

September 26, 2024

Deceptive marketing practices Directorate
Competition Bureau
50 Victoria Street
Gatineau, Quebec
K1A 0C9

Chartered Professional Accountants of Canada (**CPA Canada**) appreciates the opportunity to provide feedback on the public consultation launched by the Competition Bureau (the **Bureau**) on the new provisions in the Competition Act focused on unsupported environmental claims, commonly known as greenwashing, including requirements that claims about the environmental benefits of a product be supported by adequate and proper testing; and requiring that claims about the environmental benefits of a business or business activity be based on adequate and proper substantiation in accordance with an internationally recognized methodology.

CPA Canada is one of the most influential accounting organizations in the world. Working with the provincial, territorial and Bermudian regulatory bodies, CPA Canada supports the profession and represents Canadian CPAs at the national and international levels. Nationally, CPA Canada acts in the public interest to promote transparency in financial markets, prepare CPAs for a rapidly evolving business environment through extensive guidance and programming, and contributes to standard setting and policy making. Globally, CPA Canada works together with international bodies to build a stronger accounting profession worldwide.

CPA Canada has been actively involved in domestic and global sustainability-related policy, regulatory and standards-setting initiatives and is a strong supporter of the International Sustainability Standards Board (**ISSB**) in setting a global baseline for sustainability disclosures. We also provide funding, staff and other resources to support the initial operations of the Canadian Sustainability Standards Board (**CSSB**). The CSSB develops Canadian Sustainability Disclosure Standards that align with the global baseline standards developed by the ISSB – but with modifications to serve the Canadian public interest. We are an active member of the IFRS Foundation’s Partnership for Capacity Building, contributing to the development of [resources](#) to support the high-quality implementation of IFRS Sustainability Disclosure Standards in Canada and globally. We have conducted extensive research on sustainability reporting and sustainable finance trends and challenges and issued many [resources](#) on these topics.

CPA Canada’s response to the Bureau’s consultation is informed by many years of research and engagement on the trends and challenges related to sustainability reporting. Additionally, our response has

been developed in consultation with CPA Canada's Sustainability Advisory Committee and Sustainability Preparers Working Group which are comprised of individuals with extensive subject matter expertise, including assurance practitioners at large accounting firms, as well as preparers of sustainability reporting at Canadian public companies from a variety of sectors.

Our response is primarily focused on the requirements related to claims about the environmental benefits of a business or business activity. It is critical that investors, consumers, and other interested and affected parties have balanced and accurate sustainability-related information. We believe that the development of international sustainability reporting standards is a key tool to mitigate greenwashing and promote reliable, accurate, and consistent sustainability reporting.

The new provisions related to public environmental claims have caused significant confusion and uncertainty. Based on our outreach, it is clear that organizations will face significant costs and challenges in applying and interpreting the new provisions. Further clarity on the scope of the provisions is necessary given the broad range of communications that are potentially captured. We note that substantiation of claims must be based on an "internationally recognized methodology", however, it is not clear what methodologies would be acceptable. It is also not clear if some form of external assurance is required in order to comply.

There is also confusion about how the provisions interact with new international and Canadian sustainability disclosure standards and regulatory developments in progress in Canada. The Bureau must recognize these interrelated initiatives in developing its guidance.

As an unintended consequence of these new provisions, there may be further divergence and inconsistency in sustainability reporting by Canadian companies because there is so much uncertainty in applying the provisions.

We believe that some amendments to the new provisions are necessary to alleviate the concerns identified. Recognizing that the Competition Bureau's consultation focuses solely on input to inform enforcement guidance, we believe a significant amount of guidance is needed to enable consistent application of these provisions.

We have outlined below certain issues we believe require closer attention.

Current sustainability reporting landscape

Sustainability reporting has become more prevalent in recent years and many companies are providing sustainability-related disclosures in good faith based on significant underlying efforts to provide transparency on the performance of their products, business, and business activities. Companies are increasingly being asked by investors and other interested and affected parties about their net-zero targets and carbon emission reduction activities. These forward-looking disclosures are a key component of the new IFRS Sustainability Disclosure Standards issued by the ISSB, the proposed Canadian Sustainability Disclosure Standards issued by the CSSB, and could form part of impending climate-related disclosure requirements from the Canadian Securities Administrators (**CSA**). The CSSB's standards are expected to be issued by the end of the year and the CSA has indicated that once the CSSB consultation is complete and its

standards are finalized, the CSA anticipates seeking comment on a revised rule setting out climate-related disclosure requirements.

The ISSB standards require disclosures around quantitative and qualitative climate-related targets, climate-related scenario analysis and transition plans, as well as the anticipated effects of climate-related risks and opportunities on the entity's financial position, financial performance and cash flows over the short, medium and long term. These forward-looking disclosures may be subject to significant judgments, assumptions and estimation uncertainty. We are concerned with the chilling effect the new provisions could have on these disclosures, particularly if the Bureau does not provide clear and useful guidance to drive transparent and predictable enforcement. We have also heard from companies that they would benefit from safe harbour provisions, even if only for an initial implementation period, particularly since comprehensive guidance has not been issued to date.

