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Committee Secretary,
Senate Standing Committees on Environment and Communications,
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Parliament House
Canberra ACT 2600

Greenwashing Inquiry

Thank you for the opportunity to provide input to the Inquiry. My submission is particularly directed to item (c) of the terms of reference. In that context, my key message is that the Australian Government seems to have overlooked a key set of internationally agreed tools for tackling the very basis of greenwashing: the disconnect between what is said in advertising and how it is perceived by the consumer.

International Regulation

Regarding international examples of regulating companies' environmental and sustainability claims, one must begin by recognising that Australia is widely accepted as having the most effective regime in the developed world for regulating "green marketing". Few other countries ever take enforcement action against greenwashing in the way that the ACCC does.

This success is largely the result of Australia treating greenwashing as an aspect of communications and marketing, rather than as an aspect of the environment. Misleading and deceptive claims occur across all aspects marketing, whether that's environmental claims, product performance claims, claims about the newness of the product, or even claims about clothes sizing. They all needed to be held up to the same criteria in terms of whether or not the communication will mislead the public. This is a market failure, pure and simple.

My experience working in the Fast Moving Consumer Goods (FMCG) industry is that new products start with the Marketing Department identifying a concept through focus groups and similar that will attract additional purchasers. In this case, the concept is that consumers want to buy products that are better for the environment. Then, a strategy is fashioned around that concept, including the packaging, tag lines, etc; and finally, once the campaign is approved, Management approaches the Product Development Department to deliver a product that can be used with the campaign. The idea that new environmental claims have their genesis in a eureka moment by a boffin working in the company's R&D laboratory is fanciful in the extreme. The Marketing Department establishes what's communicated about the business's products, and that's simply about what potential customers want to hear.

The European Commission's proposal for a Green Claims Directive (GCD) has now been withdrawn, in part, because environmental scientists working on the project were interested in solving European environmental problems through the disclosure of better environmental data about products and services. However, that idea misses two key points. Firstly, there is no obligation to say anything about the environmental aspects of a product or service, and

no marketer will disclose anything negative about the environmental aspects of their product. Secondly, the consumer in the supermarket aisle has neither the time, not the expertise, to assess whether the product that contributes 25% less to greenhouse gases is more desirable than a product that is made from 100% recycled plastic.

International standards

The biggest issue with environmental communications about products and services is how to identify what “greenwashing” really means. Is it making claims that are completely false? Is it making claims that are somewhat truthful, but the benefits are exaggerated? Is it making claims without any evidence to back up the claim? Or is it making claims that evoke an environmentally positive image, but in reality are not saying anything, like “earth friendly”?

The very use of the word “green” falls into this last category, so one could say that the term “greenwashing” is itself a vague expression that is potentially misleading and should therefore be avoided.

It is precisely because of this dilemma about what constitutes “greenwashing” that International Standards have been developed to define what is acceptable, and what is not acceptable, in an environmental communication about a product or service.

The International Organization for Standardization (ISO) had been developing standards and other documents in the field of environmental communications about products and services since 1994, when Australia was elected to lead this work, largely on the basis of the effectiveness of our regulatory system in this field. For a number of years, this international committee was chaired by a representative of the ACCC, although the current chair is not from government.

Some of the current published standards are as follows:

ISO 14020:2022 *Environmental statements and programmes for products — Principles and general requirements*

ISO 14021:2016 *Environmental labels and declarations — Self-declared environmental claims (Type II environmental labelling)*

ISO 14021:2016/Amd 1:2021 *Environmental labels and declarations — Self-declared environmental claims (Type II environmental labelling) — Amendment 1: Carbon footprint, carbon neutral*

ISO 14024:2018 *Environmental labels and declarations — Type I environmental labelling — Principles and procedures*

14025:2006 *Environmental labels and declarations — Type III environmental declarations — Principles and procedures*

ISO 14026:2017 *Environmental labels and declarations — Principles, requirements and guidelines for communication of footprint information*

ISO/TS 14027:2017 *Environmental labels and declarations — Development of product category rules*

ISO/TS 14029:2022 *Environmental statements and programmes for products — Mutual recognition of environmental product declarations (EPDs) and footprint communication programmes*

ISO 14021, ISO 14024 and ISO 14025 are currently under revision with meetings to be held in Canada in October/November 2025 to finalise those revisions. There are 59 countries participating in this process, including those from both developed and developing nations.

