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## **Submission to the Competition Bureau's Consultation on the *Competition Act's* New Greenwashing Provisions**

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**Submission on behalf of:**

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**Re: Consultation on the *Competition Act's* New Greenwashing Provisions**

To Commissioner Boswell and the Deceptive Marketing Practices Directorate,

Environmental Defence Canada (EDC) is a registered charity and non-profit environmental advocacy organization. For over 35 years EDC has worked at the municipal, provincial and federal level to safeguard our freshwater, create livable communities, decrease Canadians' exposure to toxic chemicals, end plastic pollution, tackle climate change and build a clean economy.

Environmental Defence is non-partisan and our work is based on research and the consultation of experts and peer-reviewed science. We have established our expertise on issues that matter to Canadians about threats to our health, climate and environment, and on good solutions. Our work is supported by over 260,000 people across Canada.

We are writing to provide feedback regarding the *Competition Act's* new greenwashing provisions as part of the public consultation process. In addition to the direct responses to the Bureau's guiding questions, which are addressed beginning on page 5, EDC would like to see the following concerns considered and addressed as part of the Competition Bureau's development and implementation of the new enforcement guidance for the greenwashing provisions. EDC was pleased with the passage of Bill C-59 and the amendments to improve the *Competition Act*. We commend Commissioner Boswell on the [letter](#) submitted to the Chair and members of the House of Commons Standing Committee on Finance, which recognized and made recommendations on the serious issue of greenwashing and the need for stronger tools to support the Competition Bureau in addressing this growing problem.

Our key recommendations are as follows:

- Companies must be required to back up their environmental claims with robust, credible, publicly accessible evidence in line with highest standards for internationally recognized methodologies. For example, "net-zero" claims must include scope 3 emissions, and have credible, costed plans that rely on existing technology to decrease emissions in line with the guidance of the High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities.
- The fossil fuel industry, plastics industry and financial sector are all sectors of concern when it comes to greenwashing, and should be proactively monitored by the Bureau.
- The full lifecycle of products and services must be considered when assessing environmental impacts, and all environmental claims with respect to greenhouse gas

emissions must account for both upstream (“direct”) emissions as well as downstream (“indirect”) emissions.

- Data used to justify an environmental claim should be collected and verified by an independent third-party organization to ensure accuracy, and should be publicly reported.
- Pledges to achieve targets in the future should be considered greenwashing unless they are accompanied by credible, costed, independently verified implementation plans, that do not rely on unproven technology for significant emissions reductions.
- Strong enforcement and corrective action must be a priority. When greenwashing occurs minimum penalties should be mandatory, and a company must be required to cease marketing and promoting the suspect claims and to take action to provide customers with information correcting the misleading advertising.

Climate change is a risk to Canadian security<sup>1</sup> and our economy<sup>2</sup>, and a devastating and existential threat to people around the world and the places we hold dear. Greenwashing obscures consumers' ability to make choices based on their concern about climate change and the environment, and negatively impacts the public discourse on climate action.<sup>3</sup> Greenwashing has become pervasive, with 72% of companies based in North America surveyed in a Harris Poll admitting to having overstated their sustainability efforts and engaged in greenwashing.<sup>4</sup> The government and its agencies have a responsibility to require companies verify claims around sustainability and climate action to promote both consumer awareness and public discourse with respect to these important matters.

While greenwashing can occur in any sector, it has been perniciously used by the fossil fuel industry. The fossil fuel industry has a well-documented history of spreading misinformation and disinformation about climate change.<sup>5,6,7</sup> For example, in 2024 the US House Committee on Oversight and Accountability released a report called *Denial, Disinformation and Doublespeak: Big Oil's Evolving Efforts to Avoid Accountability for Climate Change*.<sup>8</sup> It shows a pattern of fossil fuel businesses failing to tell the truth about their products, intentionally sowing public confusion, and using advertising and their positions of power to deter climate science from being broadly accepted and acted on. While this report was undertaken in the US, a number of the oil