Interaction with other Canadian sustainability disclosure requirements

It is unclear to us how the new provisions consider and will interact with the oversight regimes of other Canadian regulatory bodies such as the CSA and the Office of the Superintendent of Financial Institutions (OSFI). While a climate-related disclosure rule is being developed by the CSA, existing Canadian securities legislation already contains disclosure requirements relating to environmental matters, including in the Management's Discussion and Analysis and the Annual Information Form. In March 2023, OSFI issued Guideline B-15 which sets out its expectations for the sound management of climate-related risks for federally regulated financial institutions (FRFIs) and related disclosures. Further, in March 2024, OSFI released updates to Guideline B-15, which ensure that the expectations for FRFIs in the Guideline's Annex 2-2 align with IFRS S2 *Climate-related Disclosures*.

There is a potentially unnecessary regulatory burden for Canadian companies that are subject to oversight by multiple regulators, in respect of the same disclosures, and with potentially differing or even incompatible requirements to be met. For example, Canadian securities legislation includes detailed requirements for forward-looking information which encompasses forward-looking climate information. Additionally, Canadian securities legislation contains general prohibitions against making statements that are materially misleading or untrue. We note similar legislation in the EU related to environmental claims – the proposed EU Green Claims Directive - does not apply to environmental information reported in accordance with specific regulations and national or international sustainability standards¹. The Bureau should consider a similar approach to the scope of its provisions. **We encourage the Bureau to work closely with other Canadian regulatory bodies to minimize regulatory burden on companies.**

¹ See paragraphs 10 and 11 of the Proposal for a Directive on substantiation and communication of explicit environmental claims (Green Claims Directive): [Proposal for a Directive on green claims - European Commission \(europa.eu\)](https://european-council.europa.eu/media/en/press-summaries/doc.asp?id=54242)

Adequate and proper substantiation in accordance with an internationally recognized methodology

We understand that there are well-established precedents for substantiation of claims related to products, so this provision may be easier to understand. However, the provision for substantiation of claims related to the business and business activities in accordance with an internationally recognized methodology is broad, novel, and unclear. **Given the vast range of communications that are covered by these provisions, there is a need for clarity on the type of statements that would be in scope.**

It is also unclear what the Bureau considers to be substantiation and whether this includes independent third-party assurance over the information. There are significant efforts underway, both internationally and domestically, to address the need for sustainability assurance standards that support the consistent performance of high-quality sustainability assurance engagements, and current or impending regulatory requirements for assurance over sustainability information. Third-party assurance is required in some jurisdictions for certain sustainability disclosures. For further information, please see our most recent [resource](#) on third-party assurance over sustainability information. **It is critical that the Bureau explain if and how the new provisions consider third-party assurance over sustainability information.**

We have significant concerns with the new provision requiring adequate and proper substantiation in accordance with 'an internationally recognized methodology' for claims related to the business and business activities as this term is not defined.

We recommend that the Bureau address the following questions about an 'internationally recognized methodology':

- What constitutes a methodology? Is there a distinction between a methodology versus a disclosure standard/framework under the provisions? Where applicable, we believe internationally recognized methodologies should include the ISSB standards and the impending CSSB standards which have been adapted from the ISSB standards.
- What body needs to recognize the methodology?
- What if there are jurisdiction-specific methodologies that are more relevant than an internationally recognized methodology? (e.g., local industry-developed standards, the EU taxonomy for sustainable activities, European Sustainability Reporting Standards, or other bespoke methodologies)
- What is the treatment for disclosures made in accordance with an internationally recognized disclosure framework or standard that requires a disclosure in general terms, but does not specify how to calculate or develop the disclosure/statement in detail?
- Is full compliance with all aspects of the methodology required, or is partial compliance acceptable?
- What if there is no internationally recognized methodology for developing the disclosure?
- What is the expected level of detail and documentation required to support substantiation?

We also recommend that the Bureau maintain a publicly available list of internationally recognized methodologies that it deems acceptable in complying with this provision, which it reviews and updates on a regular basis.

Detailed and specific guidance on the above points, amongst others, is particularly important given the reverse onus clause and significant penalties for non-compliance.

Thank you for the opportunity to comment on this consultation. Reliable, consistent, and comparable sustainability information plays an important part in enabling informed purchasing and investment decisions. However, we believe that the new provisions in their current form are challenging to operationalize. We would be pleased to share further insights and answer any questions you may have as you advance this important work. Please contact Rosemary McGuire, Vice President, Member Experience (rmcguire@cpacanada.ca).

Yours truly,

A handwritten signature in black ink, appearing to read 'Pamela Steer', written in a cursive style.

Pamela Steer, FCPA, FCA

President & CEO