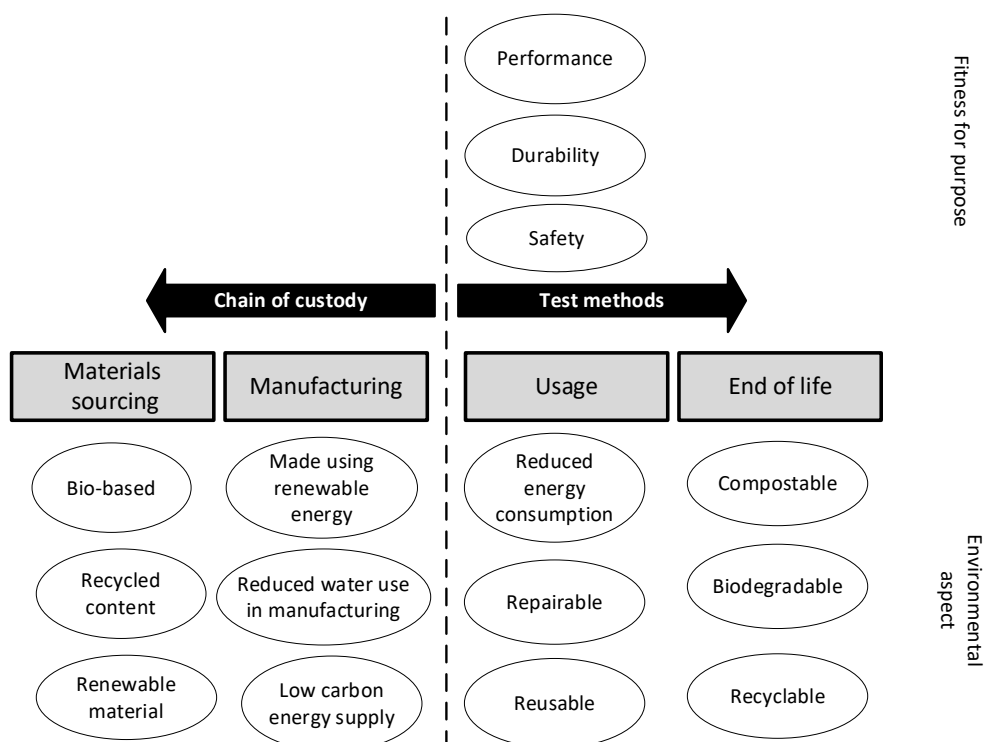
In addition there are some 27 international bodies involved, including ANEC (The European consumer voice in standardisation), Consumers International, the European Commission, ECOS (Environmental Coalition on Standards) Forest Stewardship Council, the Global Ecolabelling Network, the International Aluminium Institute, the International Chamber of Commerce, the International Energy Agency, ISEAL, the International Trade Centre, the United Nations Conference on Trade and Development, the United Nations Development Programme, the United Nations Environment Programme and the World Trade Organization. This is truly an international consensus.

The voluntary international standards published by ISO provide the details to support third-party environmental labelling programmes, as well as addressing self-declared programmes made by suppliers. Where the *ACCC Guide to Making Environmental Claims* provides general principles, ISO 14021 addresses specific types of claims, say claims of recyclability, and sets internationally agreed requirements around how to make a specific claim and the level of supporting evidence needed to justify that claim in order to avoid misleading the public. The standard also calls out vague or non-specific claims that are intrinsically misleading.

In essence, ISO 14021 is the best tool we have available that can be applied to any given environmental communication about a product or service to determine whether or not the claim amounts to greenwashing.