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<sup>1</sup> Jim Bronskill (2023). “Climate change threatens Canadian security, prosperity, warns stark spy agency brief” for CBC. <https://www.cbc.ca/news/politics/csis-climate-change-threats-canada-1.6768803>

<sup>2</sup> Dale Beugin & Dave Sawyer (2022). “The GDP costs of climate change for Canada” for Canadian Climate Institute. <https://climateinstitute.ca/the-gdp-costs-of-climate-change-for-canada/>

<sup>3</sup> United Nations, “Greenwashing - the deceptive tactics behind environmental claims” <https://www.un.org/en/climatechange/science/climate-issues/greenwashing>

<sup>4</sup> Ekaterina Aristova (2023) “Greenwashing Exposed: A Close Look at the Existing Case Law (Part 3)” in University of Oxford Faculty of Law Blogs

<https://blogs.law.ox.ac.uk/oblb/blog-post/2023/12/greenwashing-exposed-close-look-existing-case-law-part-3>

<sup>5</sup> Climate Investigations Centre (2019). Imperial Oil Document Trove”

<https://climateinvestigations.org/imperial-oil-document-trove/>

<sup>6</sup> Rex Curry “Exxon’s Climate Denial History: A Timeline”

<https://www.greenpeace.org/usa/fighting-climate-chaos/exxon-and-the-oil-industry-knew-about-climate-crisis/exxons-climate-denial-history-a-timeline/>

<sup>7</sup> ClientEarth, (2021). Revealed: 9 examples of fossil fuel company greenwashing

<https://www.clientearth.org/latest/news/revealed-9-examples-of-fossil-fuel-company-greenwashing/>

<sup>8</sup> Joint Staff Report, “Denial, Disinformation and Doublespeak: Big Oil’s Evolving Efforts to Avoid Accountability for Climate Change”, US House Committee on Oversight and Accountability, 2024. Accessible at

[https://www.budget.senate.gov/imo/media/doc/fossil\\_fuel\\_report1.pdf](https://www.budget.senate.gov/imo/media/doc/fossil_fuel_report1.pdf)

companies or their subsidiaries investigated in the report operate in both the US and Canada. There is also evidence of a similar history of greenwashing being employed in Canada.<sup>9</sup> As just two recent examples, the Competition Bureau is currently investigating cases of greenwashing brought against Enbridge Inc. and the Pathways Alliance.<sup>10</sup> Environmental Defence Canada was involved in putting forward both cases.

This is important context for determining the stringency of the Competition Bureau's guidance and how best to ensure that there are no loopholes in the anti-greenwashing rules that could be exploited. In particular, the above demonstrates how important it is for companies to follow internationally recognized methodologies for evidence-based reporting, and not rely solely on industry association or self-reporting. Further, companies should not be able to use scenario modeling of speculative future action to advertise environmental benefits. While useful for informing plans to reduce emissions, scenario modeling, to which companies are not actually accountable, is insufficient evidence of environmental benefit without demonstrated progress and the allocation of appropriate funds to action the best-case scenario. Finally, given the influence of the fossil fuel industry's advertising on our ability to address the climate crisis, and the industry's fiscal capacity, the strongest possible penalties should be applied in cases of fossil fuel greenwashing, including a mandatory obligation to correct the misinformation publicly. Once the record has been publicly corrected, mandatory disclosure of how coal, oil, and gas cause climate change should also be applied to public-facing promotions.

Greenwashing claims have also been found in the plastics sector, particularly related to claims about the recyclability of products or packaging. The Competition Bureau reached an agreement with Keurig Canada in 2022 over the company's claims that its coffee pods were recyclable.<sup>11</sup> Changes to the *Competition Act* should serve to prevent such cases from arising by making it clear that it is against the law to make unsubstantiated claims about products. Implementation of this provision must align with proposed regulations under the *Canadian Environmental Protection Act* (CEPA) for recyclability and compostability labeling.<sup>12</sup> Furthermore, companies must be required to refrain from claims about the recyclability of their products if that processing results in a product other than plastic. Treating plastic waste with heat and/or catalysts to produce fuels or other chemicals does not amount to plastics recycling but is rather a waste management process that does not produce any significant amount of plastic for new products. Finally, plastic waste must not be considered an alternative to fossil fuels given that plastic is fossil fuel in another form. Companies should not be able to claim that burning plastic waste as fuel is substantively different from, or more sustainable than, burning oil, gas or coal.

