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Canada

Bureau de la concurrence  
Canada

Canada

# **Environmental claims and the *Competition Act***

June 5, 2025

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**For information on the Competition Bureau's activities, please contact:**

Information Centre  
Competition Bureau  
50 Victoria Street  
Gatineau QC K1A 0C9

Telephone: 819-997-4282  
Telephone (toll-free in Canada): 1-800-348-5358  
TTY (for hearing impaired): 1-866-694-8389  
Fax: 819-997-0324  
Website: [www.competitionbureau.gc.ca](http://www.competitionbureau.gc.ca)

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Innovation, Science and Economic Development Canada  
C.D. Howe Building  
235 Queen Street  
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Canada

Telephone (toll-free in Canada): 1-800-328-6189  
Telephone (international): 613-954-5031  
TTY (for hearing impaired): 1-866-694-8389  
Business hours: 8:30 a.m. to 5:00 p.m. (Eastern Time)  
Email: [ised-isde@ISED-ISDE.gc.ca](mailto:ised-isde@ISED-ISDE.gc.ca)

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On March 26, 2026, the *Budget 2025 Implementation Act, No. 1* received Royal Assent, introducing changes to the *Competition Act* related to environmental claims. These changes removed the requirement for environmental claims to be supported by an internationally recognized methodology. We will update our guidance on *Environmental claims and the Competition Act* to reflect this change.

## Table of contents

<b>Introduction</b> .....	<b>6</b>
<b>Civil provisions of the Act that are relevant to environmental claims:</b> .....	<b>7</b>
False or misleading representations .....	<b>8</b>
Key concepts .....	<b>8</b>
Implications for environmental claims .....	<b>8</b>
Example .....	<b>9</b>
Product performance claims .....	<b>9</b>
Key concepts .....	<b>9</b>
Implications for environmental claims .....	<b>10</b>
Example .....	<b>10</b>
Claims about the environmental benefits of a product .....	<b>11</b>
Key concepts .....	<b>11</b>
Implications for environmental claims .....	<b>12</b>
Example .....	<b>12</b>
Claims about the environmental benefits of a business or business activity .....	<b>13</b>
Key concepts .....	<b>13</b>
Implications for environmental claims .....	<b>14</b>
Example 1 .....	<b>14</b>
Example 2 .....	<b>15</b>
<b>Principles for compliance</b> .....	<b>15</b>
Principle 1: Environmental claims should be truthful, and not false or misleading .....	<b>15</b>
Principle 2: Environmental benefits of a product and performance claims should be adequately and properly tested .....	<b>16</b>
Principle 3: Comparative environmental claims should be specific about what is being compared .....	<b>16</b>
Principle 4: Environmental claims should avoid exaggeration .....	<b>17</b>

Principle 5: Environmental claims should be clear and specific – not vague .....	17
Principle 6: Environmental claims about the future should be supported by substantiation and a clear plan .....	18
<b>Conclusion</b> .....	<b>18</b>
<b>Frequently asked questions</b> .....	<b>19</b>
Environmental claims in general .....	19
Claims about the environmental benefits of a business or business activity .....	21

# Introduction

The Competition Bureau is an independent law enforcement agency that ensures that Canadian consumers and businesses prosper in a competitive and innovative marketplace. Headed by the Commissioner of Competition, the Bureau contributes to Canadian prosperity by protecting and promoting competitive markets and enabling informed consumer choice.

The Bureau investigates anti-competitive practices and promotes compliance with the laws under its jurisdiction, including the *Competition Act*. The Act has provisions that address misleading advertising and deceptive marketing practices, including deceptive environmental claims. From the Bureau's perspective, an environmental claim is any representation related to the environment that has been made for the purposes of promoting a product or any business interest. The Bureau is concerned with representations made to the public for the purposes of marketing and promotion, rather than representations made solely for other purposes or that are regulated by other government agencies.

Environmental claims are often used by businesses<sup>1</sup> to promote a positive environmental quality or attribute, or to downplay a negative one. This may include claims related to a product's impact on the environment, from the sourcing of its materials to how it is produced, packaged, distributed, used or the way in which it is disposed. Environmental claims can also be about services, processes, businesses, business practices and activities.

The concept of environmental claims is broad, as new kinds of claims emerge regularly. While many claims are truthful, others make a business or its products seem greener than they really are. Many people refer to this as part of the larger problem of greenwashing. At the Bureau, we sometimes use this term as a short form for environmental claims that are deceptive because they are false, misleading or not adequately and properly tested or substantiated as required.

