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*Elizabeth May*  
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Saanich — Gulf Islands

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

**Re. Open consultation on the *Competition Act's* new greenwashing provisions**

To whom it may concern,

I am pleased to submit feedback on the proposed new greenwashing provisions for the *Competition Act*. I am concerned about the government's approach to, and unintended consequences of, these changes.

The current *Competition Act* sets out in section 52 paragraph 74.01(1)(a) that:

It is against the law to make materially false or misleading representations to promote a product, service or business interest. A representation is "material" if the general impression it conveys leads someone to take a particular course of action, like buying or using a product or service. A "representation" refers to any marketing material, including online and in-store advertisements, direct mail, social media messages, promotional emails, and endorsements, among other things.

The *Competition Act* also clearly lays out the consequences of engaging in false product advertising for business interests as a corporation. Under the criminal provisions,



“violators can be tried in criminal court” so long as there is “proof of each element of the offence “beyond a reasonable doubt.”” Under the civil provisions, “practices are brought before the Competition Tribunal, the Federal Court, or the superior court of a province or territory. To be found in violation requires that each element of the conduct be proven “on a balance of probabilities.””

Based on the scope of the existing Competition Act, the proposed provisions in this consultation are not necessary. The government should not use language like ‘greenwashing’ to address what is a general problem of false product advertising by corporations.

The term ‘greenwashing’ has long existed and the government’s changes here make it seem like it is a novel concept. Greenwashing is simply another form of false product advertising by a corporation promoting business interests, which is already covered under the *Competition Act*.

The use of the term ‘greenwashing’ also creates the impression that one sector has special rules granted to it. The existing rules on product advertising and truth in advertising are sufficient. I am concerned that by focusing on greenwashing, the government is opening space for criticism that this is a policy with special rules targeting fossil fuel corporations.

I note that false product advertising of the “environmental benefits” of fossil fuel development is done knowingly and recklessly. Fossil fuel corporations have extensive resources and research capacity and can reasonably be expected to understand that they are engaged in false advertising about the environmental benefits of their practices. This means they are intentionally engaging in deceptive marketing practices for business purposes.

False product advertising by fossil fuel corporations must be regulated, but this is already achieved by the current legislation. A strong example of this being effectively applied was in 2022 when Keurig Canada was alleged to have made false environmental claims about the recyclability of single-use coffee pods. Through the existing legislation, Keurig Canada was required to pay a \$3 million penalty, donate \$800,000 to a Canadian charitable organisation and pay \$500,000 for the costs of the Bureau’s investigation.

I reiterate my perspective that new provisions on “greenwashing” are unnecessary. When the government chooses to showcase new policy with marketing slogans, we run the risk of an increasingly fractured society. When I hear the use of the term “woke” to describe paper straws, I worry that the issue of single use plastics and the environmental threat they represent is distorted. In the same way “greenwashing” may invite similar derisive commentary. Using the tools we have is likely to be more effective in cracking down on those who mislead for profit. The current *Competition*



*Act* needs to be applied to address the many examples of false product advertising for business interests by fossil fuel corporations.

Thank you for your time and consideration of my comments.

Sincerely,

A handwritten signature in black ink, reading "Elizabeth May". The signature is fluid and cursive, with the first name "Elizabeth" written in a larger, more prominent script than the last name "May".

Elizabeth May, O.C.  
Member of Parliament  
Saanich-Gulf Islands  
Leader of the Green Party of Canada