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<sup>9</sup> The Narwhal (2013). A Short History of Greenwashing the Tar Sands, Part 1. Available at: <https://thenarwhal.ca/short-history-greenwashing-tar-sands/>

<sup>10</sup> Carl Meyer & Fatima Syed, (2024). "What do 'clean' and 'green' actually mean? Canadian watchdog receives complaints about environmental claims by Shell, RBC, Enbridge"  
<https://thenarwhal.ca/competition-bureau-greenwashing-investigations/>

<sup>11</sup> See

<https://www.canada.ca/en/competition-bureau/news/2022/01/keurig-canada-to-pay-3-million-penalty-to-settle-competition-bureaus-concerns-over-coffee-pod-recycling-claims.html>

<sup>12</sup> See the Government of Canada's regulatory framework paper from 2023:

<https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/recycled-content-labelling-rules-plastics.html>

Environmental Defence supports the government's efforts to regulate greenwashing, and recognizes these changes as a step in the right direction. But as previously noted, greenwashing is pervasive. The fossil fuel industry in particular has intentionally used misinformation and greenwashing tactics to delay climate action and effectively worsen the climate crisis. This history, and the severity of harms caused by climate change from fossil fuel emissions, demonstrates the need for oversight and rigorous enforcement of anti-greenwashing regulations. To truly address greenwashing with the urgency and seriousness that the climate crisis should demand, the government would ideally ban or limit any fossil fuel advertising that claims health or environmental benefits, as we know the health and environmental damage from fossil fuels is vast and existential. The minimum in the nearterm is that fossil fuels companies backup their environmental claims with credible evidence in line with the highest standards for internationally recognized methodologies, until more robust anti-greenwashing laws are implemented.

Further to our overall position of support for rigorous standards and robust enforcement of the *Competition Act*, EDC appreciates having the opportunity to review and respond to the questions provided by the Competition Bureau. Our feedback to the questions is outlined in the following section. Please note, the sequence of the questions has been slightly altered to avoid repetition.

**1. a) What kinds of claims about environmental benefits are commonly made about products or services in the marketplace? Why are these claims more common than others?**

When it comes to claims about environmental benefits, vague terms are often used to create a general positive impression without substantial information. Common claims about environmental benefits of products and services often use vague or undefined buzzwords and phrases, such as: green, clean, sustainable, climate-friendly, low-carbon, carbon-neutral, eco-friendly, eco-certified, natural, responsible, recyclable, compostable. These types of claims are more common because they avoid technical jargon and use simple language to entice customers with good feelings about potential purchases. But in doing so these terms often fail to provide evidence, substance, or even clear meaning behind such claims. For example, in relation to finance, phrases such as 'sustainable', 'responsible investing', 'socially responsible investing', or 'green' are used to connote investments with social and environmental benefits. Those who purchase funds labeled as such often presume that the financial product considers environmental factors, however, there is insufficient regulation or standards to verify these products and services.<sup>13</sup>

Claims about "carbon offsets" are also commonly used when advertising products or services that have an obviously negative or commonly understood environmental impact. For example, the public largely understands that flying is an emissions intensive mode of transportation, and so travel companies frequently advertise options for purchasing carbon offsets. However, experts have repeatedly shown these to be ineffective, rely on fraught calculations, and