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1. In these guidelines, the word 'business' is not limited to corporations or other business structures, and also includes individuals. ↵

Recently, the Act was amended to include two new provisions that explicitly address environmental claims. These new provisions build on the provision of the Act that requires that certain claims be evidence-based. The Bureau is therefore taking this opportunity to describe our approach to environmental claims specifically as they relate to the deceptive marketing provisions of the Act.<sup>2</sup> However, readers are reminded that other laws enforced by the Bureau, including the *Consumer Packaging and Labelling Act* and the *Textile Labelling Act*, also prohibit certain types of deceptive representations, and may be relevant to environmental claims.

These guidelines do not constitute a binding statement of how the Commissioner will proceed in specific matters. The decisions of the Commissioner and the ultimate resolution of issues will depend on the particular circumstances of the matter in question.

The Commissioner has broad discretion in determining whether to proceed with enforcement action in a particular case.

More information about the Bureau's approach to outreach, enforcement, and advocacy can be found in the Bureau's Competition and Compliance Framework.

## Civil provisions of the Act that are relevant to environmental claims:

The following four provisions of the Act are most relevant to environmental claims. An environmental claim may raise concerns under more than one of these provisions.

While a general overview of each provision and its application to environmental claims is provided below, further information about how they might be applied in particular circumstances is provided in the Frequently asked questions section at the end of these guidelines. While key concepts from each provision are explained, it is ultimately up to the courts to interpret the language of the Act.

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2. These guidelines are focused on the deceptive marketing practices provisions of the Act, which are civilly enforced. However, it is important to be aware that there are also criminal provisions that prohibit anyone from knowingly or recklessly making false or misleading representations to the public when promoting a product or any business interest.

## False or misleading representations

Paragraph 74.01(1)(a) of the Act prohibits a person<sup>3</sup> from making a representation to the public that is false or misleading in a material respect for the purpose of promoting a product or any business interest. When assessing a claim, the Bureau must consider the general impression conveyed by the claim as well as its literal meaning. This provision has been around for a long time, and addresses any kind of false or misleading promotional representation.

### Key concepts

**A representation:** Any marketing and/or promotional material, including online and in-store advertisements, direct mail, social media messages, promotional emails, and endorsements, among other things.

**General impression:** The general impression conveyed by a representation must be taken into account in addition to its literal meaning when determining whether a representation raises concerns under the Act.

**In a material respect:** Material information is information that could influence consumer behaviour, such as influencing consumers to buy or use a product or service or to deal with a business.

### Implications for environmental claims

This provision deals with any materially false or misleading representation made to the public for the purposes of promoting a product or business interest. Therefore, it captures a broad range of claims, including false or misleading environmental claims. Further, it is not limited to false or misleading representations made about a product. It applies equally to materially false or misleading claims about other things, such as the environmental attributes of the business.

Like all of the civil deceptive marketing practices provisions in the Act discussed in these guidelines, the provision addresses marketing representations made to the public for the purpose of promoting a product or business interest, rather than representations made exclusively for other purposes.

If the Bureau challenges an environmental claim in court under paragraph 74.01(1)(a), it needs to prove all of the elements of the alleged conduct before anyone can be found to have breached the Act. The business that made the claim has no obligation under this provision to prove that there was a basis for the environmental claim, or to prove that the claim is not false or misleading in a material respect.

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3. A person refers to an individual or a corporation. ↵

## Example

A business is interested in increasing its sales by marketing its bath bombs as friendly to the environment. The business therefore makes claims to the public that its bath bombs are packaged in cardboard made from 100% post-consumer waste, thereby diverting waste from landfills. However, the packaging is actually made entirely from virgin fibre paper.

In this scenario, the representations would likely be considered by the Bureau to be false or misleading in a material respect.

## Product performance claims

Paragraph 74.01(1)(b) of the Act prohibits a person from making a representation to the public, for the purpose of promoting a product or any business interest, in the form of a statement, warranty or guarantee of the performance, efficacy or length of life of a product (a “performance” claim) that is not based on adequate and proper testing. In essence, it requires that performance claims be evidence-based. This provision has been around for a long time, and applies to any kind of performance claim, including environmental performance claims.

## Key concepts

**Product:** A product includes both an article and a service.

**Based on:** The claim must be supported by adequate and proper testing, which must be conducted before the claim is made.

**Adequate and proper:** The Bureau views this as a flexible standard, so as to accommodate different contexts. The courts have interpreted the requirement of “adequate and proper” to mean fit, apt, suitable or as required by the circumstances. The courts have further found that whether testing is adequate and proper depends on the general impression that the representation conveys to consumers.

