

Special Interest Group Complaint

Filed pursuant to the *Canadian Code of Advertising Standards* against Nestlé Waters North America

Submitted by representatives of Friends of the Earth Canada, the Polaris Institute, Council of Canadians, Wellington Water Watchers, and Ecojustice Canada

RE: NESTLÉ WATERS NORTH AMERICA REPRESENTATIONS TO THE PUBLIC CONCERNING THE CONSUMPTION AND PRODUCTION OF NESTLÉ PURE LIFE® NATURAL SPRING WATER

EXECUTIVE SUMMARY

This complaint under *Canadian Code of Advertising Standards* ('Code') concerns claims published and distributed by Nestlé Waters North America ('Nestlé Waters'). The claims have been published in print media.

This letter of complaint requests that Advertising Standards Canada examine the claims set out in Nestlé Pure Life® Natural Spring Water's advertisement, and any similar advertisements, for violation of the *Canadian Code of Advertising Standards*.

The Nestlé Pure Life® Natural Spring Water's advertisement is centered on a series of statements that:

- "most water bottles avoid landfill sites and are recycled"
- "bottled water is the most environmentally responsible consumer product in the world"
- "Nestlé Pure Life is a Healthy, Eco-Friendly Choice"

None of these representations are true. Individually and as a whole, the claims provide a misleading impression to the public of the environmental impacts associated with the Nestlé Pure Life® Natural Spring Water's product. As such, the claims have a detrimental impact on consumer choice and infringe the *Code's* standards of honesty, truth, accuracy, fairness and propriety in advertising. A copy of Nestlé Waters' full page advertisement that appeared in the *Globe and Mail* on October 20, 2008 is attached as Appendix 'A' to this complaint.

As the enclosed materials, including a report entitled *Inside the Bottle: An Exposé of the Bottled Water Industry*, prepared by the Polaris Institute, make apparent, most water bottles do end up in landfill sites and are not recycled, bottled water is not an environmentally responsible consumer product, and the consumption of bottled water is not an “eco-friendly” activity.

The complainants are non-governmental organizations with expertise in water and environmental policy and organizations representing communities whose environment has been adversely affected by the activities of the water bottling industry.

Nestlé Waters’ advertisement, as it appeared in the *Globe and Mail* newspaper on 20 October 2008, states:

Thanks to your recycling efforts and our industry’s commitment, most water bottles avoid landfill sites and are recycled.

Bottled water is the most environmentally responsible consumer product in the world. This is true whether measured by water volume, plastic/oil usage or carbon footprint when compared to other consumer packaged goods.

Nestlé Pure Life is a Healthy, Eco-Friendly Choice.

Based on our review of the representations made by Nestlé Waters in this advertisement, it is clear that they are not based on fact.

THE COMPLAINT

I. INTRODUCTION

The following statement of evidence will disclose that Nestlé Waters has engaged in reviewable conduct under the *Canadian Code of Advertising Standards*.

The Complainants believe that Nestlé Waters contravened the *Canadian Code of Advertising Standards* by making representations to the public that are false and misleading in a material respect regarding the environmental impacts of its product.

This complaint is organized into four parts: Complainants; Representations; Analysis; and Conclusions.

II. THE COMPLAINANTS

Complainant 1 – Friends of the Earth Canada

1. Friends of the Earth Canada is a federally incorporated not-for-profit environmental organization. Founded in 1978, Friends of the Earth's mission is to serve as a national voice for the environment and to work with others to renew our communities and the Earth through research, education and advocacy. With over 3,500 Canadian members, Friends of the Earth speaks for the environmental concerns of thousands of Canadians. It provides services to promote and provide information about the protection of the environment by researching, publishing and distributing publications of various types, answering public information requests, recommending environmentally sound actions and consumer products, hosting and speaking at conferences and other public events, and demonstrating environmentally sound alternatives in the areas of personal responsibility and public policy. Friends of the Earth works at the international, national and provincial levels to identify issues, engage citizens and communities, advance solutions and monitor results to promote environmental sustainability and justice in Canadian society.

