



September 24, 2024

ATTN: Commissioner Matthew Boswell
Deceptive Marketing Practices Directorate
Via email: greenwashingconsultationecoblanchiment@cb-bc.gc.ca

Re: Consultation on Competition Act's New Greenwashing Provisions

Dear Commissioner Boswell:

The Canadian Propane Association (CPA) represents over 400 companies in every region of the country. Our members include propane producers, wholesale marketers, transporters, retail marketers and manufacturers of appliances, cylinders and equipment (MACE) across Canada.

We are writing to provide input on how the Competition Bureau of Canada ("the Bureau") should develop clear guidance on how to comply with the new provisions regarding environmental claims in section 74.01(1) of the *Competition Act*. These provisions have caused significant concern not only to our members, but to a wide range of Canadian industry stakeholders from energy and natural resources, to consumer goods and manufacturing, to agriculture and non-profit organizations. Without proper compliance guidelines, these provisions will significantly and negatively impact the way in which Canadian businesses communicate their environmental performance and goals and could negatively impact future investments in Canada due to the increased risks to businesses.

The CPA and our members are proud of the role propane has played for decades for millions of Canadians. While propane is already a lower-carbon energy choice, the industry is charting its path to produce renewable propane and renewable DME to reduce its emissions even further. Renewable propane can provide up to 85% emissions savings and even more under certain conditions. By fostering advancements in technology and promoting sustainable practices within the propane industry, Canadians can continue to rely on this essential energy while minimizing overall environmental impacts. The ongoing evolution of the propane sector holds promise for a cleaner and more sustainable energy future for Canadians from coast to coast to coast.

Our members must be assured that communications regarding environmental performance, so long as they are backed up by sound science, do not carry risk to business operations. The technological advancements necessary to improve environmental performance while maintaining our standard of living are critical pieces of Canada's innovation. The amendments to Bill C-59 could stifle communication regarding research and development, creating a challenging environment for innovation. This will disincentivize the communication of environmental goals, targets or progress that will lead to missed opportunities for collaboration and future investment into sustainable programs. The amendments could also lead to CPA members being disadvantaged when competing

with foreign companies if the new rules disproportionately impact domestic companies while leaving importers and traders less accountable.

Clear definitions and guidance are needed prior to the implementation of these amendments to ensure an effective regulatory framework that achieves the desired environmental outcomes. Guidance must be aligned with domestic regulatory and securities reporting, including safe harbor provisions for forward looking representations, and they also should not conflict with freedom of expression as outlined in the Charter of Rights and Freedoms Section 2(b).

Guidance for Industry

Since November 4, 2021, with the archiving of the [Environmental Claims: A Guide for Industry and Advertisers](#), no guidance has been available to industry regarding environmental claims under the *Competition Act*. Further exacerbating regulatory uncertainty, the June 2024 amendments to the *Competition Act* introduce novel terminology for substantiating claims (“internationally recognized methodology”), a new burden of proof on environmental claims, and expanded private access to the Competition Tribunal.

To support much needed clarity and industry’s ability to pursue environmental goals, we recommend:

1. **The Competition Bureau revise and republish the archived guidance to reflect current practices and write new guidance to reflect the June 2024 amendments.** The *Environmental Claims: A Guide for Industry and Advertisers* provided comprehensive guidance for the use and substantiation of environmental claims in Canada. The Bureau should make necessary updates to the archived guidance to reflect the Bureau’s current practices and the amended *Competition Act*. The Bureau should also provide clarity on how pre-existing case law will apply to claims about environmental benefits related to business activities, not just products.
2. **The Competition Bureau develop a definition for “internationally recognized methodologies” based on a set of guiding principles. This definition should regularly reviewed to remain flexible as environmental science evolves.** There is no consensus definition for “internationally recognized methodology.” The definition established in the guidance should incorporate qualities **that** lend legitimacy (e.g., science-based) and be non-exhaustive to ensure industry can pursue environmental outcomes with current best practices and make claims as low greenhouse gas technologies evolve. The definition should recognize that scientific methodologies can be contested, and so evidence should not be discredited simply because it faces scholarly debate, or if other methodologies produce different results, or if they were not published recently. Addressing large environmental issues like climate change requires significant innovation. Communication regarding that innovation should not be stifled by a narrow list of acceptable

methodologies. Methodologies used by Canadian federal-provincial-territorial governments, foreign governments (e.g., the United States, European Union), non-government organizations, intergovernmental organizations (e.g., the International Energy Agency, Task Force on Climate-Related Financial Disclosures), academic institutions (including all methodologies published in peer-reviewed journals), and securities regulators should be acceptable. It is important to note that there is no single set of international standards for substantiating all environmental claims. We urge the Bureau to conduct comprehensive comparative research to understand and glean appropriate content for guidance to Canadian businesses.

3. **The Competition Bureau and Competition Tribunal exercise enforcement discretion and only proceed with enforcement measures for the June 2024 amendments following the publication of comprehensive guidance and adequate transition timeline.** Ongoing regulatory uncertainty, including the threat of private action, negates the ability of companies to effectively communicate environmental benefits to inform consumer choices. We urge the Bureau and Competition Tribunal to fully address these concerns and allow companies time to make good faith efforts to comply before proceeding with enforcement measures.
4. **The Competition Bureau should create a screening process to ensure that the reverse onus orientation is not abused.** The reverse onus creates an incentive for private parties to make claims with little risk to themselves if their complaints are deemed baseless as they do not have to prove those claims are substantive in any way aside from being “in the public interest”. This could create significant cost and reputational risk, especially for Canada’s small and medium Enterprises who cannot afford costly litigation. The reverse onus also contradicts Canada’s long established legal principles and procedures.

We thank you for considering our feedback on this important matter **and request an opportunity to meet with you to discuss these recommendations, as part of this submission or the broader coalition submission we have also participated in.**

Sincerely,



Shannon Watt
President & CEO
Canadian Propane Association