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<sup>13</sup> United Nations Principles of Responsible Investment (2023). "A legal framework for impact: Canada" <https://www.unpri.org/download?ac=17981>

overestimate their benefits.<sup>14</sup> Greenwashing with offsetting schemes is often tied to “net-zero” pledges, especially in sectors with hard to abate emissions, where a company will make dubious claims about the use of offsets to reach net-zero. For example, investigation into Chevron’s net-zero pledge revealed that it primarily relied on offsets. Yet research by non-profit, transnational corporate watchdog Corporate Accountability found that 93% of the offsets purchased by Chevron and counted towards its climate targets in recent years were “too environmentally problematic to be classified as anything other than worthless or junk”.<sup>15</sup> A report by EDC and Oil Change International, which was reviewed and endorsed by fifteen organizations, found that all of the major oil and gas producers in Canada were using offsets in their strategies to try and reduce emissions.<sup>16</sup>

Claiming that plastic products are recyclable or compostable when they are not recycled or composted in practice at scale is also a common greenwashing tactic, particularly for consumer goods and packaging. While consumers are concerned about the impact of plastic packaging and waste on the environment and their health,<sup>17</sup> recycling claims can be used to imply that a product is more environmentally-friendly or sustainable than it is in practice. As well, claims that a product or package can be recycled or composted when it is not possible in practice leads to consumer anger.<sup>18</sup>

**1. b) What kinds of claims about environmental benefits are commonly made in the marketplace about businesses or business activities? Why are these claims more common than others?**

Vague terms (green, clean, sustainable, climate-friendly, eco-friendly, eco-certified, low-carbon, carbon-neutral, natural, responsible) are also commonly used to promote businesses and business activities. Future oriented statements are also common. This includes non-specific statements about a “cleaner/greener/brighter/better future” and phrases like “we’re on a path to reducing our emissions”, as well as more specific pledges or promises about climate action, “net-zero” or “carbon footprints”. When making forward looking statements, businesses should be required to include disclaimers that clarify that the claims are unverified. Promotion of brands as generally “green” is also done through associated imagery, key words, and tone of their marketing.

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<sup>14</sup> JD Shadel (2023) “Airlines want you to buy carbon offsets. Experts say they’re a ‘scam.’”  
<https://www.washingtonpost.com/travel/2023/04/17/carbon-offsets-flights-airlines/>

<sup>15</sup> Nina Lakhani (2023) “Worthless’: Chevron’s carbon offsets are mostly junk and some may harm, research”  
<https://www.theguardian.com/environment/2023/may/24/chevron-carbon-offset-climate-crisis>

<sup>16</sup> Dale Marshall, David Tong & Kelly Trout (2021). Big Oil Reality Check: Assessing the climate plans of Canadian oil and gas producers.

<https://environmentaldefence.ca/wp-content/uploads/2021/10/Big-Oil-Reality-Check-Canada-November-2021.pdf>

<sup>17</sup> Environmental Defence, “New Poll: 84 per cent of People across Canada Want Grocery Chains to Get Rid of Unnecessary Plastic,” July 31, 2024, available at:

<https://environmentaldefence.ca/2024/07/31/new-poll-grocery-plastic/>

<sup>18</sup> Polling commissioned by Oceana Canada revealed that 93 per cent of respondents are “upset and angry to learn that only 9 per cent” of plastics are recycled: <https://oceana.ca/en/blog/recycling-alone-cannot-end-plastic-disaster/>

“Net-zero” claims deserve particular scrutiny and guidance because they appear technical in nature, but are increasingly being disconnected from their intended meaning and applied using vastly different methodologies. The United Nations High-Level Expert Group on the Net-Zero Emissions Commitments of Non State Entities (“UN Expert Group”) has developed clear and robust guidance on net-zero commitments by non-state entities (i.e. businesses, financial institutions, cities, and regions).<sup>19</sup> Chaired by Catherine McKenna, former federal Minister of the Environment, the UN Expert Group’s guidance is based on credible existing initiatives like the Science Based Targets initiative and the UN’s Race to Zero. It makes 10 practical recommendations to bring integrity, transparency and accountability to net zero by establishing clear standards and criteria. Important to note is the recommendation that a net-zero pledge and progress reporting should cover *all* scope emissions and *all* operations along its value chain in all jurisdictions. These recommendations should inform the Bureau’s updated guidance.