Complainant 2 – The Polaris Institute

The Polaris Institute is a non-governmental organization that was established in 1996 to enable citizen movements to re-skill and re-tool themselves to push for democratic social change. The Institute serves as a catalyst for constituency-based social movements, increasing their capacity to do their own strategic campaign planning on issues of vital concern to their members and allies. The Institute's recent research and advocacy has focused on energy, trade and environmental issues. Working in close collaboration with social movements and affiliated groups, Polaris has engaged in municipal, provincial and federal advocacy. The work of Polaris is carried out on both a national and an international basis.

Complainant 3 – Council of Canadians

Founded in 1985, the Council of Canadians is Canada's largest citizens' organization, with members and chapters across the country. The organization works to protect the public interest by promoting progressive policies on fair trade, clean water, energy security, public health care, and other issues of social and economic concern to Canadians. The Council of Canadians works with a network of 76 grassroots chapters across Canada and does not accept money from corporations or governments.

Complainant 4 – Wellington Water Watchers

Wellington Water Watchers is a community-based non-governmental organization dedicated to the protection, restoration and conservation of drinking water in Guelph and Wellington County. The group was formed in 2007 to educate residents on the local watershed and aquifer, and the risks posed to these systems and global water security; advocate all three levels of government on the need to protect critical recharge zones and

prioritize citizens' water rights; and promote municipal water use at local events to reduce waste and bottled water use.

Complainant 5 – Ecojustice Canada

Ecojustice Canada, formerly Sierra Legal Defence Fund, is a non-profit organization of lawyers and scientists devoted to protecting the environment. Since 1990, it has worked to strengthen environmental law in Canada aiming to set legal precedents for clean water, natural spaces, healthy communities and for global warming solutions. Ecojustice is Canada's largest non-profit environmental law organization with offices in Vancouver, Toronto, Ottawa and Calgary. Ecojustice lawyers have appeared at all levels of courts and have played an important role in shaping government environmental policy and practice in Canada.

Friends of the Earth Canada, Polaris Institute, Council of Canadians, Wellington Water Watchers, and Ecojustice Canada do not have any affiliation with a competitor of the advertiser or the advertiser's advertising agency. The complainants each give consent to Advertising Standards Canada to disclose their names, contact information, and a copy of this complaint to Advertising Standards Canada and the Consumer Response Council for the purpose of reviewing the complaint, and for the purpose of providing further information about Advertising Standards Canada's activities. The complainants also further give consent to Advertising Standards Canada to disclose their names, contact information, and a copy of this complaint to the advertiser for the purpose of responding to their concerns.

III. THE REPRESENTATIONS: THE NATURE OF THE CONTRAVENTION

Nestlé Waters' advertisement, as it appeared in the *Globe and Mail* newspaper on 20 October 2008, states:

97% of Canadians have access to municipal recycling programs. Thanks to your recycling efforts and our industry's commitment, most water bottles avoid landfill sites and are recycled.

Recycling makes a difference and at Nestlé, we're committed to meeting your expectations for being a responsible industry leader. We work with governments all across Canada to develop recycling programs that increase participation levels, reduce litter and generate more revenue for municipalities.

Our Commitment Speaks Volumes

- *Nestlé Pure Life water bottles are 100% recyclable PET plastic.*
- *Nestlé Waters Canada and its industry partners fund a minimum of 50% of the cost of all municipal recycling programs in Canada.*

- *We are dedicated to finding new ways of reducing our packaging impact. Over the last 5 years, we've successfully reduced our plastic by 30%, paper labels by 20% and corrugate by 65%.*
- *Bottled water is the most environmentally responsible consumer product in the world.*

This is true whether measured by water volume, plastic/oil usage or carbon footprint when compared to other consumer packaged goods.

Be Assured, Nestlé Pure Life is a Healthy, Eco-Friendly Choice.

Taking the Lead Together.

The ad is reproduced in Appendix 'A'. Based on our review of the representations made by Nestlé Waters in this advertisement, it is clear that these representations are not based on fact.

IV. ANALYSIS

The Complainants submit that each of the foregoing representations is materially false and misleading. The Complainants believe that the ads materially mislead the public by conveying a false impression regarding the environmental sustainability of bottled water and Nestlé Waters' product. The following analysis of the claims made by Nestlé Waters is based on the findings of the Polaris Institute's May 2007 report, *Inside the Bottle: An Exposé of the Bottled Water Industry*, and other sources. A copy of the Polaris Institute report is attached as Appendix 'B' as supporting documentation to this complaint.