**Testing:** Consistent with court decisions, the Bureau’s view is that this provision requires actual testing, which has been described as “...a procedure intended to establish the quality, performance or reliability of something.” Things such as evidence of consumer use over a long period of time, technical books, bulletins and manuals, anecdotal stories and studies or sales of similar products have been found by the courts not to be tests within the meaning of paragraph 74.01(1)(b) of the Act.

## Implications for environmental claims

This provision deals with performance claims generally, and creates an obligation on businesses to ensure that any claim made to the public in the form of a statement, warranty or guarantee about how a product will perform, how efficacious it is, or how long it will last is based on adequate and proper testing. This provision is expressly limited to performance claims about products, such that claims about other things, such as a business, do not fall under this provision.

If the Bureau challenges an environmental claim in court under this provision, it needs to prove that:

1. a representation was made to the public by the business,
2. it was a performance claim within the meaning of the Act; and
3. it was made for the purpose of promoting a product or any business interest.

If the Bureau is able to prove this, then the business will need to show that the claim was based on adequate and proper testing.

## Example

A business decides that it would like to develop a product to market to consumers who drive gasoline-powered vehicles. The business develops a fuel additive that it believes improves the fuel efficiency of gasoline-powered vehicles, thereby reducing their emissions. The business is aware that a competing product with a similar composition makes claims that consumers will be able to reduce fuel consumption and decrease greenhouse gases by up to 20% if they pour a bottle of its chemical additive into their fuel tank at each fill-up. The competitor claims that the results were verified by laboratory testing. Instead of conducting testing of its own product before launching it, the business decides to make the same claim as its competitor, relying on the belief that the similar product has been proven to perform as claimed.

In this scenario, the Bureau would likely consider the representations to be statements about the product's performance and efficacy that are not based on adequate and proper testing.

## Claims about the environmental benefits of a product

Paragraph 74.01(1)(b.1) of the Act is a new provision and builds on paragraph 74.01(1)(b), in that it requires that certain types of claims be evidence-based. Specifically, it prohibits a person from making a representation to the public in the form of a statement, warranty or guarantee of a product's benefits for protecting or restoring the environment or mitigating the environmental, social and ecological causes or effects of climate change ("environmental benefits of a product") that is not based on adequate and proper testing. As with all of the provisions of the Act that are relevant to environmental claims, this provision only applies where the purpose of making the representation is the promotion of a product or any business interest.

### Key concepts

It remains to be seen how the courts will interpret many of the key concepts set out in this new provision. In the interim, the Bureau will be relying on the ordinary meaning of the words used in the provision where they have not already been interpreted by the courts:

**Benefits:** Any specific advantages or favourable attributes.

**Environment:** 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.

**Protecting:** Keeping safe from harm.

**Restoring:** Repairing or returning to its former condition.

**Mitigating:** Making an impact less harmful or severe.

**Environmental:** Relating to the environment.

**Social:** Relating to human society or the welfare of human beings as members of society.

**Ecological:** Relating to ecosystems, biodiversity, and the natural processes that sustain environmental balance.

**Climate change:** Changes in global or regional climate patterns.

**Adequate and proper:** This language has been interpreted by the courts in the context of paragraph 74.01(1)(b) of the Act, as discussed above. The Bureau will generally assume that the same interpretation and considerations will apply in the context of paragraph 74.01(1)(b.1) of the Act.

**Testing:** This has also been interpreted by the courts, as described above. Again, the Bureau will generally assume that the same interpretation and considerations will apply here.

**Based on:** As with 74.01(1)(b) of the Act, the claim must be supported by adequate and proper testing, which must be conducted before the claim is made.

### Implications for environmental claims

This provision deals exclusively with certain kinds of environmental claims. It creates an obligation on businesses to ensure that any claim about the environmental benefits of a product is based on adequate and proper testing. Similar to the provision dealing with performance claims discussed above, it is expressly limited to claims about products.

If the Bureau challenges an environmental claim in court under this provision, it needs to prove that:

1. a representation was made to the public by the business;
2. it was a claim about the environmental benefits of a product; and
3. it was made for the purpose of promoting a product or any business interest.

If the Bureau is able to prove the above elements, then the business will need to show that the claim was based on adequate and proper testing.

### Example

A fashion apparel business claims that its sweaters do not release microplastic fibres when washed in a home washing machine, thereby helping to protect Canada's waterways. The yarn was tested before the claim was made to consumers, but the testing conducted did not replicate washing in a washing machine.

In this scenario, the representations would likely be considered by the Bureau to be statements about the environmental benefits of a product that are not based on adequate and proper testing.

