



Deceptive marketing practices Directorate
Competition Bureau
50 Victoria Street
Gatineau, Quebec
K1A 0C9
Via email: greenwashingconsultationecoblanchiment@cb-bc.gc.ca

27 September 2024

Subject: Public consultation on *Competition Act's* new greenwashing provisions

SeaChoice is a Canadian sustainable seafood partnership among the David Suzuki Foundation, Ecology Action Centre, and Living Oceans Society. Established in 2006, SeaChoice has positioned itself as a credible watchdog within the Canadian and global seafood market space. Our work includes accelerating the sustainability actions of major grocers and seafood brands, and other supply chain actors, including certification schemes, to achieve environmental and social improvements in fisheries and aquaculture production.

SeaChoice also proactively engages with and holds to account seafood eco-labels. For over 15 years, SeaChoice member groups have been active stakeholders in the Aquaculture and Marine Stewardship Councils; from representation on Salmon Aquaculture Dialogue Steering Committee, several advisory groups, fishery and farm audits, as well as formal complaints and objections. SeaChoice was a Steering Group member of the International Social and Environmental Alliance for Labelling (ISEAL)'s Code of Good Practice revision. We also work with regional stakeholders around the world on watchdogging eco-labels and are founding members of the Make Stewardship Count coalition.

In 2020, we conducted the first investigation of the rigour of seafood environmental claims in the Canadian retail marketplace. Overall, we found misleading and unsubstantiated claims are present on products sold by Canadian retailers, with the potential to undermine improvements truly aimed at sustainability – highlighting the need for clear robust guidance and enforcement by government authorities.

Please find further details in our submission below.



Feedback re: new provision of the law relating to statements, warranties or guarantees of a product or service’s environmental benefits; and Feedback re: new provision of the law relating to representations made about environmental benefits of businesses and business activities.

Q: What kinds of claims about environmental benefits are commonly made about products or services in the marketplace?

According to the International Organisation for Standardisation (ISO) there are three types of environmental labelling claims and declaration schemes: third-party labels (e.g., certifications and endorsements), self-declared claims, and life-cycle claims.¹

For seafood products, green labelling claims typically refer to the environmental impact associated with the fishery or farming practices. Life-cycle claims on seafood products have not been observed in the Canadian marketplace to date.

SeaChoice’s study, *Certification, Verification or Fabrication? an investigation of seafood environmental claims in Canadian retailers*,² documented the prevalence, verifiability and quality of environmental claims in the Canadian retail marketplace.

Our study investigated the commonly found environmental claims on seafood products – third-party labels and self-declared claims. For third-party labels, we categorized certifications and endorsements separately given that there are distinct differences between these environmental claim types. The following is an explanation of each claim type:

1. **Certifications:** A certification relies on compliance with criteria created either internally or through an external multi-stakeholder process. These criteria are held by the “standard-holder” and are typically implemented by a third-party auditor. The standard-holder can be from a non-government organization, industry, government agency or a hybrid of these. The most prominent global seafood eco-certification programs in the Canadian market are the Marine Stewardship Council (MSC) for wild fisheries and the Aquaculture Stewardship Council (ASC) and Best Aquaculture Practices (BAP) for farmed seafood.
2. **Endorsements:** Several conservation groups provide seafood rankings or recommendations based on a set methodology that evaluates a seafood’s environmental impacts. Fisheries and farms, usually at a regional or industry-wide level, are assessed using the set methodology. The seafood assessment’s final ranking is assigned using the group’s defined thresholds. Some ranking groups partner with businesses and, in turn, endorse certain seafood products that meet their defined threshold (e.g., Ocean Wise Recommended, Seafood Watch “Best Choice” and “Good Alternative”). Endorsements can also be provided by groups that endorse certain harvest

¹ <https://www.iso.org/files/live/sites/isoorg/files/store/en/PUB100323.pdf>

² <https://www.seachoice.org/wp-content/uploads/2020/09/Sustainability-Claims-Study-High-Quality.pdf>

practices (e.g., Earth Island Institute’s Dolphin Safe label, which approves tuna fishing companies that do not chase, kill or set nets on dolphins); or verify where a seafood item has been caught (e.g., the Alaska Seafood Marketing Institute’s origin claim: Alaska Seafood “wild, natural and sustainable” label).

3. Self-declared claims: Some seafood businesses, including retailers and wholesalers, choose to self-declare or claim that they offer sustainable seafood (e.g., a seafood product is marketed as “sustainable” or “responsible” but with no third-party verification). The transparency and rigour of the criteria and the system behind the claim can vary greatly between one claim and the next. This type of claim typically lacks any independent oversight and the decision to use the claim is made in-house by the company.

