁷ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.37.

¹⁸ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.41.

communication, and that airlines should not use the vague and unclear term 'more sustainable aviation fuel'.¹⁹ If airlines choose to advertise about their minor use of alternative fuels, they should use factual and accurate terms for alternative fuels: used cooking oil biofuel, rapeseed crop biofuel, synthetic fuel etc.

19. Airlines should not paint too rosy a picture of the limited contribution that alternative fuels (can) make to making aviation more sustainable, such as presenting this as a “*promising solution*”.²⁰ Airlines should not give the impression that these fuels can substantially reduce the impact of flying, and certainly not in the coming decade. Airlines should not raise positive expectations about synthetic fuel. The Court ruled as follows:

*"At the moment, the share of SAF in total fuel consumption (and therefore also in the reduction of CO2 emissions) is still very limited for various reasons. A more substantial share can only be expected in the distant future and is therefore uncertain."*²¹

20. Airlines should not claim that biofuel “*reduces emissions by at least 75%*”.²² The Court ruled that such statements, which implicitly suggest an overall significant impact from biofuels, are not sufficiently substantiated and create too rosy a picture of the actual effects of alternative fuels on the negative environmental aspects of flying.

Claims about ‘CO2 compensation’

21. Airlines should not make ‘offsetting’ claims. Specifically, they should not give the impression that a customer’s financial contribution to a reforestation project (or nature development project) or to the costs of biofuels can reduce, compensate or neutralise the negative effects of the CO2 emissions caused by that customer.²³ There is no such direct link.
22. This is confirmed by the Amsterdam District Court, is now stated explicitly on KLM's current website,²⁴ is confirmed by a number of other EU member state Court judgments,²⁵ and is in line

¹⁹ See the Court’s reasoning regarding ‘more sustainable’ claims. [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.27.

²⁰ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.41, 4.53.

²¹ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.37.

²² [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.53

²³ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.43, 4.48

²⁴ “*Can nature development compensate for the emissions of my trip? Compensation through nature development is not possible. [...] If possible, consider a more sustainable choice, such as the bus or train*” (automatic English translation) [KLM website on nature development](#), as of 16 April 2024.

²⁵ [Arla Foods AB loses against the Consumer Ombudsman - the Law Society In-House Network Newsstand - Powered by Lexology](#); [Deutsche Umwelthilfe v. TotalEnergies Wärme & Kraftstoff Deutschland GmbH - Climate Change Litigation \(climatecasechart.com\)](#); [German Federal Court of Justice Significantly Increases Standard for Legitimate Environmental Benefit Claims | White & Case LLP \(whitecase.com\)](#); [Austrian Airlines Found Guilty in Greenwashing Case over Carbon Neutral Flight Claims - ESG Today](#); [Court prohibits Eurowings greenwashing adverts - Stay Grounded \(stay-grounded.org\)](#)

with the express ban on such claims in all circumstances in new EU legislation, in force from 2026.²⁶

23. The District Court's verdict stipulates that KLM must be honest in its advertising and marketing. Regulators in the EU consider that companies must "*ensure that [their] environmental claims are based on aspects which are significant for the environment*".²⁷ This principle safeguards decision-useful consumer information on the environmental impact of products and traders.
24. The aviation industry's climate measures are not significant for the environment, in contrast to its CO₂ and non-CO₂ warming impact. By way of example, the International Air Transport Association (IATA) ²⁸[OBJ]. The District Court heard independent evidence, uncontested by KLM, estimating a resource base for ²⁹[OBJ]. This small amount of 5.5% of alternative fuels translates to an even smaller percentage of saved CO₂ emissions. It is readily apparent that an annual air traffic growth rate of 2% per annum will rapidly overtake these gains from alternative fuels. This exemplifies the necessity of limiting air traffic growth.

Aviation growth and climate change

25. The continued growth of aviation is inconsistent with achieving the Paris Agreement goal. In the KLM judgment, the District Court explained that it did not hold KLM's decision not to fly less against KLM, but it nevertheless found that the airline's other marginal or uncertain future measures meant it could not lawfully claim to be tackling climate change, in line with the Paris Agreement goal.³⁰
26. The Intergovernmental Panel on Climate Change's (IPCC) headline conclusions, accepted as accurate by governments around the world,³¹ are that:

*"Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred. Human-caused climate change is already affecting many weather and climate extremes in every region across the globe. This has led to **widespread adverse impacts and related losses and damages to nature and people** (high confidence).*

²⁶ [Directive - EU - 2024/825 - EN - EUR-Lex \(europa.eu\)](#)

²⁷ [Zalando commits to remove misleading environmental claims \(europa.eu\)](#)

²⁸ [IATA - SAF Volumes Growing but Still Missing Opportunities](#)

²⁹ This depends on highly uncertain new feedstocks (lignocellulosic biofuels and synthetic fuels) reaching commercial scale – without this, 2% is the estimated maximum. [Estimating sustainable aviation fuel feedstock availability to meet growing European Union demand - International Council on Clean Transportation \(theicct.org\)](#)

³⁰ [District Court of Amsterdam 20 March 2024, ECLI:NL:RBAMS:2024:1512](#), para. 4.36, 4.32

³¹ The IPCC synthesises thousands of scientific papers to provide a summary of the causes, impacts and risks of climate change and how adaptation and mitigation can reduce those risks. After multiple stages of scientific expert and State review, formal acceptance of IPCC reports indicates that States accept that they represent a comprehensive, objective and balanced view of the subject matter. See [AR6_FS_approve.pdf \(ipcc.ch\)](#); [FS_review_process.pdf \(ipcc.ch\)](#); [About — IPCC](#).

