



Deceptive marketing practices Directorate
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Via email: greenwashingconsultationecoblanchiment@cb-bc.gc.ca

Subject: Public consultation on proposed guidelines concerning environmental claims

SeaChoice is a Canadian sustainable seafood partnership among the David Suzuki Foundation, Ecology Action Centre and Living Oceans Society. SeaChoice 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.

This submission follows on from our [first submission](#), dated 27th September 2024, during the first public consultation on the Competition Act's new greenwashing provisions.

All potentially misleading environmental claims, including certifications, should be evaluated

The proposed guidelines, as drafted, provide an extraordinary amount of leeway regarding what can qualify as "internationally recognized methodology" in order to adequately and properly substantiate a claim. In particular, we are concerned that such leeway will result in a "safe harbour" for certifications to evade scrutiny by the Bureau, allowing for any potential greenwashing associated with certification claims to continue unmitigated in the Canadian marketplace.



While certifications are often viewed as validating sustainability claims and preventing greenwashing, research^{1 2 3} also suggests that:

- a) certifications can inadvertently contribute to and even incentivize greenwashing; and
- b) government regulations, designed to hold actors accountable for greenwashing, often do not require certifications to substantiate their environmental claims.

The issue is particularly important as consumers often lack the knowledge, resources, and time to critically evaluate certifications. Consumers may assume a product or business is environmentally sound based on a certification claim, without understanding the standards behind the certification and/or limitations of certifications. This can cause a “halo effect”⁴ leading consumers to make purchasing decisions based on incomplete information. There are concerns that companies can exploit this perception gap by utilizing certifications, including ones that are less rigorous or credible.

How certifications can contribute to greenwashing

Civil society groups have been increasingly vocal on concerns about certifications. Whistleblower testimonies and investigative journalism have uncovered breaches of certification standards and auditing practices. Academic studies have assessed the impacts of certification, many of them concluding that there are limited proven benefits to the environment.

Common criticisms of certifications include, but are not limited to:

- Weak standards that allow businesses to become certified with minimal effort or by merely complying with legal requirements.
- Standards that are narrow in scope (e.g., a product certified as ‘sustainable’ for its use of organic cotton, however the dyeing of the product involves toxic chemicals).
- Poor auditing practices and inadequate verification (e.g., scheduled audits may miss environmental and social harms).
- Lack of accountability and enforcement measures to deter non-compliance.
- Conflicts of interest can compromise objectivity and impartiality (e.g., industry-dominated schemes; and where businesses directly pay auditors to certify their business).
- A “checkbox” exercise without meaningful change or impact.

Below are examples where certification schemes across various commodities and sectors have faced allegations of illegal, unsustainable, or deceptive actions:

- ❖ **Wild Seafood:** The awarding of Marine Stewardship Council (MSC) certifications to unsustainable fisheries, along with weak standards and auditing practices, led to the formation of Make Stewardship Count, a coalition of more than 90 academics and civil society organizations.⁵ The coalition calls for MSC to “raise the bar, ensure scientific rigour, and ensure that seafood with the MSC label actually represents the ‘gold

standard of sustainability' as advertised". SeaChoice's own analysis of Canadian Marine Stewardship Council certified fisheries found little change to fishery practices on the water to directly improve their impacts on habitat, non-target species and ecosystem function.⁶ We found significant timeline extensions and flexible interpretations of the application of Standard requirements across several certifications. Other reports and studies, from civil society and academics, have highlighted concerns such as conflict of interest in auditing processes, lack of monitoring and enforcement, and inadequate complaint procedures for stakeholders.^{7 8 9 10 11 12} Numerous case studies demonstrate the unsustainability of fisheries awarded the MSC.^{13 14 15 16 17}

- ❖ **Farmed seafood:** Independent reviews of aquaculture certification, including those by SeaChoice, have found schemes often allow for loopholes that benefit industry, not the environment.^{18 19 20 21} The Aquaculture Stewardship Council (ASC) has been criticized for routinely weakening its standard through exemptions and revisions, allowing farms that would otherwise be ineligible to be certified.²² For example, in Canada, ASC farms exposed at-risk wild salmon to dangerously high sea lice loads, as high as 31 per fish.²³ The ASC's dramatic increase in allowable sea lice on farms by up to 1,550 per cent,^{24 25} prompting criticism from several environmental groups, including ASC's founder World Wildlife Fund.²⁶ Best Aquaculture Practices and its claims of 'best practices,' 'responsible,' 'sustainable,' and the like have received much criticism from civil society groups, including 76 global groups that denounced the latest BAP farmed salmon standard as greenwash in an open letter.²⁷ The letter listed damning evidence of numerous BAP certified farms and facilities associated with environmental damage, illegal activity, and/or negative impacts to endangered species. An investigation by Corporate Accountability Lab and a whistleblower exposé by The Outlaw Ocean Project detailed forced labor, hazardous child labor, dangerous working conditions and more associated with the Indian farmed shrimp supply chain, including farms and processing facilities that are BAP certified.^{28 29} Environmental damage and banned antibiotics were also uncovered. The farmed shrimp was tracked back to major grocers in North America. A current petition to the US Federal Trade Commission requests action against BAP for false or deceptive advertising.³⁰