Our study gathered data about environmental claims by going to 18 supermarket locations across five Canadian cities and provinces: Vancouver, British Columbia; Saskatoon, Saskatchewan; Toronto, Ontario; Montreal, Quebec; and Halifax, Nova Scotia. Our sample consisted of 234 environmental claims across 181 seafood products.

The 234 seafood environmental claims we found consisted of 102 **self-declarations** (i.e., private company claims), 77 **endorsements** (e.g., Ocean Wise, Dolphin Safe) and 55 **certifications** (e.g., Marine and Aquaculture Stewardship Councils).

Self-declared claims (n=102) were the most frequent environmental claim type across the Canadian retail market. That means most claims in the Canadian market are not subject to any independent oversight or standard.

Further, eight out of every ten (86 out of 102) self-declared claims were found to be using vague and non-specific claims such as “sustainable” “responsible” and “ocean-friendly” on product packaging. The International Organization for Standardization (ISO) standard for self-declared environmental claims (ISO14021) states a claim should avoid being general or broad in nature and should instead be specific to the environmental benefit. Vague and broad terms such as “sustainable” “environmentally friendly” imply being environmentally benign. Vague and non-specific claims were found in nearly all seafood product types including those associated with unsustainable practices.

In addition, nearly a quarter (24 out of 102) of self-declared claims use the term “sustainable” (or a variation of) despite the recommendation by ISO guidelines not to do so given the term ‘sustainability’ is continually being redefined and is therefore difficult to measure and substantiate. Claims of sustainability were found in nearly all seafood types, including those often associated with unsustainable practices such as farmed salmon, farmed shrimp, and tuna.

Q: Why are these claims more common than others?

The rampant prevalence of self-declared claims – especially ones that are broad and vague in nature – suggests guidelines and legislation to date have been insufficient for deterring such claims.

This is likely exacerbated by the fact there are no Canadian regulations that define the term “sustainability”, or the like; meaning its interpretation is left to those who claim it. This ambiguity allows the potential for questionable claims to enter the market.

Q: 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?

Overall, we found that a third of all claims lacked publicly available evidence to back them up. **Self-declared claims** were the worst offenders with 41 of 102 claims lacking the publicly available evidence needed to substantiate them. Verifying the sustainability of products with self-declared claims was the hardest – only 36 of 102 self-declared claims were verified. Therefore, six out of every ten self-declared claims had unverifiable claims of sustainability. We also found nine self-declared claims on products for which the information and evidence provided indicated that they were made from unsustainable sources. These claims are, therefore, misleading consumers.

While **endorsements** had a higher rate of publicly available evidence to back up their claims (e.g., approved product/company lists on NGO websites), they too are not without their challenges. For example, 12 endorsement claims failed to provide public evidence. In addition, 33 out of 77 endorsement claims could not be verified as coming from sustainable fisheries or farms. One reason was the divergence of endorsement claims that are single-issue specific (i.e., consider the capture and killing of dolphins in tuna nets) and those that are more encompassing (i.e., consider all species of incidental catch, stock status, ecosystem impacts, etc.). Another reason was not having enough information to determine whether the product’s source was sustainable or not (e.g., skipjack canned tuna is considered ‘sustainable’ when caught without the use of fish-aggregating devices (FADs); but ‘unsustainable’ when caught using FADs).

While **certifications** were found to have publicly available evidence such as chain-of-custody, certificates, evaluation criteria and audit reports, it is important to note that certification schemes have been increasingly criticized as being ‘Not Fit for Purpose’. Their credibility is waning with academics and environmental organisations alike.^{3 4 5 6} Certifications have also been accused of greenwashing through formal complaints in several jurisdictions worldwide.

³ <https://www.msi-integrity.org/not-fit-for-purpose/>

⁴ <https://www.seachoice.org/wwf-review-confirms-aquaculture-eco-certifications-in-need-of-urgent-reform/>

⁵ <https://www.nature.com/articles/s44183-024-00074-6>

⁶ https://www.greenpeace.org/static/planet4-international-stateless/2021/04/b1e486be-greenpeace-international-report-destruction-certified_finaloptimised.pdf

For example, Best Aquaculture Practices and GLOBALG.A.P. certifications are listed in a formal greenwashing complaint, submitted to the Australian Competition and Consumer Commission, for continuing to certify salmon farms that have been identified by Australia’s leading scientists as being a “catastrophic” threat to the endangered Maugean skate.⁷ In the USA, major seafood brands that utilize the Marine Stewardship Council certification are facing class-action lawsuits over their sustainability claims;⁸ and in Europe, a grocer was served a formal notice over their source of canned tuna which includes MSC certified fisheries.⁹