## Claims about the environmental benefits of a business or business activity

Paragraph 74.01(1)(b.2) is a new provision of the Act that deals with environmental representations made with respect to a business or business activity. Specifically, it prohibits a person from making a representation to the public with respect to 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 (“environmental benefits of a business”) that is not based on adequate and proper substantiation in accordance with internationally recognized methodology. As with all of the provisions that are relevant to environmental claims, this provision only applies where the purpose of making the representation is the promotion of a product or any business interest.

### Key concepts

This provision is also new, and has yet to be interpreted by the courts. It contains some of the same concepts discussed above, such as protecting, restoring, mitigating environmental, ecological and climate change. However, it introduces some new concepts:

**Business activity:** Any activity carried on by a business, including but not limited to manufacturing, producing, transporting, acquiring, supplying, storing, or otherwise dealing in articles and services, as well as the raising of funds for charitable and non-profit purposes.

**Adequate and proper:** This language has been interpreted by the courts in the context of paragraph 74.01(1)(b) of the Act, as discussed above. It remains to be seen how the courts will interpret the term in the context of this provision. In the Bureau’s view, businesses should choose substantiation that is suitable, appropriate and relevant to the claim, and sufficiently rigorous to establish the claim in question. Often, this will require substantiation that is scientific in nature. Third party verification will be required in circumstances where it is called for by the internationally recognized methodology relied upon for adequate and proper substantiation.

**Substantiation:** Establishing by proof or competent evidence. While substantiation does not necessarily involve testing in a lab, businesses should ensure that the methodology selected is suitable for the claim, having regard to all the relevant circumstances.

**Methodology:** A procedure used to determine something.

**Recognized:** To be acknowledged as valid. Such recognition can come from a variety of sources, including but not limited to standards-setting bodies, regulatory authorities, or even industries or other entities using methodologies that are commonly accepted internationally.

However, businesses are reminded that the substantiation must be adequate and proper, so the Bureau always recommends choosing a methodology that is reputable and robust having regard to the claim.

**Internationally recognized:** The Bureau will likely consider a methodology to be internationally recognized if it is recognized in two or more countries. Further, the Bureau is of the view that the Act does not necessarily require that the methodology be recognized by the governments of two or more countries.

### Implications for environmental claims

This provision also deals exclusively with certain kinds of environmental claims. It creates an obligation on businesses to ensure that any claim about the environmental benefits of a business is based on adequate and proper substantiation in accordance with internationally recognized methodology. This provision does not capture claims about products, but rather is limited to claims about a business or business activity.

If the Bureau challenges an environmental claim in court under this provision, it needs to prove that:

1. a representation was made to the public by the business;
2. it was a claim about the environmental benefits of a business; and
3. it was made for the purpose of promoting a product or any business interest.

If the Bureau is able to prove this, then the business will need to show that the claim was based on adequate and proper substantiation in accordance with internationally recognized methodology.

### Example 1

A Canadian business wanted to claim in marketing materials that it is on its way to being net-zero by 2050. The business had good intentions about reducing greenhouse gases, but it decided to make the claim before doing its homework. As a result, it failed to take steps to substantiate its claim in accordance with internationally recognized methodology, and did not develop a concrete plan to identify and mitigate its greenhouse gas emissions.

In this scenario, the claim would likely be considered by the Bureau to be a representation with respect to the environmental benefits of a business that is not based on adequate and proper substantiation in accordance with an internationally recognized methodology.

## Example 2

A business in the agriculture sector has been working hard to reduce nitrogen runoff from its farms into nearby water bodies through precision fertilization, cover cropping, and improved soil management practices. It makes the claim, “Over the past five years, we have protected the environment through reduced nitrogen runoff from our farms into nearby rivers and streams by 50%”. Before making the claim, the company ensured it followed ISO 5667-1 and ISO 5667-6 to measure nutrient concentration in streams directly downstream from its managed fields, both before and after the practices were implemented. The measurements showed a 50% decrease in nitrogen runoff from the managed lands.

In this scenario, the claim would likely be considered by the Bureau to be a representation with respect to the environmental benefits of a business that is based on adequate and proper substantiation in accordance with internationally recognized methodologies.

## Principles for compliance

The Bureau does not tell businesses what they can or can not say. It only offers principles to help businesses assess whether their environmental claims are in line with the requirements of the Act. This is because the Act sets out a general framework that does not prevent businesses from making whatever environmental claims they wish, as long as those claims are not false or misleading, and have been adequately and properly tested or substantiated as required.

In applying these provisions, the Bureau must assess not only the literal meaning of an environmental claim, but also the general impression that is conveyed to the public by the claim. This in turn requires considering all of the elements of an environmental claim, including the context, words, images and layout.