The new edition of ISO 14021 takes account of many new developments, such as the use of attribution in certain claims, like those for recycled content, as discussed in the *National Framework for Recycled Content Traceability* issued by the Department of Climate Change, Energy, the Environment and Water in 2023.

The diagram below is taken from the draft revision of ISO 14021 and sets out how some environmental claims can be based on testing the product; but others have to be based on following the supply chain back through the product's lifecycle.



This is just one example of the analysis and the level of rigour that the ISO standards bring to defining what constitutes truthful environmental statements that are not going to mislead the consumer.

It's one thing to say something about your product that you think might be right, but once it becomes part of your formal communications promoting that product, *thinking* it might be right isn't good enough, you need to *know* that it's correct. If you don't know the details of how the product and its input materials were made, you can't make an honest environmental claim based on material content. If there are no collection facilities conveniently available to the public in the place where the product is being supplied, then you can't claim that the product is recyclable.

If you like, ISO 14021 cuts through the wooliness and gets to the cold hard facts. If a claim can't be proven to be correct, then it's greenwashing.

Sustainability

It's currently popular to talk about products being sustainable; but few understand what that term really means. The only reliable definition comes from the Brundtland Report where it invokes the three pillars of environmental, social and economic sustainability. Most of the things we do are not infinitely sustainable because we will either poison the atmosphere or deplete our resources so that future generations will have to pay for today's activities. This is before we have considered the social and economic impacts, all of which must be taken into account at the same time according to Brundtland for an activity to be sustainable.

To my mind, the expression has been applied too widely, with so little regard to the underlying meaning, that "sustainability" claims are totally devalued and meaningless. Claims of "sustainability" are effectively consigned to the realm of greenwashing. One can, however, look at environmental claims in the context of related economic and social impacts. So, manufacturing products in developed countries with stricter end-of-pipe environmental laws can have an environmental benefit; but that has to be balanced against the loss of employment opportunities in developing countries, and the economic impacts of doing so.

How could Australia's regulatory regime be improved?

The current requirements under the Australian Consumer Law (ACL) are based on a negative: that one must not mislead or deceive the purchaser of the product. So, to mount a successful prosecution, the ACCC must prove that the purchaser was deceived. As was discovered with the case about claims of "flushable", any ambiguity plays in favour of the defendant. Does "flushable" mean that the product can make it around the U-bend of your toilet, or does it mean that the product poses no threat to the sewage system or to the environment if it is disposed of down the toilet? If it's the former, there was no deception; if it's the latter, then yes, the claim was deceptive.

What would the man on the proverbial Clapham omnibus perceive "flushable" to mean? In this case, the Court resorted to dictionary definitions, which were never going to be adequate when you're talking about the world of perceptions created through clever marketing. We are talking about selling the sizzle, not the steak. The person buying the product is looking for the brand of baby wipes that don't need to go in the bin; meaning that he or she can happily flush them down the toilet without doing any harm to the World at large. On the other hand, a somewhat imprecise, yet seemingly positive, statement is precisely the image the labelling of the product is seeking to create, while all the time delivering the same old product as its competitors, one that doesn't degrade and is responsible for clogging sewer mains on a regular basis.

In the world of marketing, one never answers a direct question with a simple “yes” or a “no” if one can avoid it.

In short, there needs to be a more appropriate dictionary for assessing environmental claims, so we can say with confidence that what is said in advertising is closer to how it will be perceived by the consumer.

So, I would like to see the government do more to recommend International Standards, like ISO 14021, as the best guidance available as to what suppliers should be doing when marketing the green credentials of their products. I’m not suggesting writing those standards into law. There may be other ways to meet one’s legal obligations; but without a definitive benchmark, you have nothing to compare against. As a result, it tends to become a race to the bottom in terms of how much greenwashing a company can get away with in its environmental communications about its products and services. Australia needs to set clearer ground-rules about what we mean by green-washing when looking at specific environmental claims, so the market has a level playing field.

Yours faithfully,

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