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September 27, 2024

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

Via email: greenwashingconsultationecoblanchiment@cb-bc.gc.ca

Dear Sirs/Mesdames,

Re: Public consultation on new greenwashing provisions in Competition Act

British Columbia Investment Management Corporation (BCI) is an investment manager with over CAD \$250 billion in assets under management, and one of the largest institutional investors in Canada. Our investment activities help finance the pensions of approximately 725,000 people in our province, including university and college instructors, teachers, health care workers, firefighters, police officers, municipal and other public sector workers. On behalf of these pension beneficiaries, we provide long term capital to companies around the world that we believe will deliver strong and stable financial returns.

BCI supports the overall intent of the Bill C-59 (the “Bill”) amendments to the Competition Act to protect Canadian consumers and businesses from unsubstantiated environmental claims about products or services, particularly in cases where they deceive customers by misrepresenting or exaggerating a product’s benefit to the environment or obfuscate negative impacts on the environment. Organizations that claim their products and services are environmentally friendly or aligned with the global goal of net zero emissions by 2050 without evidence or credible plans to support their claims can erode trust in the market. As an investor who is committed to integrating ESG considerations into our investment process, BCI pays close attention to companies’ disclosure and has long advocated for mandatory and standardized disclosure of material ESG issues, risks, and opportunities.

BCI appreciates the opportunity to provide feedback to the Competition Bureau (the “Bureau”) as it develops guidance to Canadian companies on how to interpret the greenwashing provisions included in the Bill. Since the enactment of the Bill, investors have seen a number of large Canadian firms remove significant amount of ESG data from their websites and digital platforms, a potential unintended consequence of the new provisions. We are concerned that this development may set a precedent and other enterprises may follow a similar path that will create a vacuum for the important ESG information that investors like BCI have been using in our investment decision making process for many years.

Investor Perspective

Rather than answering all consultation questions, which are focused on the consumer perspective, we have chosen to provide key points from the investor perspective for the Bureau to consider when developing future enforcement guidance.

We respectfully request that the Bureau also takes into account the investor perspective, which seeks overarching climate disclosures in line with global frameworks such as the IFRS Sustainability Standards S1 and S2, and domestic ones such as the Office of the Superintendent of Financial Institutions (OSFI) B-15 Guidelines, (both focused on climate governance, strategy, risk management and metrics and targets) including with respect to corporate emissions disclosure as well as future-focused or ‘indicative’ climate-related disclosures.

Environmental Claims vs. Environmental Data

BCI thinks it is important to differentiate between organizations that make environmental claims in their product labelling, advertising and promotional materials and organizations that seek to provide quantitative and qualitative ESG data to investors. While it is important to prevent greenwashing marketing claims, we emphasize that it is equally important that investors have access to climate-related data, including forward-looking data, to inform their investment decisions. A robust and mandatory climate data disclosure landscape is key to the competitiveness of the Canadian market and will serve to attract investors who are committed to the transition to a net zero economy and capital needed to help Canada meet its **net-zero goal**.

Separate from any claims a business may make about its products and services, companies are also providing information about their business processes and procedures, associated targets and goals, and data to demonstrate progress and outcomes. Many reporting frameworks exist to provide guidance on how a company can provide decision useful information to investors on the most material ESG topics including the Sustainability Accounting Standard Board (SASB), the International Sustainability Standards board (ISSB) (which now includes the Taskforce on Climate-Related Financial Disclosure) and the Global Reporting Initiative (GRI). Today, a large number of S&P/TSX Composite members disclose ESG data on a voluntary basis.

The Bureau must try to strike the right balance between protecting Canadian consumers and business from blatant greenwashing and creating a culture of greenhushing. Companies should be encouraged to talk about their decarbonization efforts, and incremental improvements in their emissions.

Claims that are hard to substantiate

Competition Bureau’s July 2024 bulletin, [The Deceptive Marketing Practices Digest](#), advises businesses to avoid aspirational claims about the future and calls out claims about being carbon neutral by a certain date, suggesting that forward-looking claims such as announcing a net zero target should not be made without first having in place a “concrete, realistic and verifiable plan” to accomplish interim targets.

