

Competition Bureau Launches Consultation On Greenwashing Enforcement Guidance



As discussed in our June 2024 bulletin [*Canada's New Greenwashing Laws Enacted*](#), recently introduced amendments to the *Competition Act* regarding the making of untested or unsubstantiated representations about the environmental benefits of a product or business ("greenwashing") have created significant uncertainty, risks and potential liability for Canadian businesses. The new greenwashing provisions have been a focus of media and public attention, with businesses and others requesting guidance from the Competition Bureau (Bureau) regarding its approach to the enforcement of these provisions.

On July 4, 2024, the Bureau [announced](#) its intention to develop guidance on the greenwashing provisions on an accelerated basis and to launch a public consultation to gather views from interested parties. On July 22, 2024, the Bureau [launched](#) its public consultation, seeking input to assist the Bureau in developing its enforcement guidance. Interested parties are invited to provide feedback to the Bureau's consultation by September 27, 2024.

Also on July 22, 2024, the Bureau [published](#) the most recent volume of its Deceptive Marketing Practices Digest (Digest), focusing on environmental representations. With the publication of the Digest, the Bureau "aims to provide a

foundation to understand the issues around greenwashing, and how businesses can avoid engaging in it.” Notably, the Bureau has highlighted the categories of greenwashing complaints it typically receives:

- **Composition claims:** Claims about the composition of products or their packaging; for example, that packaging or a product is made from recycled materials.
- **Claims about the production process of products:** Claims regarding the steps involved in producing a product, including the resources, energy or material used in that process.
- **Claims about the disposal of products after use:** Claims regarding green disposal of products, or claims that a product is fully compostable or recyclable.
- **Comparison claims:** Claims comparing products or services to past versions or to those of a competitor (e.g., a claim that an updated product uses 25% less water than a previous version).
- **Vague claims:** Claims that create “feel-good” messaging without spelling out any specific environmental benefit (e.g., “eco-friendly” with no further explanation).
- **Claims about the future:** Claims regarding environmental improvements that businesses will make in the future, such as claims about being carbon neutral by a certain date.

The Bureau set out the following tips for businesses to comply with the new greenwashing legislation:

- **Be truthful, and not false or misleading:** Claims must be true both in their literal meaning and in the general impression they create regarding any environmental benefits. Include all key information necessary for consumers not to be deceived by a representation.
- **Ensure claims are properly and adequately tested:** All claims regarding the environmental performance, efficacy or life of a product must be based on adequate and

proper testing.

- **Comparative claims – be specific about what is being compared:** When making comparisons, be specific about what is being compared and the extent of the difference between what is being compared.
- **Avoid exaggeration:** Be careful not to exaggerate environmental claims or create an impression that the business pollutes much less than it actually does.
- **Avoid vague environmental claims in favour of clear and specific ones:** Be clear and specific about the environmental benefit being advertised, including whether the claim applies to the whole or a part of a good, service, business or production process. Avoid broad claims like “eco-friendly” which may convey the impression that a product is beneficial for the environment through its entire lifecycle.
- **Avoid aspirational claims about the future:** For forward-looking goal statements (e.g., net-zero targets), be sure to have a concrete, realistic and verifiable plan to accomplish the objective with interim targets, and ensure that there are meaningful steps underway to accomplish the plan.

Key Takeaways for Businesses

- All representations accessible to the Canadian public regarding the environmental benefits of a product or business/operations should be carefully evaluated.
- Ensure that representations accessible to the Canadian public regarding the environmental performance of a product are based on adequate and proper testing.
- Avoid vague representations accessible to the Canadian public regarding the environmental benefits of a product/business in favour of specific claims, ideally supported by internationally recognized methodologies.
- Seek advice from legal counsel if unsure of the potential risks of environmental representations.

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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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