



# Advertising

Doing Business in Canada



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The advertising of consumer products in Canada is governed by federal statutes including the *Competition Act*, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, the *Food and Drugs Act*, the *Safe Food for Canadians Act*, the *Canada Consumer Product Safety Act* and the *Customs Act*, along with their related regulations, as well as provincial consumer protection legislation and the Quebec *Charter of the French Language*.

Making false and misleading representations to the public for the purpose of promoting a product or business interest is prohibited in Canada, including under sections 52 and 74.01 of the *Competition Act*. In 2024, significant amendments were made to the *Competition Act*, including clarification of the prohibition on drip pricing and revisions to the deceptive marketing provisions to specifically prohibit greenwashing. In particular, this includes making a representation to the public about the environmental benefits of a product or business activity, such as protecting or restoring the environment or mitigating the effects of climate change, that is not substantiated.

The consequences of contravening Canada's prohibitions against false and misleading advertising can be significant. Under the *Competition Act*, a contravention of civil provisions can result in a prohibitory order, a requirement to publish a corrective notice, significant administrative monetary penalties (the greater of \$10 million for a first offence and \$15 million for subsequent offences for corporations or three per cent of a company's annual worldwide gross revenues) and/or an order to pay an amount to be distributed among the persons to whom the products were sold.

A contravention of the act's criminal provisions, where false or misleading representations are made knowingly or recklessly, may result in fines or imprisonment. Private parties are also permitted to bring applications to the Competition Tribunal in relation to specified civil deceptive marketing prohibitions, further increasing the likelihood of enforcement action.

Civil litigation, including class proceedings, for contraventions of the civil deceptive marketing provisions of the *Competition Act*, as well as consumer protection legislation, is also possible in Canada and may carry significant cost consequences.

Enforcement action and litigation regarding misleading advertising in Canada has been consistent for many years, with an expected increase in focus on issues such as drip pricing, greenwashing and maple-washing (false or misleading country-of-origin labelling).

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**AIRD BERLIS**

**We are committed to being the  
Canadian gateway for our clients.**



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*Doing Business in Canada* offers general comments on legal developments of concern to businesses, organizations and individuals, and is not intended to provide legal opinions. Readers should seek professional legal advice on the particular issues that concern them.

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