BCI agrees that businesses must be careful in making these claims without also contextualizing them by clearly describing the scope of their commitment, their plans to achieve it including interim targets, the associated incentives and oversight and governance mechanisms.

Claims about the future are the most challenging to substantiate. Specifically, company claims that their business will be net zero by 2050 are sometimes met with scrutiny and skepticism due to the uncertainty of government policy decisions, pricing on carbon, irregularities in carbon accounting, or simply a lack of disclosure from the company.

However, BCI still encourages the companies in which we invest to set decarbonization goals in accordance with their business strategy and needs of the global economy. Clear guidance from the Bureau that instructs companies to contextualize long-term goals clearly and properly and offers safe harbour to those that do will be more beneficial than shying away from forward-looking statements altogether. This guidance should consider disclosure of established processes to develop transition plans and how they interact with long term goals and recognize the diversity in these approaches whereby in some cases target-setting will occur prior to more detailed planning (see, for e.g., the distinctions between a Preliminary net-zero plan and a Comprehensive net-zero plan from **Net-Zero Challenge Technical Guide**).

Internationally recognized methodologies

The Bureau has asked about internationally recognized methodologies that it should use in its evaluation and what the limitations of those methodologies are.

BCI recommends that the Bureau's guidance clarify the intent and scope of the regulation and include overarching principles that Canadian companies should adhere to when making green and sustainability claims, rather than identifying an exhaustive list of methodologies that could result in either omissions or inclusion of less credible approaches. The Bureau's guidance could emphasize the necessity of grounding claims in scientifically proven data, an approach that exists within internationally recognized environmental standards and protocols, such as the GHG Protocol, the Partnership for Carbon Accounting Financials (PCAF), the Science-based Target Initiative (SBTI) and Transition Pathway Initiative. We recommend that the Bureau study these and their commonalities to develop more clarity in its guidance to Canadian companies. This approach will be flexible enough to encourage innovation and decarbonization progress, but firm enough to prevent companies from misleading stakeholders with exaggerated or unfounded claims.

We would also like to draw the Bureau's attention to other jurisdictions that are undertaking similar exercises, including The EU Green Claims Directive ("GCD") which contains details on how to substantiate explicit environmental claims. For example, it specifies that a company must clearly state if the claim refers to the whole product or just to parts of the product. The GCD also sets out clear guidelines for various types of environmental claims to ensure transparency and accuracy in marketing and advertising. This includes claims that are explicit vs. implicit, generic, specific, or comparative and also claims about improvements over time.

All methodologies have certain limitations as the bar is continually rising. This is to be expected while moving toward a long-term goal that is highly dependent all market actors doing their part.

Whole of Government Approach

BCI encourages a whole of government approach marked by cohesion between reporting requirements, rules around lobbying activities, taxonomies, and securities regulations working together to serve Canadians by contributing to the shared goal of net zero by 2050. Specifically, BCI would encourage the adoption of IFRS S1 and S2 as a mandatory reporting standard for general sustainability and climate related information. At the time of writing, we are awaiting the release of the Canadian Sustainability Standards Board's disclosure standards 1 and 2, which should prove useful and which we expect to align with ISSB S1 and S2 standards.

We would also welcome the swift implementation of a Canadian taxonomy for green and transition finance as recommended by the Sustainable Finance Action Council (SFAC).

Timing

Lastly, we urge the Competition Bureau to follow through on its commitment to develop an accompanying, clear, and easily interpreted guidance on an accelerated basis.

Thank you again for the opportunity to opine on this important endeavour.

For any clarifications related to this submission please contact Susan Golyak, Director, ESG at susan.golyak@bci.ca

Sincerely,

A handwritten signature in blue ink that reads "Daniel Garant". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel Garant
EVP & Global Head, Public Markets
cc Susan Golyak, Director, ESG