The Bureau has developed six high-level principles that together can help businesses stay onside of the law when it comes to environmental claims. These tips made their first appearance in Volume 7 of the Deceptive Marketing Practices Digest, and are re-introduced here with some modifications to reflect the new provisions.

### Principle 1: Environmental claims should be truthful, and not false or misleading

While this concept seems basic, it is a cornerstone of compliance when it comes to any sort of promotional representations such as environmental claims, and is worth highlighting: businesses should make sure that they tell the truth and avoid claims that are false or misleading.

As discussed earlier, this means that any environmental claim must be true, both in terms of its literal meaning and the general impression that it conveys. The general impression is determined by examining the entirety of the representation, including the words or phrases used, the way in which the text is displayed, as well as the visual elements and their context.

An environmental claim might be literally true, but still create a false or misleading general impression about an environmental benefit. If a statement is literally true but the general impression conveyed is of a greater environmental benefit than is actually the case, then this would raise concerns under the Act.

Part of ensuring that an environmental claim is not misleading is making sure that key information necessary for consumers not to be deceived is included as an integral part of the representation in such a way that it will factor into the general impression. Put simply, where an environmental claim is misleading absent important information, then advertisers need to include that information as part of the claim.

As a reminder, the [Bureau's guidance on disclaimers and fine print](#) is that if a claim creates a materially false or misleading general impression in itself, before any reference is made to a disclaimer, then fine print may not help. In other words, do not rely on a disclaimer or fine print to cure an otherwise misleading environmental claim.

## **Principle 2: Environmental benefits of a product and performance claims should be adequately and properly tested**

As set out above, there are two provisions in the Act which require that claims be based on adequate and proper testing, specifically performance claims and claims about the environmental benefits of a product. When consumers see these kinds of claims, they expect that the claims are backed up with proof. For these kinds of claims to be in compliance with the Act, businesses must be able to show that the claims are based on adequate and proper testing, which must be conducted before making the claims. Businesses are reminded to always have regard to the general impression conveyed to the public by a claim when thinking about whether testing is adequate and proper.

## **Principle 3: Comparative environmental claims should be specific about what is being compared**

Many environmental claims state or imply some sort of comparison. This might involve a comparison to the way things used to be done, or to similar products or businesses, or even to different kinds of products or businesses.

Every time a business makes any type of comparison in its promotional materials, the business should be specific about what is being compared, and the extent of the difference between what is being compared. Failure to do so may lead to environmental claims that are misleading.

#### **Principle 4: Environmental claims should avoid exaggeration**

It may be tempting for a business to bolster or exaggerate the environmental benefits of its products, business or business activities in its promotional representations to consumers. Remember that it is not just the literal meaning of the claim that must be considered, but also the general impression it conveys to the public. Even well-intentioned businesses may realize that some of their environmental claims are inadvertently exaggerated or overstated when they carefully consider all of the facts and evidence. While even small benefits to the environment can be positive, they should not be marketed as big ones.

#### **Principle 5: Environmental claims should be clear and specific – not vague**

Businesses should avoid vague environmental claims in favour of clear and specific ones. Vague environmental claims may convey a general impression to consumers that the environmental benefit is broader or of greater magnitude than it actually is. For example, a claim that a particular product is eco-friendly may convey the impression that the product is beneficial for the environment throughout its entire life cycle. The life cycle of the product can involve every aspect of the product, from the materials sourced, to how it is manufactured, packaged and transported, and even how it is used and disposed of. This type of vague representation can be misleading to consumers if the business has not ensured that the representation holds true for the product from cradle to grave.

These implications can become even more significant if the environmental claim is one that the Act requires to be based on adequate and proper testing or substantiation. If the claim concerns the business as a whole, the environmental impact of all activities of the business must be taken into consideration when making the claim. For all these reasons, vague claims can be difficult to back up and they risk misleading consumers.

Therefore, businesses should be clear and specific when making environmental claims. This includes being transparent about whether the claim applies to a part of or to the whole of a product, business or business activity, or only to a specific part of it. The Bureau's advice is clear: when in doubt, spell it out.

## Principle 6: Environmental claims about the future should be supported by substantiation and a clear plan

As noted in the Digest, it is commendable when well-intentioned businesses set aggressive goals and timelines about future environmental performance. While common examples of such claims include representations about being carbon-neutral by a certain date, there are many other environmental claims that can be made by businesses about the future.

However, claims about the future can be considered greenwashing if they represent little more than wishful thinking. Such claims can raise concerns under both the provision of the Act that prohibits false or misleading representations generally, as well as the provision that requires adequate and proper substantiation for certain environmental claims about a business or business activity.