"Most water bottles avoid landfill sites and are recycled"

Section 1(a) of the *Code* states:

- (a) Advertisements must not contain inaccurate or deceptive claims, statements, illustrations or representations, either direct or implied, with regard to a product or service. In assessing the truthfulness and accuracy of a message, the concern is not with the intent of the sender or precise legality of the presentation. Rather, the focus is on the message as received or perceived, i.e. the general impression conveyed by the advertisement.

Regarding Nestlé Waters' claim that "most water bottles avoid landfill sites and are recycled", the general impression conveyed is that because "most" water bottles are recycled, bottled water has no negative environmental impact at all.

The truth is that many water bottles are not being recycled, a phenomena that Nestlé Waters itself - in direct contradiction to its own advertisement - admits in its 2008 Corporate Citizenship Report.¹ In its report, Nestlé Waters states that many of its own bottles end up in the waste-stream, stressing that “[t]oday, almost all beverage bottles are recyclable, but most are not recycled...”² and that “[w]hile our plastic beverage containers are recyclable, many end up in the solid-waste stream...”³ The report adds that “[e]ven though our PET and HDPE bottles are 100% recyclable, many still end up in the waste stream...”⁴

These three passages directly contradict the company’s assertion in the advertisement that “most water bottles avoid landfill sites and are recycled.” Moreover, the ad’s statements are also contradicted by government and other studies. Data from the US Environmental Protection Agency (EPA) show that, although some plastics are removed for recycling or composting, the proportion is very low – barely 5.5%.⁵ According to the Container Recycling Institute (CRI), a non-profit environmental group that studies trends in recycling, plastic-bottle waste has tripled since 1995. It found that 2002 recycling rates were exactly half the rates achieved in 1995 and for every ton of plastic bottles recycled, another four tons are being wasted.⁶ The truth is that the vast majority of discarded plastics are either buried in landfills or burned.

Section 1(b) of the *Code* requires that:

Advertisements must not omit relevant information in a manner that, in the result, is deceptive.

The focus of the advertisement in question credits Nestlé Waters with both supporting and being integral to all municipal recycling programs in Canada and being dedicated to finding new ways to reduce their packaging impact. The relevant information being omitted is that Nestlé Water’s product is a large part of the waste-creating problem. Nestlé Waters admits to this in its 2008 Corporate Citizenship Report, but leaves this information out of the advertisement.⁷ However, even if most water bottles were being recycled, that does not negate the environmental impacts of manufacturing the bottles in the first place. Even worse, the advertisement completely disregards the availability of tap water – a better “environmental” choice and one that is just as safe and pure as bottled water in addition to being better regulated.⁸ As the ad currently stands, it omits critical

¹ Nestlé Waters North America, *The Shape of Citizenship, 2008 Nestlé Waters North America Corporate Citizenship Report: Creating Shared Value*, available at <http://www.nestle-watersna.com/pdf/Nestle_Corporate_Citizenship_Report_Final.pdf>, and attached as Appendix C.

² *Ibid.*, see CEO Kim Jeffery’s opening letter to Stakeholders, at p. ii.

³ *Ibid.*, at p. 35.

⁴ *Ibid.*, at p. 37.

⁵ U.S. EPA, “Municipal Solid Waste...,” and “Characterization...,” as cited in Tony Clarke, *Inside the Bottle: An Exposé of the Bottled Water Industry* (Canadian Centre for Policy Alternatives and Polaris Institute, 2007), at p. 70, attached as Appendix B.

⁶ See Container Recycling Institute, as cited in *ibid.*, at p. 73.

⁷ See Nestlé Waters North America, “The Shape of Citizenship...,” n. 1 above.

⁸ See *Inside the Bottle*, n. 5 above, at p. 59.

information in its attempt to bury the harmful environmental consequences of bottled water.

The advertisement also claims that Nestlé Waters works with governments all across Canada to develop recycling programs and that Nestlé Waters Canada and its industry partners fund a minimum of 50% of the cost of all municipal recycling programs in Canada. It states:

Nestlé Waters Canada and its industry partners fund a minimum of 50% of the cost of all municipal recycling programs in Canada.