Many oil and gas companies have in recent years advertised commitments to “net-zero” but exclude scope 3 emissions, which are the largest proportion of emissions associated with the fossil fuel industry.

Canada’s financial institutions frequently make claims about how they are addressing climate change in their business operations. The majority of major financial institutions in Canada have set ‘net-zero goals’. According to research provided by an Oxford University-based research team, no financial institutions in Canada have a detailed or credible plan about how they will meet their net-zero goals.<sup>20</sup> Net-zero commitments are also problematic in that they are often a commitment to future action that is not substantiated, though serves to delay action or the expectation of action in the near term.

We are also concerned about plastic waste being considered as a “low-carbon” alternative to other fossil fuels. Plastics are carbon-based and there is no evidence that burning plastic waste causes less air pollution or has less climate-warming potential than burning other fossil fuels. At the same time, the practice suggests there is a benefit to generating plastic waste as an energy feedstock,<sup>21</sup> which creates a perverse demand for plastic products, and particularly single-use plastics, that are harmful to the environment throughout their lifecycle<sup>22</sup> and not simply because they are overwhelming our landfills. Companies that burn plastic waste as fuel should not be able to claim it is “low carbon.”

Furthermore, companies that claim to recycle plastic must demonstrate that their process produces plastic products and that the feedstocks can be traced to marketable products. As it stands today, claims that plastic waste can be processed through “advanced” or “chemical” recycling into new plastic products have not held up to scrutiny.<sup>23</sup> In fact, the State of California has just launched a suit against ExxonMobile, majority owner of Imperial Oil and one of the

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<sup>19</sup> United Nations High-Level Expert Group on the Net-Zero Emissions Commitments of Non-State Entities (2023). *Integrity Matters: Net-Zero Emissions Commitments of Non-State Entities*. <https://www.un.org/en/climatechange/high-level-expert-group>

<sup>20</sup> Net Zero Tracker, (2024). “Companies” <https://zerotracker.net/#companies-table>

<sup>21</sup> See, for example,

<https://canada.constructconnect.com/joc/news/projects/2019/05/b-c-cement-plant-switching-lower-carbon-fuel-system>

<sup>22</sup> Jambeck and Walker-Franklin, “The impacts of plastics’ life cycle,” *One Earth*, Volume 6, Issue 6, 2023, pp. 600-606

<sup>23</sup> See <https://environmentaldefence.ca/wp-content/uploads/2023/05/Briefing-Note-Reject-chemical-recycling-May-2023.pdf>

world's biggest plastic producers, for misleading claims it makes about plastics recycling. California's suit charges that the company destroys 92 per cent of the waste it claims to recycle using its "advanced" process and that the ethane feedstock used to produce new plastics represents only 0.09 per cent of the total feedstock, with the rest – more than 99 per cent – being virgin ethane.<sup>24</sup>

Because these terms are increasingly used as branding buzzwords, and not in reference to legitimate standards, it is critical their use require the strongest possible version of an "adequate and proper substantiation in accordance with internationally recognized methodology."

**2. a) Are there certain types of claims about environmental benefits of products or services that are less likely to be based on adequate and proper testing? Is there something about those types of claims that makes them harder to test?**

Laboratory testing about the technical feasibility of waste management processes is not adequate to make claims that a product is recyclable or compostable in Canada. As proposed in the government's [Regulatory Framework Paper](#) on plastics labelling, companies must be required to demonstrate that their product or packaging is collected and processed in practice and at scale across Canada in order to label a product or package as recyclable or compostable. While we await regulations under CEPA on labeling, the Act is key to prevent further misleading claims on products and packaging.

**b) Are there certain types of claims about the environmental benefits of businesses or business activities that are less likely to be based on "adequate and proper substantiation in accordance with internationally recognized methodology"? Is there something about those types of claims that makes them harder to substantiate?**

Vague buzzwords and general "green" branding are less likely to be based on adequate and proper testing for both products and services, and for businesses and business activities. Vague terms like "low-carbon" are relative in nature, and therefore difficult to substantiate without an absolute measure of what "low-carbon" means. Buzzword terms are often used without any reference to legitimate standards, which is why it is critical their use require the strongest possible version of "adequate and proper substantiation in accordance with internationally recognized methodology."

