

June 8, 2007

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Re: PLUS 14021 Environmental Claims: A Guide for Industry and Advertisers

Dear Ms. Audet.

Thank you for the opportunity to comment on PLUS 14021 Environmental Claims: A Guide for Industry and Advertisers. It is important for our member companies to understand how the Competition Bureau intends to interpret environmental consumer product labelling and advertising via its responsibilities under the *Competition Act* and the *Consumer Packaging and Labelling Act*.

CCSPA is a national trade association that represents 44 member companies across Canada, collectively a \$20 billion industry directly employing 12,000 people. Our companies manufacture, process, package and distribute consumer, industrial and institutional specialty products such as soaps and detergents, pest control products, aerosols, hard surface disinfectants, deodorizers and automotive chemicals.

Clarifying status of PGELA, ISO 14021 Standard, and the proposed PLUS 14021 Guidance

CCSPA supports the principles of establishing a guidance document for industry to use when considering environmental labelling and advertising on products for Canadian consumers. We are however confused concerning the status of the 3 documents above. The current proposed guideline appears to provide interpretation for industry with respect to the ISO 14021-00 standard, yet there has been no formal withdrawal of the *Principles and Guidelines for Environmental Labelling and Advertising* (PGELA) guidance document. In phone calls to the Bureau's help line since the initial 2001 consultation period on PEGLA and ISO 14021-00 we were assured that the Bureau would continue to consider environmental claims and advertising as described in PGELA in addition to ISO 14021-00. Many of our member companies are currently using PGELA as the valid means of complying with the *Competition Act* and the *Consumer Packaging and Labelling Act* with regard to environmental claims and advertising.

Part of our confusion stems from the fact that the ISO 14021-00 standard is not a publicly free document and must be purchased from the Canadian Standards Association. Is it the Competition Bureau's intention when interpreting and investigating environmental labelling and advertising issues to use the ISO 14021-00 standard, or will the bureau be utilizing the PLUS 14021 and or PEGLA guidelines when it comes to interpreting whether claims made are in compliance with the *Competition Act* and the *Consumer Packaging and Labelling Act*? The Bureau needs to specifically address its intent with regards to PGELA. If the intention is to

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formally withdraw PGELA, a minimum transition timeline of 24 months needs to be provided for companies using PGELA so that they can ensure that their advertising, promotional literature, and product labelling are in compliance with the new PLUS 14021 guidance document.

Emerging Claims Areas

We are pleased to see that the current guideline has been expanded and now makes provisions for recovered energy, reduced energy consumption, and reduced water consumption, where PGELA did not. The guidance document indicates in section 4.6 that claims of sustainability are very complex and still under study. CCSPA would encourage the Bureau to consider that guidance will be needed for specific emerging claims such as products or services making claims to be greenhouse gas neutral. A policy should be developed to deal with these new and emerging environmental or health claims, particularly since some of these claims are not addressed in the ISO 14021-00 standard or the PLUS 14021 guidance document.

CCSPA has expressed concern with type I environmental labelling schemes (ecologo programs) that have developed consumer product criteria based on a specific applicant's product proposal. Ecologos, by simply existing on the package, provide no specific information yet de facto may communicate that products are either "good" or "bad". We would appreciate the Competition Bureau's position on the appropriateness of generalized ecologos for consumer products, relative to the general principles of PLUS 14021 which enables consumers to understand the environmental claim on the product label or advertisement.

Specific Comments on PLUS 14021

3.1 , 5.3 , 8.3 Verification

We support validating environmental claims yet access to that information by any party has raised concerns with our members. We agree that there should be a requirement that all claims be fully supported with test results and data. Proprietary and confidential business information needs to be protected from competitors, and potential malicious misuse. This information disclosure requirement is not imposed on any other claim made regarding the safety, efficacy or value offered by a product. We recommend that claims should not be suppressed if they can be verified to the satisfaction of the Competition Bureau by providing proprietary and confidential business information that will be protected by the government.

4.5, 5.16, 5.17 Claims of "...Free"

The "...Free" claim raises many questions and issues that need to be addressed to ensure they are not misleading to Canadians, careful consideration of "...Free" claims is needed. We do not believe that the PLUS 14021 guideline has provided sufficient guidance as to when this type of claim can be used. "...Free" claims should only be allowed when there is a well-established issue that is meaningfully addressed by the product being "...Free" of something.