SeaChoice’s review of all Canadian MSC and ASC certifications revealed several problematic findings.¹⁰ For MSC, we found little change to fishery practices on the water to directly improve their impacts on habitat, non-target species and ecosystem function.¹¹ We found significant timeline extensions and flexible interpretations of the application of Standard requirements across several certifications. For ASC, we found weakening of (or exemption from) standard requirements enabled farms to be certified despite having significant environmental impacts (e.g., high sea lice loads, marine mammal deaths).¹² Our Global Review of the ASC Salmon Standard confirmed such weakening of environmental standard requirements is common practice across all salmon farming jurisdictions.¹³

In simple terms, certifications can also act as a means of greenwashing and/or misleading consumers with their promises. An example of this was the recent daylighting of evidence of environmental damage associated with the Best Aquaculture Practices certification in an open letter from more than 70 environmental, animal welfare, and community groups from 18 countries.¹⁴ The letter listed evidence of numerous BAP certified farms and facilities associated with ecosystem degradation, illegal activity, and/or negative impacts to endangered species. Examples were found in all major salmon farming regions: the U.S., Norway, Chile, Canada, Scotland, and Australia.

Q: 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?

Building a green appearance beyond the physical constraints of a product label means companies often utilize a number of avenues and platforms to communicate and potentially embellish their environmental credentials, whether through online websites, social media,

⁷ <https://www.edo.org.au/2023/12/05/extinction-greenwashing-supermarkets-target-of-accs-complaint-over-misleading-salmon-claims/>

⁸ <https://www.seafoodsource.com/news/premium/supply-trade/bumble-bee-conagra-face-usd-5-million-class-action-sustainability-claims-lawsuits>

⁹ <https://thefishingdaily.com/latest-news/bloom-sends-carrefour-a-formal-notice-over-tuna-fishing-abuses/>

¹⁰ <https://www.seachoice.org/our-work/eco-labels/whats-behind-the-label-report/>

¹¹ <http://www.seachoice.org/wp-content/uploads/2017/09/A-Decade-of-MSC-Certification-in-Canada-Technical-Report-SeaChoice-September-2017-Final.pdf>

¹² <http://www.seachoice.org/wp-content/uploads/2017/09/ASC-SeaChoice-Technical-Report-FINAL.pdf>

¹³ <https://www.seachoice.org/asc-global-review/>

¹⁴ <https://www.seachoice.org/wp-content/uploads/2024/05/BAP-Open-letter.pdf>

traditional advertisements, industry public relations talking points, and/or corporate sustainability reports.

The salmon farming industry often uses **misleading and incredible claims that overstate or exaggerate achievements**. For example, the salmon industry often claims that ‘salmon aquaculture plays an important role in feeding the world’ and/or ‘eat a farmed fish, save wild fish’ (and the like).¹⁵ We contend that this is a misleading claim given that farmed seafoods that rely on wild fish inputs consume about 15-18 million tons of wild fish per year, approximately 17 percent of all global fisheries landings.¹⁶ Many of these “reduction fisheries” are in decline worldwide.¹⁷ Scientists estimate around 90 percent of aquaculture-directed catch consists of edible wild fish that could be a primary food source.¹⁸ Studies suggest a shift away from carnivorous feed species (e.g., salmon) to unfed species such as shellfish and seaweed aquaculture to feed the world sustainably.^{19 20}

The salmon farming industry also uses **selective disclosure within their claims**. Salmon farming corporations frequently market their products as having a low carbon footprint in a selective and aggregated manner.²¹ The industry often portrays its product as ‘climate-friendly’ based on a narrow set of attributes that distracts consumers from the companies’ greater environmental impact. They often lack appropriate scientific citations or evidence to back up their claim. On the rare occasion detail is provided, not all stages of a Life Cycle Analysis²² and Greenhouse Gas²³ emissions are included. Typically, scope 3 GHG and parts of scopes 1-2 are omitted. This omission is not noted in company advertising. Ignoring scope 3 is particularly significant when air freight is used to export farmed salmon overseas. Claims may be presented that use data for “seafood” or “aquaculture” as if they apply equally to farmed salmon. Lumping low carbon impact aquaculture such as farmed shellfish with salmon is misleading.²⁴ While salmon farmers may compare their production to terrestrial farmed animals such as beef and pork, they intentionally don’t mention other protein sources that have lower footprints than farmed salmon (e.g., wild fisheries, other aquaculture species such as shellfish, and plant-based proteins).²⁵ Studies show that GHG emissions from the feed for farmed salmon (and chicken) are significant but are largely overlooked when calculating the sector’s footprint. In fact, GHG analysis showed that the feed component of salmon production accounted for more than 55%