Environmental claims that are based on self-reported data collected by the same entity making the claim are less likely to be based on adequate and proper testing. For example, a recent study from Megan He et al. (2024) found that emissions in Canada's oil sands sector were 1900% to 6300% greater than the emissions originally reported by industry.<sup>25</sup> Environmental Defence believes that any data used to justify an environmental claim should be collected and

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<sup>24</sup> State of California, *The People v. ExxonMobile*, September 2024, pp. 79-81: [https://oag.ca.gov/system/files/attachments/press-docs/Complaint\\_People%20v.%20Exxon%20Mobil%20et%20al.pdf](https://oag.ca.gov/system/files/attachments/press-docs/Complaint_People%20v.%20Exxon%20Mobil%20et%20al.pdf)  
<sup>25</sup> Megan He et al., "Total Organic Carbon Measurements Reveal Major Gaps in Petrochemical Emissions Reporting," *Science* 383, no. 6681 (January 26, 2024): 426–32, <https://doi.org/10.1126/science.adj6233>.



verified by an independent third-party organization to ensure accuracy, and should be publicly reported. Third party verification must be at the employer's expense. Third party verification is required in other government policies, such as the [Clean Hydrogen Investment Tax Credit](#). If the Competition Bureau decides to allow for self-reported data, we believe that in cases where third party investigation or evidence demonstrates those self-reported claims to be inaccurate, companies should be required to retract their claims and amend their reporting to align with the best available science or standards for reporting methods.

Claims relating to environmentally beneficial forms of investment are highly unlikely to be based on adequate and proper testing, because there are no federal standards or regulations regarding sustainable investments. In discussion of '[ESG \(Environmental, Social and Governance\) Related Investment Funds](#)', the Canadian Securities Administrators described the sustainable investing landscape in Canada as one full of misleading or unclear claims, lack of impact measurement and conflicts of interest. Due to the lack of adequate clarity and regulation relating to claims about the environmental impacts of investments, claims about environmental benefit are likely to be inadequately supported.

**3. a) What should the Bureau consider when it evaluates whether testing to support claims about the environmental benefits of products or services is “adequate and proper”?**

For testing to support claims about environmental benefits to be considered “adequate and proper” the tests should require robust evidence, be verified wherever possible by third parties, use standard methodologies that are supported by internationally recognized best practices or peer reviewed science or include, where applicable, Indigenous Traditional Ecological Knowledge.<sup>26</sup> Pledges to achieve targets in the future are greenwashing unless they are accompanied by credible, independently verified implementation plans. For products and services, it's also important that the full lifecycle be considered when assessing environmental impacts.

All environmental claims with respect to greenhouse gas emissions must account for both upstream (“direct”) emissions as well as downstream (“indirect”) emissions. This means that emissions accounting needs to include Scope 3 emissions, which are the result of activities not owned or controlled by the reporting entity and are often produced through combustion in other jurisdictions (e.g., exported oil and gas).

The inclusion of Scope 3 emissions is important when assessing environmental claims because Scope 3 emissions often represent the majority of an entity's total GHG emissions. These emissions are often unaccounted for, but are a critical component of a product or business activity's environmental profile. Any claims that do not include Scope 3 emissions risk misleading the public. Therefore, before an environmental claim about emissions can be made by any entity, that entity should be required to calculate and publicly disclose Scope 3 emissions and ensure that their data has been validated by a credible, independent third-party.

