

September 27, 2024

Deceptive Marketing Practices Directorate
Competition Bureau
50 Victoria Street
Gatineau, Quebec
K1A 0C9

Submitted by email to: greenwashingconsultationecoblanchiment@cb-bc.gc.ca

RE: Public Consultation on Competition Act's New Greenwashing Provisions

The Ontario Federation of Agriculture (OFA) is pleased to provide comments to the Competition Bureau expressing our concerns regarding provisions newly added to the *Competition Act* that explicitly target greenwashing and environmental claims concerning climate change.

OFA is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations administered by all levels of government. We are passionate and dedicated to ensuring that the agri-food sector and rural communities are considered and consulted with for any new or changing legislation that would impact the sustainability and growth of our farm businesses.

OFA is committed to protecting agricultural lands in Ontario and ensuring that our farmers can continue to grow food for today and for future generations. We maintain that agricultural activities make the highest value and best use of arable land, and that agriculturally managed landscapes provide environmental and ecological co-benefits for the people of Ontario when used for normal farm practices.

OFA supports the efforts of the Competition Bureau to improve honesty and transparency regarding claims that a product or service provides environmental benefits, and we support measures to improve competitiveness across the agriculture and agri-food sector. Ensuring Ontario farmers have access to competitive markets is important to the sustainability of our farm businesses and farm families.

We appreciate that the Competition Bureau is conducting consultations on how to best implement these new provisions. However, it is important that a cautious approach is taken given the current lack of guidance with respect to the interpretation and application of these new provisions.

Internationally Recognized Methodology

OFA is concerned about the application of the new provisions, specifically 74.01(1)(b.2):

74.01 (1) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,

(b.2) makes 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 that is not based on adequate and proper substantiation in accordance with internationally recognized methodology, the proof of which lies on the person making the representation;

Ontario's farmers are proud of the progress they have made to reduce greenhouse gas emissions and enhance and protect our environment without compromising Canada's position as a global leader in the production of sustainable, nutritious food. Farm businesses and organizations may choose to represent their commitment to environmental improvement in their advertising or company websites. Common expressions to the marketplace most often centre around actions being taken on the farm that produce environmental benefits or have the intended effect of producing an environmental benefit. This includes statements concerning the adoption of new technology and innovative practices that improve the sustainability of operations, minimizing environmental impact by efficient use of resources, or a commitment to continuously improve environmental outcomes.

We are concerned that increased vigilance around greenwashing may serve to penalize or silence agricultural and food companies that are trying to do better, and want to express that to the public, but do not have a practical or affordable, “internationally recognized methodology” with which to compare themselves. This should not be the intent of these new provisions.

Farm businesses that make sustainability claims often do so by following environmental beneficial management practices (BMPs)¹. Many BMPs are backed by significant scientific research that suggests implementing certain BMPs will produce an environmental beneficial outcome. However, farmers are managers of biological systems and while there is no doubt that BMPs provide agri-environmental benefits, their measurement and verification do not often fit nicely into a quantitative methodology where actions on the farm produce an immediate and direct environmental beneficial result. This does not mean however, that claims by a farm business that they are working towards sustainability or taking actions against climate change mitigation are invalid.

OFA recommends that where a farm business is making claims regarding their efforts to achieve sustainability or actions to being taken to mitigate the causes of effects of climate change, proof that they are following established, locally applicable BMPs should be sufficient to substantiate those claims. The requirement for an “internationally accepted methodology” should only be required where there are specific, quantitative claims being made of a product “restoring the environment or mitigating the environmental and ecological causes or effects of climate change”. For example, a business making claims of a specific amount of greenhouse gas emissions (CO₂e) reduced, sequestered, avoided, or destroyed, should require an “internationally accepted methodology” to quantify those amounts.

Private Rights of Action

OFA is also concerned about the additional provision in C-59, set to commence on June 20, 2025, that introduces private rights of action, allowing private parties to more easily bring greenwashing claims directly before the Competition Tribunal.

¹ Examples of Beneficial Management Practices (BMPs) used in farming can be found at: <https://bmpbooks.com/>

The agricultural sector is often the target of baseless claims and significant negative misinformation campaigns by various special interest groups. These claims are not based on any “internationally accepted methodology” and can translate into negative perceptions of agricultural production, ultimately harming the sector. OFA is concerned that the provisions in C-59 could allow for increased frivolous and vexatious complaints to the Competition Tribunal meant only to harass agricultural businesses or disrupt normal operations. Again, we believe the intention of these new provisions should not be to silence farm businesses and organizations out of fear that environmental groups, competitors, or consumers will challenge these environmental claims made in good faith that may not have a practical “internationally accepted methodology”.

OFA insists that strong measures be put in place to protect agricultural businesses from frivolous and vexatious complaints to the Competition Tribunal.

OFA appreciates the opportunity to provide comments to the Competition Bureau regarding these new provisions in the Competition Act. We agree that truth and accountability are cornerstones of fair competition. The interpretation of these new provisions should not serve to silence companies that, in good faith, want to communicate publicly about the work they are doing to improve their environmental performance, including addressing the causes and impacts of climate change.

Sincerely,



Drew Spoelstra
President

cc: OFA Board of Directors