Therefore, businesses should ensure that such claims are well-founded and are adequately and properly substantiated in accordance with internationally recognized methodology. Before making these kinds of claims, businesses should have:

- A clear understanding of what needs to be done to achieve what is being claimed;
- A concrete, realistic and verifiable plan to accomplish the objective, with interim targets; and
- Meaningful steps underway to accomplish the plan.

There is a wealth of information available to businesses regarding internationally recognized methodologies related to common claims such as those related to net-zero.

Even if there is a clear plan by a business to accomplish its environmental objectives, and the claim is adequately and properly substantiated using an internationally recognized methodology, the business must still take care to ensure that the claim is not misleading.

## Conclusion

Environmental claims matter to consumers and influence their decisions. This is part of the reason why businesses make environmental claims in the first place. Because these claims matter, it is important to get them right. These guidelines provide businesses with tools to help them do just that.

There has never been a time in history where there has been more information available to help businesses measure the impact they have on the environment. Businesses who wish to make environmental claims should use available and appropriate information and data to create claims that are both truthful and well-founded.

# Frequently asked questions

## Environmental claims in general

### **1. There are already provisions in the Act that address misleading advertising and deceptive marketing. What changed in the Act to specifically address greenwashing?**

More and more consumers are making choices with consideration to the impact that products, businesses and business activities are having or will have on the planet.

Businesses have responded with an array of different kinds of environmental claims. However, environmental issues are complex, and consumers often must take on faith the environmental claims made by businesses. Prior to the new provisions, the law did not require that businesses be able to back up many of these kinds of claims. With the new provisions, businesses are now required to make sure that there is an adequate and proper basis prior to making certain environmental claims.

### **2. Do the new provisions mean that the Bureau's mandate now includes protection of the environment?**

No. The Act prohibits materially false or misleading advertising and deceptive marketing practices so that consumers can make informed choices in the marketplace that are free from the influence of deceptive promotional claims, including environmental claims. This helps foster a fair, competitive and innovative marketplace.

### **3. Do businesses have to prove that their environmental claims are not false or misleading?**

No. Businesses never have to prove that their environmental claims are not false or misleading. However, for certain kinds of environmental claims, they have to be able to back their claims up.

### **4. Will my business be held responsible under the new provisions for a representation made before the new provisions became law?**

The Bureau will not seek to hold anyone liable for a breach of the new provisions of the Act before they came into force. However, businesses can be held responsible for an environmental claim that was made before the new provisions became law, where the claim was materially false or misleading contrary to paragraph 74.01(1)(a) of the Act, or a performance claim not based on adequate and proper testing, contrary to paragraph 74.01(1)(b) of the Act.

### **5. Will the Bureau grant a grace period during which it undertakes not to bring matters forward under the new greenwashing provisions of the Act?**

The new provisions came into effect on June 20, 2024, and have the force of law. However, the Bureau will consider the circumstances of each case when exercising its enforcement discretion.

**6. Do the provisions of the Act prevent my business from telling consumers about what it is doing to improve its environmental performance?**

No. Environmental claims, like other marketing claims, can not be materially false or misleading. The Act also requires that certain environmental claims about products be based on adequate and proper testing. It also requires that certain environmental claims about a business or its activity be adequately and properly substantiated before they are made.

**7. Is there a due diligence defence for environmental claims?**

Yes. The Act has a defence for those who can show that they exercised due diligence to prevent deceptive marketing practices from occurring. A business that has shown due diligence may be ordered to stop deceptive marketing practices, but can not be ordered to pay an administrative monetary penalty or restitution, or be required to publish a corrective notice.

**8. My business is a publicly-traded company that provides voluntary and obligatory information to current and potential investors of securities. This information may include environmental claims about my business. Will these representations be caught by the Act?**

In Canada, the provinces and territories are responsible for the regulation of securities. These regulations can include evolving frameworks for the voluntary and mandatory communication of certain environmental information to current and prospective securities investors. The Bureau does not concern itself with these representations.<sup>4</sup> However, if the business reuses any of the environmental claims for the purposes of promoting a product or business interest outside of the sale of securities, the Bureau will apply the Act as appropriate.

**9. Starting June 20, 2025 , people can directly apply for permission to file an application against businesses under the deceptive marketing practices provisions of the Act. Is the Bureau going to publish updated general guidance with respect to private access to the Competition Tribunal?**

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4. Note that this should not be interpreted as suggesting that get-rich-quick investment frauds will not be addressed by the Bureau as appropriate. ↵

Yes. The Bureau expects to publish updated general guidance with respect to private access to the Competition Tribunal.