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<sup>26</sup> Commission for Environmental Cooperation (2024) *Traditional Ecological Knowledge Expert Group*. <http://www.cec.org/about/traditional-ecological-knowledge-expert-group/>

**3. b) What internationally recognized methodologies should the Bureau consider when evaluating whether claims about the environmental benefits of the business or business activities have been “adequately and properly substantiated”? Are there limitations to these methodologies that the Bureau should be aware of?**

The UK Competition and Markets Authority (“CMA”) has published a [Green Claims Code](#) that sets out six principles to give businesses greater clarity about how the CMA thinks the law translates into practice and what this means for businesses making environmental claims.<sup>27</sup>

Claims must:

- 1) Be truthful and accurate
- 2) Clear and unambiguous
- 3) Not omit or hide important relevant information
- 4) Be fair and meaningful
- 5) Consider the full lifecycle of the product or service; and
- 6) Must be substantiated.

Several reputable assurance standards exist for “net-zero” claims. These include: [Science Based Targets Initiative](#), the [Partnership for Carbon Accounting Financials](#), the [Paris Agreement Capital Transition Assessment](#), the [Transition Pathway Initiative](#), the [International Organization for Standardization](#), and the United Nations High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities recommendations as laid out in the [‘Integrity Matters’](#) report.

In writing a transition plan, businesses and institutions should, as a minimum, adhere to the guidance laid out by the United Nations High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities.<sup>28</sup> For a claim like “net-zero by 2050” this means a fully-costed plan that covers all Scope 1, 2, and 3 emissions, is based on existing and viable technology, and is accompanied by accountability mechanisms (e.g. interim targets and annual reporting).

Financial institutions should produce credible climate transition plans in accordance with recommendations written by sustainable finance experts [‘Roadmap to a Sustainable Financial System in Canada’](#).

**4. b) What other factors should the Bureau take into consideration when it evaluates whether claims about the environmental benefits of businesses or business activities are based on “adequate and proper substantiation in accordance with internationally recognized methodology”?**

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<sup>27</sup> Competition and Markets Authority (2021). Guidance - Green Claims Code: making environmental claims. <https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims>

<sup>28</sup> United Nations’ High-Level Expert Group on the Net-Zero Emissions Commitments of Non-State Entities (2022) Integrity Matters: Net-Zero Commitments by Businesses, Financial Institutions, Cities, and Regions, accessed 22 March 2023 online. (“UN Expert Group - Report on Net-Zero Commitments”)

It's critical that the highest quality of evidence be used to determine the validity of claims. Direct evidence is more substantial than modeled evidence. Self-reporting is often insufficient, as demonstrated by the example cited above where recent research found that emissions in Canada's oil sands sector were 1900% to 6300% greater than the emissions originally reported by industry.<sup>29</sup> Third party evidence, data, or academically peer reviewed sources must be sought and included in cases where self-reporting emissions and environmental impact is the current norm.

Additionally, while fossil fuel companies may be interested in promoting reductions in emissions, it should be reiterated and emphasized that coal, oil and natural gas, are never *actually* environmentally friendly. The burning of any fossil fuel contributes to climate change, regardless of emissions intensity, environmental performance compared to national or international peers, or emissions over time. While we still rely on fossil fuels for many aspects of our society and economy, oil and gas companies and industry associations are not entitled to marketing their products/businesses based on environmental benefits. A healthy discourse about energy in Canada must be based in facts, including this fundamental science of climate change.

Ensuring that claims made by businesses are evidence-based is integral to healthy business competition, and democratic debate. Our peers in other jurisdictions have already implemented stronger anti-greenwashing provisions and standards for making claims like “net-zero”.<sup>30, 31</sup> Requiring robust substantiation aligned with internationally recognized methodologies will strengthen Canadian businesses, which will help attract investment, and benefit Canadian companies in international jurisdictions that have already set similar standards.

**4. a) / 5. b) What challenges may businesses and advertisers face when complying with this provision?**

When the provision requires disclosure of scope 1-3 emissions and plans to reduce them, many businesses struggle with the availability of accurate scope 3 emissions data.

Businesses and advertisers will be required to source independently verified evidence to substantiate their claims, which may take time.

While we acknowledge that there may be initial work required for businesses to substantiate claims, we would again like to emphasize that promoting or marketing environmental or climate benefits is a business choice, so it is fair and right that the cost and burden of sourcing evidence for their claims fall on the business who would like to make those claims.

