

# Canada: ADvantage – Shaping a Greener Future: Competition Bureau Publishes Draft Greenwashing Guidelines

## In brief

On 23 December 2024, Canada's Competition Bureau (the "**Bureau**") published draft guidelines concerning environmental claims and compliance with the Competition Act (the "**Act**") for public consultation. Updated guidance on environmental claims has been much anticipated following recent amendments to the Act that explicitly prohibit greenwashing as a form of deceptive marketing.

## Takeaways

The Draft Guidelines are an important and expected step in Canada's continued scrutiny of unsubstantiated greenwashing claims. While still in draft format, businesses and advertisers should consider the following:

1. **Understand the Broad Scope:** Recognize that environmental claims cover a wide range of representations related to products and services, and to businesses and business practices.
2. **Avoid False or Misleading Claims:** Ensure all environmental claims are truthful and not misleading.
3. **Conduct Adequate and Proper Testing:** Perform your own testing for environmental product performance claims. Do not rely on competitors' tests. Ensure the testing is suitable for the product and the market.
4. **Consider Context and Presentation:** Evaluate the overall impression your environmental claims make on the public, considering all elements such as context, wording, images, and layout.
5. **Substantiate Product Benefits:** Base claims about a product's environmental benefits on adequate and proper testing. Understand and use clear definitions for terms like "environment," "social," "ecological," and "climate change".
6. **Substantiate Business Benefits:** Ensure claims about the environmental benefits of your business or activities are adequately and properly substantiated with evidence, following internationally recognized methodologies.
7. **Prepare for Enforcement:** Be aware that while the Bureau will not retroactively enforce the new greenwashing provisions, previous deceptive claims may still be challenged. Ensure all current and future claims comply with the guidelines.

Feedback on the Draft Guidelines must be submitted to the Bureau before 28 February 2025 and can be submitted by emailing [environmentalclaims-declarationsenvironnementales@cb-bc.gc.ca](mailto:environmentalclaims-declarationsenvironnementales@cb-bc.gc.ca). The Bureau will publish final guidelines following the consultation.

## In depth

### Canada's New Greenwashing Prohibition

As part of extensive reforms to the Act over last two years, "greenwashing" claims, whether relating to a product or a business or business activity, were explicitly prohibited as a form of deceptive marketing under the Act in June 2024. The new provisions require that claims about the environmental benefits of a product be based on adequate and proper testing conducted in advance

## Contents

### Takeaways

### In depth

- Canada's New Greenwashing Prohibition Updated Guidance for Environmental Claims
- Principles for Environmental Claims Compliance

of making a claim, and 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.<sup>1</sup>

The language of the amendments created some uncertainty as to how the Bureau will interpret and enforce the greenwashing prohibition, particularly given the lack of existing guidance on environmental claims following the archival of the Bureau's [Environmental Claims: A Guide for Industry and Advertisers](#) in 2021 (the "**Prior Guidelines**"), coinciding with a major greenwashing enforcement action.

## Updated Guidance for Environmental Claims

In December 2024, the Bureau published draft guidelines, [Environmental claims and the Competition Act](#) (the "**Draft Guidelines**"), for public consultation. While the Draft Guidelines cover many of the general principles of the Prior Guidelines, they have been significantly narrowed, as they are no longer prescriptive but rather principle-based, capturing pre-existing and new greenwashing requirements under the Act. The Draft Guidelines continue to provide guidance to advertisers, but are no longer solely based on requirements under the CAN/CSA - ISO 14021 standards on environmental labelling and declarations.