**10. Will private applicants to the Competition Tribunal be governed by the Bureau's guidelines?**

The Bureau's guidelines are not law but set out our perspective on environmental claims, and not the perspectives of potential private applicants. Further, the Competition Tribunal, which makes the decisions in such matters, is not bound by the Bureau's Guidelines. However, it may be that the Competition Tribunal considers the Bureau's approach, as set out in these guidelines, when considering whether to grant leave to file an application. Additionally, the Bureau will refer to these guidelines if it makes submissions in response to an application for leave by a private applicant, or intervenes if leave is granted.

**11. Will private applicants be able to challenge environmental claims in ways that the Bureau can not?**

No. The deceptive marketing practices provisions are the same whether a case is brought by the Bureau or by a private applicant. In addition, a private applicant must first get permission from the Competition Tribunal before filing an application under the Act. Under the law, the Competition Tribunal may only grant leave where it finds that doing so would be in the public interest.

**12. Do the provisions apply equally to foreign businesses doing business in Canada?**

Yes. Foreign businesses marketing in Canada must comply with the misleading advertising and deceptive marketing practices provisions of the Act.

## **Claims about the environmental benefits of a business or business activity**

**13. Certain environmental claims made about a business or its activities must be adequately and properly substantiated. Is substantiation the same as testing?**

Not necessarily. Substantiation involves having evidence to show that a claim is true. If the representation is based on adequate and proper substantiation in accordance with an internationally recognized methodology, then the claim will meet the substantiation requirement of the Act even if that methodology does not involve testing.

**14. The new provisions of the Act require that my business have substantiation for certain environmental claims. Do I have to make that information publicly available?**

No. The new provisions of the Act do not require anyone making an environmental claim to make the supporting information available to the public. However, many businesses may prefer to make this information publicly available so that consumers can feel more confident in the environmental claims of the business.

**15. Does my business require third party verification to make environmental claims?**

The Act does not expressly require third party verification. However, the Act expressly requires that an internationally recognized methodology be used, and internationally recognized methodologies often require third party verification. The Bureau will assess each case on its facts. Businesses are also reminded that third party verification may improve the credibility of claims for consumers.

**16. Can my business rely on a standard or methodology set by industry to support its claims?**

The Act requires that certain environmental claims be substantiated in accordance with an internationally recognized methodology. It does not say that the methodology can not be developed by an industry, but the substantiation must still be adequate and proper.

**17. If my business wants to make the kind of environmental claim that must be substantiated, can I simply rely on data that I already use in my business operations?**

If the data that you rely on has been collected and evaluated in accordance with an internationally recognized methodology that is adequate and proper for the claim being made, then yes.

**18. In order to comply with the obligation to substantiate certain environmental claims with an adequate and proper internationally recognized methodology, does my business need to choose the best methodology available?**

The Act does not expressly state that the internationally recognized methodology used to substantiate a claim must be the best methodology available. However, businesses are encouraged to base their substantiation on an internationally recognized methodology that is reputable and robust. Not only will the substantiation more likely be adequate and proper, but it is also less likely to raise concerns under the provision of the Act that prohibits making materially false or misleading representations to the public.

**19. My business claims that we use 20% recycled content in one of our products. We track the sourcing of our materials to ensure this is true, but these claims don't lend themselves to traditional testing methods. Is testing required?**

No. As set out in these guidelines, different provisions address different kinds of environmental claims. In this example, in the Bureau's view, the limited claim that the product contains "20% recycled content" (without more) would not likely be treated as a claim about the performance or efficacy of a product, and therefore would not require testing under paragraph 74.01(1)(b) of the Act. The claim would also not appear to be a statement of a product's benefits for protecting or restoring the environment or addressing climate change, so in the Bureau's view, it would not require testing under paragraph 74.01(1)(b.1) of the Act either. Finally, the claim is not about a business or business activity, and as such, paragraph 74.01(1)(b.2) is also not engaged. Therefore, in the Bureau's view, the business simply needs to ensure that such a claim is not materially false or misleading contrary to paragraph 74.01(1)(a) of the Act.

**20. Do the new provisions require businesses to follow international standards?**

No. The new provisions do not require businesses to follow any standards. Instead, when it comes to certain environmental claims made about a business or its activities, the claims must be adequately and properly substantiated in accordance with internationally recognized methodology. The methodology may or may not be reflected in one or more standards, but it is the methodology that matters.

**21. Does the methodology used to substantiate a claim need to be appropriate for the Canadian context?**

Yes. In order to comply with the new provisions, a business would need to demonstrate that a particular internationally recognized methodology used to substantiate its claims is adequate and proper in the circumstances, including with regard to the Canadian context as appropriate, such as the geography and climate.

