

Lessons From Coffee Pods: The Importance Of Accurate Reporting Under Canada's New Anti-Slavery Law



Introduction

As Canadian companies assess and carry out their compliance obligations with new legislation meant to address modern slavery and child labour in supply chains, reporting entities should be aware of the risks of misleading disclosure. In particular, a recent Canadian case involving Keurig coffee pods was found to include false reporting on environmental measures, referred to as “greenwashing,” providing a lesson in the importance of truth and accuracy.

Disclosure Obligations Re: Modern Slavery

In the era of heightened global awareness regarding corporate responsibility, Canadian entities face significant new mandates under the [*Fighting Against Forced Labour and Child Labour in Supply Chains Act*](#) (the **Act**) which took effect on January 1, 2024.¹ This legislation, akin to other global initiatives, emphasizes transparency, mandating companies to disclose their efforts in mitigating forced and child labour within their supply chains.

While the Act does not require prescriptive actions, it does set out reporting obligations applicable to certain entities. Entities subject to such obligations are those that meet specific operational and financial thresholds, such as having substantial business activities and assets in Canada, or being listed on a Canadian stock exchange. As required, the entities must disclose various aspects of the company's operations and should detail the organizational structure, the nature of the supply chain and comprehensive information on policies and processes implemented to curb forced and child labour risks.²

Importance of Accurate Disclosure: Avoid 'Chainwashing'

The requirement for detailed reporting, including the steps taken to prevent and mitigate risks and the effectiveness of these measures, invites a level of scrutiny that could expose superficial or misleading claims. Reports are required to include not only policies but also their implementation effectiveness and any remedial actions taken to address incidents of forced or child labour. Entities must provide these reports annually by May 31, incorporating an attestation by a senior official affirming the report's completeness and accuracy under the threat of substantial penalties for non-compliance or misinformation. The reports for 2023 (the first reporting year under this legislation) will be due at the end of May 2024.

However, this legislative framework, which emphasizes disclosure over direct action, introduces a realm of potential ethical missteps, which we refer to as "**chainwashing**" – the embellishment of compliance efforts akin to the notorious practice of greenwashing in environmental stewardship. Chainwashing may arise as entities feel compelled to project an image of initiative-taking engagement in eradicating labour abuses, possibly overstating the effectiveness or scale of their initiatives to meet societal and regulatory

expectations.

Lessons From ‘Greenwashing’

In a recent prominent case of greenwashing addressed by the Competition Bureau of Canada, Keurig Canada faced scrutiny over its claims that its coffee pods were recyclable. The investigation uncovered that these claims were misleading, as the pods were not widely accepted in municipal recycling programs across Canada, and specific preparation steps needed for recycling were not clearly communicated to consumers. Consequently, Keurig Canada agreed to a comprehensive settlement which included a \$3-million penalty and additional commitments to improve transparency in their environmental marketing. The settlement also involved an \$800,000 donation to an environmental charity and \$85,000 in costs to the Competition Bureau, marking a significant enforcement action to ensure truth in environmental advertising.³

According to the Commissioner of Competition:

Portraying products or services as having more environmental benefits than they truly have is an illegal practice in Canada. False or misleading claims by businesses to promote “greener” products harm consumers who are unable to make informed purchasing decisions, as well as competition and businesses who actually offer products with a lower environmental impact.⁴

Conclusion

Although the Canadian anti-slavery legislation sets a benchmark for transparency by pushing companies to scrutinize their labour practices, it may also put pressure on companies to overreport or mislead consumers as to the extent of corporate compliance and action.

As with greenwashing, where companies may face consequences for misleading environmental claims, chainwashing could similarly erode trust and invite scrutiny. Companies should approach their reporting obligations with integrity, ensuring that their disclosed efforts genuinely reflect their commitment to eradicating forced and child labour in their supply chains.

The Act's stated purpose, while not mandating specific actions, is to serve as a catalyst for genuine change, urging companies to move beyond mere compliance to true ethical engagement in their business practices. Thus, chainwashing undermines both the purpose of the legislation and the goal of corporate responsibility.

Footnotes

1. Please see our previous article, [First Reports Under Canada's Mandatory Supply Chain Reporting Regime Due by May 31, 2024](#), for a summary of the reporting obligations introduced under the legislation, including an overview of which entities are required to report, and what such entities must report on.
2. [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#), s. 11.
3. <https://www.canada.ca/en/competition-bureau/news/2022/01/keurig-canada-to-pay-3-million-penalty-to-settle-competition-bureau-concerns-over-coffee-pod-recycling-claims.html>
4. Ibid.

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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