Key requirements of the Draft Guidelines are summarized below:

- **Claims about the environmental benefits of a product.** As part of the amendments to the Act, businesses are now prohibited from making representations to the public about a "product's benefits for protecting or restoring the environment or mitigating the environmental, social and ecological causes or effects of climate change" that is not based on adequate and proper testing, conducted in advance. The Draft Guidelines provide for the following interpretations:
  - **Environment** means "the components of the Earth including air, land and water, all layers of the atmosphere, all organic and inorganic matter and living organisms, and the interacting natural systems of these components";
  - **Social** means "relating to human society or the welfare of human beings as members of society";
  - **Ecological** means "relating to ecosystems, biodiversity, and the natural processes that sustain environmental balance";
  - **Climate change** means "changes in global or regional climate patterns"; and
  - **Adequate and proper testing** means the same standard as that interpreted by courts for product performance claims detailed below.
- **Claims about the environmental benefit of a business or business activity.** Businesses are now similarly prohibited from making unsubstantiated representations to the public about the "benefits of a business or business activity for protecting or restoring the environment or mitigating the environmental and ecological causes or effects of climate change" if adequate and proper substantiation in accordance with an "internationally recognized methodology" has not been obtained in advance). The Draft Guidelines define "internationally recognized methodology" as a methodology that is recognized in two or more countries, and does not require that the methodology be recognized by the governments of two or more countries. This provision is intended to capture greenwashing claims such as unsubstantiated carbon neutral, net zero, and other types of environmental claims. That said, the Bureau will apply this prohibition to claims about "any activity carried on by a business, including but not limited to manufacturing, transporting, storing, acquiring, or otherwise dealing in articles and services, as well as raising funds".

While the Draft Guidelines provide that the adequate and proper test as it relates to product claims is generally the same as the test that already applies to performance claims under the Act, **adequate and proper substantiation**, as it pertains to the environmental benefits of a business or business activity, should be "suitable, appropriate and relevant to the claim, and sufficiently rigorous to establish the claim in question", which will often require substantiation that is scientific in nature. Third party verification will be required in circumstances where required by the internationally recognized methodology relied upon for adequate and proper substantiation. The Bureau interprets **substantiation** as "establishing by proof or competent evidence", though not necessarily requiring testing in a lab. Substantiation is also not necessarily the same as testing. Industry-developed methodology is not prohibited by the Act. The Bureau also acknowledges that the Act does not expressly state that the internationally recognized methodology used must be the best methodology available, and does not require that

---

<sup>1</sup> For further details on the new greenwashing prohibition, see our client alert [here](#). For an overview and further insights on advertising best practices regarding environmental claims, see our client alert [here](#).

certain specified international standards be followed. The Draft Guidelines also indicate that the Bureau will assume that methodologies required or recommended by the Canadian government for the substantiation of environmental claims are consistent with internationally recognized methodologies.

The Draft Guidelines provide other useful insights into the Bureau's interpretation and enforcement of deceptive environmental claims:

- **A broad definition of environmental claims.** The Draft Guidelines define environmental claims broadly as any representation related to the environment that has been made for the purposes of "promoting a product or any business interest". The Bureau is not concerned with representations made solely for a different purpose, including representations to investors and shareholders in the context of securities filings. Environmental claims may relate to all stages of a product's lifecycle, including its material sourcing, production, packaging, distribution, use or disposal, as well as services, processes, businesses, business practices and activities.
- **Environmental claims as a false or misleading representation.** The prohibition against false or misleading representations under the Act, which existed prior to the recent amendments and applies to a broad range of claims in all industries, continues to apply to environmental claims, irrespective of the fact that new provisions specific to environmental claims were introduced under the Act. The pre-existing prohibition is not limited to false or misleading representations about a product and can include claims about the environmental attributes of a business, for example, for the purpose of promoting a product or any business interest.
- **No shortcuts for adequate and proper testing of product performance claims.** Product performance claims, including environment-related product performance claims, must be based on "adequate and proper testing". Although a flexible standard, the adequate and proper test is not defined, and must generally be suitable to the product, the product's material features, the performance of the product, the claim being tested, and valid in the market where the claim is made through the general impression conveyed to the consumer. The Draft Guidelines clarify that companies cannot rely on a competitor's or similar product's "adequate and proper testing". In an example in the Draft Guidelines, Company A's claim that its fuel additive decreases greenhouse gas emissions by 20% will be found to not be based on "adequate and proper testing" if Company A's claim is solely based on the fact that Company B has a similar product it claims was verified by laboratory testing. In other words, according to the Draft Guidelines, companies must conduct testing of their own products for the Bureau to find that representations about the products' performance and efficacy are based on adequate and proper testing. This standard applies to all companies making claims, regardless of business size.
- **A contextual assessment of environmental claims.** As with other types of claims, the Draft Guidelines confirm that the Bureau will assess both the literal meaning and the general impression conveyed to the public, which requires considering all elements of a claim, including the context, words, images and layout.