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<sup>29</sup> Megan He et al., “Total Organic Carbon Measurements Reveal Major Gaps in Petrochemical Emissions Reporting,” *Science* 383, no. 6681 (January 26, 2024): 426–32, <https://doi.org/10.1126/science.adj6233>.

<sup>30</sup> EU *Unfair Commercial Practices Directive*, 2005/29/EC, accessed [online](#), (“EU Unfair Commercial Practices Directive”), articles 5-9.

<sup>31</sup> European Commission (2023) Report on the *Proposal for a Directive of the European Parliament and of the Council amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information*, accessed [online](#)

5. a) / 6. b) **What other information should the Bureau be aware of when thinking about how and when to enforce this provision?**

**Disclosure:** Firms should be obligated to publicly disclose all supporting evidence on which they base their climate-related claims as soon as they make such claims available to the public.

**Monitoring:** Rather than rely mostly on complaints, enforcement agencies should proactively monitor claims made by firms to the public. The Competition Bureau should set climate-washing as a top enforcement priority, and should establish investigation teams that actively monitor the marketplace and publish guidelines dedicated to climate-related claims.

While we recognize that the issue of greenwashing is not specific to a particular industry, Environmental Defence requests that the Competition Bureau dedicate significant attention towards companies and/or industry associations from Canada's oil and gas sector in the implementation and enforcement of its new greenwashing provisions.

Recent evidence shows that the Pathways Alliance — a coalition representing the six largest oil sands producers in Canada — has been engaging in activities which would likely meet the criteria for greenwashing, especially with regards to “net-zero” emissions claims.

Following a two-year assessment of Pathways Alliance's public communications materials, Aronczyk, McCurdy, and Russill (2024) identified “instances of selective disclosure and omission, misalignment of claim and action, displacement of responsibility, non-credible claims, specious comparisons, nonstandard accounting, and inadequate reporting.”<sup>32</sup>

Additionally, new research from InfluenceMap, published in June 2024, outlined the tactics being used by the Pathways Alliance to block and stall meaningful climate action — such as the federal oil and gas emissions cap and new methane regulations. The findings from InfluenceMap demonstrate that despite its attempt to build and portray a climate-conscious brand, the Pathways Alliance has engaged in advocacy that is largely against climate regulations in Canada.<sup>33</sup>

**Enforcement and corrective action:** When the board detects that there may be a case of greenwashing, and claims are being made that cannot be easily and readily verified, the board should have the power to issue interim orders directing the company to cease marketing and promoting the suspect claims and to take action to provide customers with information correcting the misleading advertising.

For example, though Enbridge is being investigated by the bureau for misleading advertising, the company continues to promote gas as low-carbon, clean energy, and makes claims about the relative affordability of gas versus other heating options, while omitting heat pumps, the most cost effective option. In addition, the customers who have been on the receiving end of the misleading advertising claims have not received notice that Enbridge is under investigation, nor

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<sup>32</sup> Melissa Aronczyk, Patrick McCurdy, and Chris Russill, “Greenwashing, Net-Zero, and the Oil Sands in Canada: The Case of Pathways Alliance,” *Energy Research & Social Science* 112 (June 1, 2024): 103502, <https://doi.org/10.1016/j.erss.2024.103502>.

<sup>33</sup> InfluenceMap, “The Canadian Oil Sands Playbook: An Analysis of Pathways Alliance,” accessed August 21, 2024, <https://influencemap.org/briefing/Pathways-Alliance-28367>.

have they been sent information detailing some of the potentially misleading elements of Enbridge's marketing materials. This will have material impact, as Enbridge is seeking to persuade potential customers to spend thousands of dollars to convert to gas, a decision that is not only costly but will have long lasting impacts, given the average lifetime of a gas furnace.

Environmental Defence urges the Bureau to stand up for strong anti-greenwashing provisions in the *Competition Act* by ensuring your guidance demands a high standard of evidence about green claims and commitments. Only when truth in advertising is maintained, and scrutiny of greenwashing sufficiently ambitious, will we have effective and fair competition in Canada.