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## Guide to "Made in Canada" Claimsot; Claim

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# Guide to "Made in Canada" Claims

[PDF: 18.7 KB]

The objectives of this guide are to provide businesses and industry groups with information that will help them develop strategies to ensure compliance with the false and misleading representations provisions of the *Competition Act* (sections 52 and 74.01), the *Consumer Packaging and Labelling Act* (section 7), and the *Textile Labelling Act* (section 5), and to assist consumers in understanding what rules business should apply to "Made in Canada" claims.

## What the legislation says

The *Competition Act* has two provisions of relevance to country of origin claims made by businesses.

Section 52(1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.

Section 74.01(1) A person engages in reviewable conduct who, for the purposes of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,

(a) makes a representation to the public that is false or misleading in a material respect.

The *Consumer Packaging and Labelling Act* has one provision of relevance to country of origin claims made by businesses.

Section 7(1) No dealer shall apply to any prepackaged product or sell, import into Canada or advertise any prepackaged product that has applied to it a label containing any false or misleading representation that relates to or may reasonably be regarded as relating to that product.

The *Textile Labelling Act* has one provision of relevance to country of origin claims made by businesses.

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Section 5(1) No dealer shall apply to a consumer textile article a label, or sell, import into Canada or advertise a consumer textile article that has applied to it a label containing any false or misleading representation that relates to or may reasonably be regarded as relating to the article.

### What you should consider

The provisions cover all forms of representation regardless of the medium used (including print or broadcast media, Internet, oral). Businesses must take care when making representations about the origin of goods. Particular attention should be given to the following areas:

- (1) Each claim or representation in a promotional statement must be accurate. This includes not only what is actually said or written, but also what is implied.
- (2) Each claim or representation must be evaluated in its entirety in order to establish whether the representation imparts the general impression that the article has been manufactured in whole or in part in Canada.
- (3) Avoid using terms or pictorials that may cause the ordinary person to be uncertain about where the goods were actually made. Remember that no one actually needs to be misled for a court to find that an advertisement is misleading. If you think a representation could be unclear to the average consumer then a qualification should be added to remove that ambiguity. This is likely to result in reducing the risk of misleading consumers.

### General requirements

The general requirements and definitions are intended to be guidelines and each scenario will be assessed by the Competition Bureau on a case-by-case basis, balancing all factors and taking into account the nature of the product and consumers' expectations in determining whether enforcement action is warranted.

Goods that are wholly obtained or produced in Canada (for example: mineral goods extracted in Canada, goods harvested in Canada), will be considered as Canadian.

In its analysis of a declaration claiming Canada to be the country of origin of goods incorporating foreign raw materials or components, the Bureau applies the following rules:

- (1) the last substantial transformation of the goods must have occurred in Canada, and
- (2) at least 51% of the total direct costs of producing or manufacturing the goods is Canadian.

### Substantial transformation

The Bureau's view is that goods are substantially transformed where they undergo a fundamental change in form, appearance or nature such that the goods existing after the change are new and different goods from those existing before the change.

### Cost of production/manufacture

Costs that would be taken into account by the Bureau are

(1) expenditures on materials incurred by the producer/manufacture in the production or manufacture of the goods;

(2) expenditures on labour incurred by the producer/manufacture, that relates to the production or manufacture of the goods and can reasonably be allocated to the production or manufacture of the goods; and

(3) general overhead does not enter in the calculation however expenditures on overheads incurred by the producer/manufacture that relate directly to the production or manufacture of the goods and can reasonably be allocated to the production or manufacture of the goods may be eligible.

### Implicit declarations

A representation may be made by either express or implied claims. Implicit declarations of domestic origin will be interpreted by the Bureau as giving the same general impression to the public as an explicit "Made in Canada" claim. In identifying implied claims, the Bureau focuses on the overall general impression of an advertisement, label or other promotional material. This requires an examination of both the representation and the overall context including the positioning of phrases and images.

Depending on the context, pictorial representations (eg. logos, pictures, or symbols such as the Canadian flag or maple leaf) may by themselves be just as forceful and effective as an explicit "Made in Canada" written representation. If a reasonable conclusion from the use of a pictorial representation is that the goods are made in Canada when that is in fact not the case, there is a risk of misleading consumers.

### Qualified Claims

In circumstances where use of an unequivocal claim of "Made in Canada" to promote a product may be misleading, it could be appropriate to use a qualified claim which more accurately reflects the limited production activity which took place in Canada. For example, "Assembled in Canada", "Distilled in Canada", "Sewn in Canada". Any text that attempts to qualify pictorial representations must be sufficiently prominent to ensure that consumers notice them and understand their significance. The Bureau encourages the use of qualified claims where the extra information provided is accurate, relevant and useful and does not give a false or misleading impression.

A marketer may make a claim that a particular manufacturing or other process (eg. "designed") was performed in Canada, or that a particular part was manufactured in Canada (eg. picture tube in television), provided that the claim is truthful and substantiated and that reasonable consumers would understand the claim to refer to a specific process or part and not to the general manufacture of the product. More general terms, however, such as "produced", or "manufactured" in Canada, are likely to be understood by consumers as synonymous with an unqualified "Made in Canada" claim.

### How to contact the Competition Bureau

Anyone wishing to obtain additional information about the *Competition Act* or file a complaint under the provisions of the Act should contact the Competition Bureau's Information Centre at:

Telephone  
 Toll free: 1-800-348-5358  
 National Capital Region: (819) 997-4282  
 TDD (for hearing impaired): 1-800-642-3844