¹⁵ <https://globalsalmoninitiative.org/en/about-salmon-farming/>

¹⁶ <https://openknowledge.fao.org/items/b752285b-b2ac-4983-92a9-fdb24e92312b>

¹⁷ <https://drive.google.com/file/d/1e02lh273IFWp5QV1jhs58XkrXq-NmccK/view>

¹⁸ <https://onlinelibrary.wiley.com/doi/10.1111/faf.12209>

¹⁹ <https://oceanpanel.org/wp-content/uploads/2022/05/The-Future-of-Food-from-the-Sea.pdf>

²⁰ <https://www.pnas.org/doi/10.1073/pnas.1404067111>

²¹ <https://mowi.com/caw/sustainability/>

²² Life Cycle Assessment is defined as a ‘cradle to grave’ tool used to quantify the environmental impacts of a system throughout its entire life cycle, including production and consumption processes. Further information: <https://www.rit.edu/sustainabilityinstitute/blog/what-life-cycle-assessment-lca>

²³ <https://ghgprotocol.org/corporate-standard>

²⁴ <https://www.pnas.org/doi/full/10.1073/pnas.1801692115>

²⁵ <https://www.sciencedirect.com/science/article/pii/S004896972205690X>

of its emissions.²⁶ This is similar to another study that found crop feed materials account for 39% of total aquaculture emissions. When the emissions arising from fishmeal production, feed blending and transport are added, feed production accounts for 57% of emissions.²⁷

Q: 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”? And; 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”?

All potentially misleading environmental claims should be evaluated regardless of type. We strongly advise that the Bureau does not simply defer to certification schemes as “adequate and proper” tests. In addition to the fact that many certifications have been credibly criticized for certifying questionable fisheries and farms as ‘sustainable’ and ‘responsible’; the OECD Due Diligence Guidance for Responsible Business Conduct stipulates that certification does not equate to due diligence.²⁸ That is, regardless of whether a product is certified, a responsible company still ought to ensure adverse environmental harm is not associated with a product. Certification of a product contributing to adverse environmental harm is by definition greenwashing. Therefore, we recommend that the onus is placed on the company(ies), making the environmental claims on products, to demonstrate that due diligence was conducted on the product’s environmental impact using published, peer-reviewed and internationally recognized science-based evidence.

Key Recommendations

SeaChoice recommends that the Competition Bureau establish robust guidance for meeting the new greenwashing provisions which:

- i) incorporates and is applicable to all types of claims, including certifications, endorsements, and self-declarations.
- ii) includes a list of specific claims, marketing terms and practices that would be considered in breach of ISO14021 Environmental labels and declarations standard²⁹ due to being vague and broad. This should include, but not be limited to, generic claims such as “sustainable” “responsible” “eco-friendly” “ocean-friendly” “climate friendly” “carbon neutral” “green”. This should apply to written claims, logos and any other potential marketing.
- iii) requires demonstration by companies that due diligence was conducted on the product’s environmental impact using published, peer-reviewed and internationally

²⁶ <https://www.theguardian.com/environment/2023/feb/13/food-for-thought-carbon-footprint-of-salmon-and-chicken-farming-mostly-stems-from-feed-study-suggests>

²⁷ <https://www.frontiersin.org/journals/sustainable-food-systems/articles/10.3389/fsufs.2022.994840/full>

²⁸ <https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>

²⁹ <https://www.iso.org/standard/66652.html>

- recognized science-based evidence before applying an environmental claim (as per the OECD Due Diligence Guidance for Responsible Business Conduct).³⁰
- iv) preferably requires environmental claims be based on a full lifecycle assessment (i.e., cradle to grave) to ensure a product's complete environmental impact from extraction, processing of raw materials, manufacturing, distribution, use and final disposal is reflected accurately in any claim as per ISO 14040 and 14044 Life Cycle Assessment Best Practices standard.^{31 32}
 - v) requires climate-related claims to be based on methodology aligned with ISO14064 GHG Protocols³³ that includes scopes 1-3 greenhouse gas emissions and the adoption of mandatory disclosure.
 - vi) requires companies making claims to make the evidence to back up their claims publicly available and easily accessible.

³⁰ <https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>

³¹ <https://www.iso.org/standard/37456.html>

³² <https://www.iso.org/standard/38498.html>

³³ <https://www.iso.org/standard/66453.html>