Vulnerable communities who have historically contributed the least to current climate change are disproportionately affected (high confidence) [...]

*Continued greenhouse gas emissions will lead to increasing global warming, with the best estimate of reaching 1.5°C in the near term in considered scenarios and modelled pathways. **Every increment of global warming will intensify multiple and concurrent hazards** (high confidence). Deep, rapid, and sustained reductions in greenhouse gas emissions would lead to a discernible slowdown in global warming within around two decades [...]*

*All global modelled pathways that limit warming to 1.5°C (>50%) with no or limited overshoot, and those that limit warming to 2°C (>67%), involve **rapid and deep and, in most cases, immediate greenhouse gas emissions reductions in all sectors this decade.*** [...]

*Climate change is a threat to human well-being and planetary health (very high confidence). **There is a rapidly closing window of opportunity to secure a liveable and sustainable future for all** (very high confidence).³²*

27. The IPCC's findings state further that “[r]apid and far-reaching transitions across all sectors and systems are necessary to achieve deep and sustained emissions reductions”.³³ Regarding aviation, the IPCC states “there has been a growing awareness of the **need for demand management solutions combined with new technologies**”.³⁴
28. The IPCC findings align with research commissioned by Schiphol Airport from the Netherlands Aerospace Centre, and statements by the CEO of Schiphol Airport.³⁵ According to Schiphol Airport, the research “showed that at least a 30 percent CO₂ reduction (when compared to 2019) is needed for Schiphol and European aviation to be on track in 2030”.³⁶
29. The research states that “[s]tringent reductions in CO₂ emissions – and demand – required for Schiphol to meet Paris goal of 1.5°C global warming [...] **[s]ignificant demand management measures, to be implemented by 2030 at the latest, seem the only viable way out. Demand in flights beyond a certain distance could be targeted in particular.**”³⁷ Schiphol Airport calls for increased taxation (polluter pays) of long-haul and business flights to deliver sufficient

³² [AR6 Synthesis Report: Summary for Policymakers Headline Statements \(ipcc.ch\)](https://www.ipcc.ch/report/ar6/synthesis/)

³³ [AR6 Synthesis Report: Summary for Policymakers Headline Statements \(ipcc.ch\)](https://www.ipcc.ch/report/ar6/synthesis/)

³⁴ Page 98, [ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_TechnicalSummary.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_TechnicalSummary.pdf)

³⁵ “We need to do something. And if that’s a standstill [in air travel growth] for the time being, OK, is that such a big fuss” [Aviation industry likely to miss net zero target, warns former Schiphol boss \(ft.com\)](https://www.ft.com/content/aviation-industry-likely-to-miss-net-zero-target-warns-former-schiphol-boss)

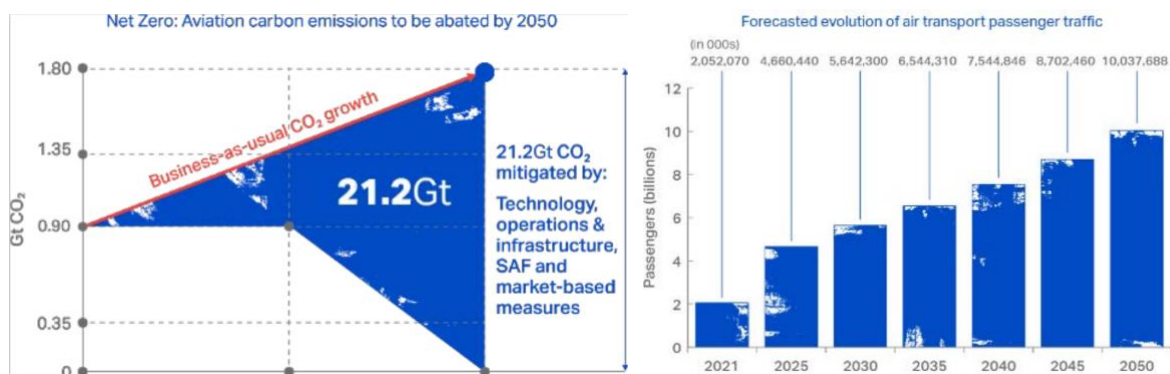
³⁶ [Schiphol | Accelerated CO₂ reduction necessary;](https://www.schiphol.nl/en/accelerated-co2-reduction-necessary)