**22. How is my business to know whether a methodology is internationally recognized?**

For a methodology to be recognized, it needs to be acknowledged as valid. Such recognition can come from a variety of sources, including but not limited to standards-setting bodies, regulatory authorities, or even industries or other entities using methodologies that are commonly accepted internationally. A methodology that has been recognized in two or more countries will generally be considered by the Bureau to be internationally recognized. While a methodology does not have to be part of a standard, many methodologies are found in standards. If the standard that contains the methodology is internationally recognized, then the Bureau will likely consider the methodology to be internationally recognized.

**23. My business already complies with a methodology required or endorsed by Canadian governmental programs for certain environmental claims. Is that good enough?**

The Bureau will assume that methodologies required or recommended by federal, provincial or territorial government programs in Canada for the substantiation of environmental claims are consistent with internationally recognized methodologies. As such, it is unlikely that the Bureau will pursue enforcement action under paragraph 74.01(1)(b.2) if an advertiser has followed such a methodology, provided that the chosen methodology provides adequate and proper substantiation for the claim. Of course, like all marketing representations made to the public, the business should still take care to make sure that any claim does not convey a general impression that is false or misleading in a material respect.

**24. What if there are a number of different internationally recognized methodologies that could be used to substantiate the environmental claim that I want to make about my business or business activity?**

If there is more than one internationally recognized methodology that could be used to substantiate a claim, then any such methodology will meet the requirements of the provision, as long as it leads to substantiation that is adequate and proper. However, businesses should also make sure that any environmental claim conveyed to the public does not convey a materially false or misleading general impression. For example, a claim about a business activity that is adequately and properly substantiated in accordance with an internationally recognized methodology must not be made to the public in a way that creates the general impression that the environmental benefit of the activity is greater than is actually the case.

**25. What do I do if I want to make a claim regarding a new technology, but there is no internationally recognized methodology to support the claim my business wants to make?**

At its simplest, a methodology is a procedure used to determine something, such as whether a new green technology actually has the claimed effect. If there is not one methodology for testing the exact claim, the advertiser may be able to rely on two or more internationally recognized methodologies that together can create substantiation for the claim, or that are used for substantiating similar claims. Of course, if the business concludes that there is no way to substantiate its claim, it should avoid making that claim, and instead make claims that it can back up. If an internationally recognized methodology is subsequently developed that is directly relevant to the claim, the business would be wise to substantiate the claim using that new methodology, so as to ensure continued compliance with the law.

**26. Are there internationally recognized methodologies that my business can rely on to make claims about its plans to be net-zero in the future?**

There are a number of different standards to help businesses learn how to meet the challenge of reaching net-zero. Many can offer adequate and proper substantiation in accordance with methodologies that are internationally recognized for supporting such claims.

**27. Will the Bureau hold small businesses to the same standards as large well-resourced enterprises when it comes to demonstrating adequate and proper substantiation for their claims?**

In the context of performance claims under paragraph 74.01(1)(b), courts have indicated that testing is required regardless of the size of the business making the claim. This is because consumers assume that a business' claim is based on adequate and proper testing regardless of whether the business is large or small. The Bureau is of the view that this will apply equally to claims that must be substantiated.

**28. Can the Bureau provide an example of a business using an internationally recognized methodology to substantiate an environmental claim about a business or business activity?**

A delivery company wants to do its part for the environment by reducing its greenhouse gas (GHG) emissions. The company therefore develops a plan to phase out 20% of its gas-powered vehicles on average each year, replacing them with zero-emission vehicles, so that the entire fleet will be made up of zero-emission vehicles by 2030. In 2025, the company starts the process of replacing the oldest 20% of its fleet with new electric vehicles and institutes a schedule to replace the rest of the fleet by 2030. The company makes the claim, "To do our part to protect the environment, we will replace, starting in 2025, our delivery fleet with zero-emission vehicles to reduce greenhouse gas emissions by 100 tons by 2030". Its calculation follows the GHG Protocol for Project Accounting standard, which protocol would allow the company to assess the baseline GHG emissions of the fleet and calculate the GHG emissions after implementation of the project.

# How to contact the Competition Bureau

Anyone wishing to obtain additional information about the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act*, the *Precious Metals Marking Act* or the program of written opinions, or to file a complaint under any of these acts should contact the Competition Bureau's Information Centre:

## **Web site**

[www.competitionbureau.gc.ca](http://www.competitionbureau.gc.ca)

## **Address**

Information Centre  
Competition Bureau  
50 Victoria Street  
Gatineau, Quebec  
K1A 0C9

## **Telephone**

Toll free: 1-800-348-5358  
National Capital Region: 819-997-4282  
TTY (for hearing impaired) 1-866-694-8389

## **Facsimile**

819-997-0324