

Canada Increases Enforcement Focus On Greenwashing



As of June 2024, Canada added certain provisions to its Competition Act that explicitly target the practice of greenwashing. In particular, according to the Canadian Competition Bureau, these amendments: (1) “requir[e] that claims about the environmental benefits of a product be supported by adequate and proper testing”; and (2) “requir[e] that claims about the environmental benefits of a business or business activity be based on adequate and proper substantiation in accordance with an internationally recognized methodology.” Further, certain aspects of the amendments may “extend private access rights to cases involving deceptive marketing practices,” raising the specter of private enforcement of Canada’s greenwashing laws through individual litigants. While these amendments may appear relatively uncontroversial—e.g., requiring market claims to be adequately supported—the focus on greenwashing is nonetheless significant.

In essence, Canada is articulating a clear legal policy of bringing enforcement actions centered on greenwashing. Not only is this emphasis itself significant, but it also brings Canada into alignment with a number of other jurisdictions and states—including both federal and state regulatory agencies in the United States—in expressly targeting the practice of greenwashing. This suggests that there will be a sustained enforcement effort against claims by companies that could potentially be considered to fall within the contours of the

phenomenon of greenwashing.

Today, the Competition Bureau is launching a public consultation to gather input from Canadians on specific questions related to the new greenwashing provisions of the Competition Act.

This consultation will inform the Bureau's development of enforcement guidance about environmental claims, including related to the new provisions.

The new provisions about greenwashing were added to the law following a series of amendments that took place on June 20, 2024. Simply stated, businesses are now required to have testing or substantiation to support certain environmental claims.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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