³⁷ [CO₂ and resulting flight restrictions for Amsterdam Airport Schiphol based on remaining IPCC CO₂ budgets up to 2050 \(ctfassets.net\)](https://www.ctfassets.net/co2-and-resulting-flight-restrictions-for-amsterdam-airport-schiphol-based-on-remaining-ipcc-co2-budgets-up-to-2050)

CO₂ reductions.³⁸ This is similar to the UK Climate Assembly’s recommendations for a fair frequent flyer taxation regime.³⁹

Aviation industry “licence to grow” communication strategy

30. Despite the scientific evidence, KLM’s unlawful advertising claims appear to reflect a common practice across the aviation industry of climate-related advertising claims for the purpose of protecting the industry’s ‘licence to grow’.
31. At the 77th IATA Annual General Meeting on 4 October 2021, the 330 IATA member airlines agreed a commitment to achieving net zero CO₂ emissions by 2050, described as “bring[ing] air transport in line with supporting efforts of the Paris Agreement’s temperature goal”.⁴⁰ The initiative called itself ‘Fly Net Zero’.
32. The Fly Net Zero announcement set out messaging centred on ‘Sustainable Aviation Fuel’, electric and hydrogen aircraft, infrastructure and operational efficiencies and offsetting. As IATA’s diagrams showed, these measures were portrayed as sufficient to reduce continuous air traffic growth – which was assumed.⁴¹



33. Air France-KLM S.A.’s 2021 Annual Report confirms that the strategy behind this type of communication is to protect the aviation industry’s ‘licence to grow’. It identifies a key business risk which the strategy aims to address - namely the threats from climate action to its “ability to

³⁸ [Schiphol | Accelerated CO₂ reduction necessary](#)

³⁹ [The path to net zero \(climateassembly.uk\)](#)

⁴⁰ [IATA - Fly Net Zero](#)

⁴¹ [chart-forecasted-evolution-of-air-transport-pax-traffic.pdf \(iata.org\)](#); [chart-aviation-carbon-emissions-to-be-abated-by-2050.pdf \(iata.org\)](#)

*manage and develop its activities (“licence to grow”) in all regions of the world and over the long-term”.*⁴²

34. The widespread nature of this communication strategy is also confirmed by recent regulatory enforcement. On 30 April 2024, the European Commission and the European network of consumer protection authorities commenced an enforcement investigation into 20 airlines across the European Union for claims similar to those found unlawful in the KLM judgment, and similar to the IATA ‘Fly Net Zero’ messaging.
35. Communication practices listed by the European Commission include those judged unlawful by the District Court: offsetting claims, use of the term ‘sustainable aviation fuels’, and the claim that an airline is moving towards net zero by 2050.⁴³

Implications of the KLM judgment

36. Aviation is a highly polluting, fossil fuelled industry which is pursuing growth, whilst limiting dangerous climate change involves reducing fossil fuel use and limiting aviation growth. These facts present aviation sustainability advertising, just like tobacco health advertising, with an inherent contradiction. They explain the need to ban high-carbon advertising encouraging consumption of harmful fossil fuels, which the international community has committed to reduce.⁴⁴
37. Airlines are bound by, among other things, consumer protection law. The KLM judgment indicates the legal ‘red lines’ for aviation ‘sustainability’ advertising under the UCPD. Advertising as part of the aviation ‘license to grow’ communication strategy described above is very likely to be unlawful.
38. As well as communication to Dutch consumers, the judgment is relevant to communication to consumers across the European Union, as a final ruling on the UCPD requirements.⁴⁵
39. The judgment relates to business-to-consumer communication, which constitutes a commercial practice under the UCPD.⁴⁶ However, we highlight that it also has consequences for airlines’

⁴² “[t]he airline industry must pursue its efforts to reduce its impacts and intensify communication on its commitments and mitigating initiatives that are already in place [...] Propose offsetting solutions.” Pages 151, 179, https://www.airfranceklm.com/sites/default/files/publications_en/document/afk_urd_2020_29042021.pdf

⁴³ [Action against 20 airlines for misleading greenwashing pract \(europa.eu\)](#)

⁴⁴ [COP28 Agreement Signals “Beginning of the End” of the Fossil Fuel Era | UNFCCC](#)

⁴⁵ “The UCPD provides for full (maximum) harmonisation, which means that Member States are no longer allowed to introduce or maintain a higher level of consumer protection rules in this area of the law” [Combating unfair commercial practices \(europa.eu\)](#)

⁴⁶ “any act, omission, course of conduct or representation, commercial communication including advertising and marketing, by a trader, directly connected with the promotion, sale or supply of a product to consumers;” Article 2(d) of the Unfair Commercial

communication policy towards employees, shareholders, financiers, business partners, governments and the media. A message which misleads consumers is (at least) at risk of misleading others, and may therefore breach other legal requirements.

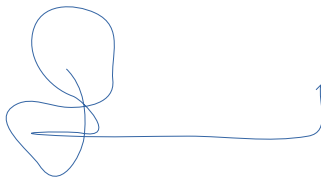
40. We expect your airline to comply with its legal requirements, as indicated by the KLM judgment.

Yours sincerely,



Liset Meddens

CEO, Fossilvrij NL



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Laura Clarke OBE

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