- ❖ **Forestry:** An investigative journalism analysis of 340 certified companies across 50 countries found 48 auditing firms that had granted sustainability certifications, including the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC), to about 50 companies that have been charged with violations such as using false permits, logging in Indigenous forestland and protected areas, and importing illegally felled timber.³¹ The 50 companies all held sustainability certifications at the time of the charges. Such findings echo other investigations into FSC and PEFC certificates which have also found the trafficking of illegal timber.^{32 33 34 35}

- ❖ **Palm oil:** The Roundtable on Sustainable Palm Oil (RSPO) has been associated with deforestation, disregard of Indigenous rights, and forced labor.^{36 37 38 39 40} Academic studies have found no difference between certified and non-certified plantations, in terms of environmental and social sustainability.⁴¹ Another study found RSPO certification to be “meaningless” as 75 percent of certified plantations had been deforested or located in areas with endangered species.⁴² The authors emphasized “certification does not ensure environmental sustainability”.
- ❖ **Cotton / Textiles:** The Better Cotton Initiative certification has been linked to land grabbing, illegal deforestation, corruption, and human rights abuses.^{43 44} The scheme’s standard is considered weak with an overreliance on companies meeting mere legal requirements in order to be certified.⁴⁵ Critiques from researchers include compromised environmental requirements that risk contributing to greenwashing.⁴⁶
- ❖ **Others:** Over 90% of rainforest credits certified by the world’s largest carbon credit certifier, Verra, were found not to represent actual carbon reductions, and may even exacerbate climate change according to investigations by The Guardian, Die Zeit, and SourceMateria.⁴⁷ Investigations into the European Union’s Ecolabel system found certified companies failed to meet standards.⁴⁸ B Corp certification has received criticism for relying on self-assessments that has allowed controversial companies associated with environmental and social harms to receive certification.^{49 50 51} Other certifications that have been criticized include cocoa and coffee certification schemes including Fair Trade and Rainforest Alliance, and Soya certifications, including Round Table on Responsible Soy and Proterra.⁵²

While the above examples don't mean that *all* certified products or businesses are greenwash, it does highlight that greenwashing by certifications can and does occur.

The need to avoid creating safe harbours for certification

In addition to the fact that many certifications have been credibly criticized; the OECD Due Diligence Guidance for Responsible Business Conduct⁵³ stipulates that certification does not equate to due diligence. 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.

An OECD paper⁵⁴ for regulators regarding verification initiatives, including certifications, warns “participation in an initiative – however credible and well aligned the initiative may be – is not a 100% guarantee of the responsible conduct of an individual company”. The OECD notes the over-reliance by governments on certifications “risks creating a de facto safe harbour from liability for companies who participate in relevant initiatives and who hence might be considered low risk”. The OECD further asserts that governments have a critical role to play in evaluating the credibility of certifications, as well as challenging companies and certifications over inaccurate claims.

While credible certifications can be useful tools in implementing corporate Environmental Social Governance and/or Corporate Social Responsibility policies and, in turn, aid in the validation of associated sustainability claims, it must be acknowledged by the Bureau's guidance that certifications (along with all claim types) can contribute to greenwashing.

As an example, the Australian Competition & Consumer Commission's guide⁵⁵ for businesses making environmental claims directly addresses certifications and states businesses must ensure claims are accurate regardless of certification compliance:

*When using a third-party certification to back up your claims, you should ensure that: your product or service does what you claim it does, even where you have complied with the third-party certification*⁵⁶

We strongly advise that the Bureau does not simply defer to certification schemes as "adequate and proper" tests or automatically qualifying as "internationally recognized methodology".

We recommend that where there is scientific evidence of environmental harm – despite certification – the Bureau should investigate and, as such, the guidance should be updated to reflect this expectation to businesses.

We would be happy to discuss our submission in further detail.

Sincerely,



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