## Principles for Environmental Claims Compliance

The Draft Guidelines also recap the six, high-level principles outlined in Volume 7 of the Deceptive Marketing Practices Digest and summarized below:

- **Principle 1: Environmental claims should be truthful, and not false or misleading.** Where an environmental claim is misleading to consumers absent important information, advertisers must include that key information as part of the claim.
- **Principle 2: Environmental product and performance claims should be adequately and properly tested.** Testing must be conducted before making the claims, and business should consider the general impression conveyed when considering their testing.
- **Principle 3: Comparative environmental claims should be specific about what is being compared.** Comparisons can range from the way things used to be done to comparisons to other products or businesses.
- **Principle 4: Environmental claims should avoid exaggeration.** The Bureau emphasizes that "small benefits to the environment" should not be marketed as "big ones".
- **Principle 5: Environmental claims should be clear and specific.** A vague environmental claim may convey that the environmental benefit is bigger than it actually is. For example, "eco-friendly" claims about a product could misleadingly imply that this is the case throughout the product's entire life cycle. Environmental claims should therefore be specific about what parts of the product or business they apply to.

- **Principle 6: Environmental claims about the future should be supported by substantiation and a clear plan.** Before making future-oriented environmental claims (e.g., carbon-neutral target dates), companies should have: (1) a clear understanding of what needs to be done to achieve what is being claimed; (2) a concrete, realistic and verifiable plan in place to accomplish the objective, with interim targets; and (3) meaningful steps underway to accomplish the plan.

The Draft Guidelines also clarify that the Bureau will not seek to hold companies liable for breaches of the new greenwashing provisions before they came into force. However, environmental claims that pre-date the legislative amendments may still be challenged under the Act's broader deceptive marketing provisions. While the Bureau has not confirmed if it intends to grant any grace period in enforcing the new greenwashing provisions, it has acknowledged that it will consider the circumstances of each case when exercising its enforcement discretion.

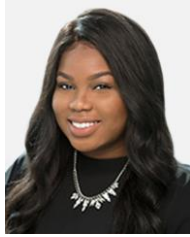
#### **Keywords**

Canada, Competition, Competition Bureau, Competition Act, Environmental Claims, Greenwashing, Deceptive Marketing

## Contact Us



**Arlan Gates**  
Partner  
arlan.gates  
@bakermckenzie.com



**Sarah Mavula**  
Senior Associate  
sarah.mavula  
@bakermckenzie.com



**Madison Bruno**  
Associate  
madison.bruno  
@bakermckenzie.com

© 2025 Baker & McKenzie. **Ownership:** This site (Site) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms, including Baker & McKenzie LLP). Use of this site does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion:** All information on this Site is of general comment and for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulation and practice are subject to change. The information on this Site is not offered as legal or any other advice on any particular matter, whether it be legal, procedural or otherwise. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any information provided in this Site. Baker McKenzie, the editors and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents of this Site. **Attorney Advertising:** This Site may qualify as "Attorney Advertising" requiring notice in some jurisdictions. To the extent that this Site may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. All rights reserved. The content of the this Site is protected under international copyright conventions. Reproduction of the content of this Site without express written authorization is strictly prohibited.