"...Free" claims may imply there is a health, safety, or environmental advantage of one product over another. However, all products legally for sale in Canada must meet health, safety and environment requirements. "...Free" claims on a product may imply other products are less safe, this can be erroneous unless a clear standard of when and how to use them, applies. If a material or chemical substance is prohibited from being in commerce by Canadian regulation; a "...Free" claim may wrongly imply other products available in Canada contain it.

We would also like to point out that the example of “Chemical Free” in section 4.5 is erroneous. Organic/natural products may not contain synthetic or anthropogenic ingredients or compounds, but all material is constructed of a chemical material (water is a chemical). Chemicals are the fundamental building blocks of any matter or material whether organic/natural or synthetic. “Chemical Free” claims should not be permitted.

In summary, much more thought and consultation is required into when it is and is not appropriate to allow “...Free” claims to imply an environmental improvement versus other products. CCSPA would be willing to sit down with officials to have this discussion.

5.14 Claim and Explanation

There has been no allowance for small containers or products in these examples. It should be recognized that sufficient latitude be available to allow the explanation to be placed on a different package panel or even on the accompanying disposable packaging when there is insufficient room on the container to provide both the claim and explanation beside each other. Many products these days are sold as single use containers or applications where space on the product’s container is very limited.

7 The Mobius Loop

In PGELA, a distinction is made between Mobius loops for recycled content vs. recyclable whereas the ISO standard does not. Either option appears confusing to the consumer. We agree with the guideline that a statement should accompany the symbol to explain its meaning.

The vast majority of plastic bottles, jugs and wide mouth containers include the mobius loop and a number that corresponds to the type of plastic resin. This system of identifying plastic containers has been widely used throughout North America for many years. This coding system is used by municipalities and recyclers to educate consumers about types of plastics accepted in their recycling programs. See <http://www.cpia.ca/files/files/resincode.pdf> for details. The existing plastic resin coding system should be allowed to continue.

10.1.1 Claims Where Facilities Exist.

PGELA allows the claim: “Recyclable where facilities exist”. This is preferred to the requirement in ISO 14021 of listing specific areas where recycling is available. Our members products are typically packed and distributed on a nation wide basis. Complicating this issue is the fact that recycling is a provincial jurisdiction not a federal one, and even within provinces, there is discrepancy between what municipalities offer in terms of recycling facilities and services (e.g. Ontario’s two largest cities Toronto and Ottawa do not offer the same recycling opportunities). To require products to be labelled for the jurisdiction where they are to be sold given Canada’s current system of recycling is virtually impossible, not to mention prohibitively expensive.

CCSPA would suggest that the statement “Recyclable where facilities exist” be retained and that an information campaign be conducted to inform Canadians to contact their local municipality for details. Directing the consumer via the information campaign to their municipality would provide them with clear and accurate information because it will direct them to the most salient information source. If the guidelines were to require municipal information on labels, it is possible brand owners and retailers may remove claims of recyclability, compostability, recycled content and possibly the mobius loop from packaging. The net result would be less information for the consumer, limiting their ability to differentiate between products in the market.

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Stakeholder Workshop and Consumer Education

In summary we recommend that the Bureau in its compliance promotion activities hold stakeholder workshop or training sessions on how the Bureau will be interpreting environmental claims and advertising and how the Bureau will be enforcing the environmental claims and advertising of products and services available to Canadians to ensure that claims can be substantiated. This is of particular importance given Canadians heightened awareness of environmental issues ranging from energy usage, product recyclability, product disposal, and chemical substance management. The PLUS 14021 guideline is a fairly technical guideline and is not consumer friendly. We would encourage the Bureau to create a complimentary consumer friendly guideline that will educate consumers on how to interpret the information on the products and services they use. CCSPA would be pleased to participate in such an effort.

I trust that our comments will be helpful and informative. If you require clarification on any of the comments we have provided, please do not hesitate to contact me.

Sincerely,



Bruce Rebel.
Director, Regulatory Affairs

cc: Raymond Pierce, Deputy Commissioner of Competition,
Competition Bureau - Fair Business Practices Branch

Dominique Burlone, Assistant Deputy Commissioner of Competition,
Competition Bureau - Fair Business Practices Branch Division C