This is either factually incorrect or extremely misleading as industry funded programs for municipal multi-material recycling are only available in Manitoba, Ontario, Quebec and Nova Scotia. In most other provinces (i.e. Newfoundland, New Brunswick, Saskatchewan, Alberta, BC and the Yukon) Nestlé's PET containers are collected through deposit systems, so industry makes no contribution to multi-material programs.⁹

To provide guidance to advertisers and the public about circumstances in which “green” advertising claims may raise issues under the *Canadian Code of Advertising Standards*, Advertising Standards Canada issued in 2007 its *Advisory on Environmental Claims Advertising: When Green is not Really Green* (‘Advisory’). The *Advisory* states that whether a “green” claim actually raises an issue under section 1 of the *Code* (on accuracy and clarity) depends upon the following factors:

- does the environmental benefit claimed for the product appear to be supported by science-based evidence?
- is the ad unbalanced by singling out one environmentally positive attribute of the product while ignoring other characteristics or issues that may be harmful to the environment?
- does the ad make absolute and unqualified claims, such as “environmentally friendly” or “not harmful to the environment”?

These factors mirror aspects of greenwashing set out in the report *Six Sins of Greenwashing: A Study of Environmental Claims in North American Consumer Markets*

⁹ See Environment Canada – Inventory of Waste Diversion Programs in Canada. For Alberta, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=A061354F-1>>; for BC, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=F11195DA-1>>; for Manitoba, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=3374501D-1>>; for New Brunswick, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=5BF89F76-1>>; for Newfoundland, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=AC44CC46-1>>; for Nova Scotia, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=874E95F9-1>>; for Ontario, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=17E734B6-1>>; for Quebec, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=989DA36C-1>>; for Saskatchewan, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=F7911B8D-1>>; and for the Yukon, see <<http://www.ec.gc.ca/epr/default.asp?lang=En&n=29E5D628-1>>.

authored by Terrachoice, an environmental marketing agency.¹⁰ The relevant “Sins of Greenwashing” are as follows:

- No Proof – Any environmental claim that cannot be substantiated by easily accessible supporting information or by a reliable third party certification.
- Hidden Trade Off – Suggesting a product is “green” based on a single environmental attribute without attention to other important or more important environmental issues.
- Vagueness – Committed by every claim that is so poorly defined or broad that its real meaning is likely to be misunderstood by the intended consumer.

In regard to Nestlé Waters’ advertisement, there is no science-based evidence providing proof that “most” water bottles avoid landfills and are recycled. In fact, as noted above, the company contradicts its own assertion on recycling rates in its recently published 2008 Corporate Citizenship Report.

Furthermore, the advertisement is unbalanced in that it singles out the recyclability of water bottles and efforts to reduce packaging, but then ignores other issues that are harmful to the environment, such as the manufacturing impacts and emissions mentioned above in addition to transportation emissions that must result from distribution. This is the “Hidden Trade Off” sin.

Additional guidance on interpreting the *Code* may be found in the Canadian Standards Association International’s standard on environmental claims. This standard (CAN/CSA-ISO 14021-00) identifies specific requirements about environmental claims and the accepted use of environmental terms and symbols. In addition, the Competition Bureau Canada and the Canadian Standards Association published in June 2008 a best practices guide for self-declared environmental claims (*Guide*). The *Guide* reflects current and internationally accepted best practices regarding the use of environmental claims and states that adherence to these practices will reduce the risk of communicating misleading environmental claims. According to the *Guide*, self-declared environmental claims must be verifiable, accurate, meaningful and reliable if consumers are to understand the value of the environmental information they represent.

CAN/CSA-ISO 14021 at clause 5.7 sets out 18 specific requirements applicable to self-declared environmental claims such as the claims made in the advertisement at issue. Among these requirements, an environmental claim shall:

- be accurate and not misleading;

¹⁰ See Terrachoice, *Six Sins of Greenwashing: A Study of Environmental Claims in North American Consumer Markets* (Terrachoice, November 2007), available at <http://www.terrachoice.com/files/6_sins.pdf> and attached as Appendix D.

- be substantiated and verified;
- be unlikely to result in misinterpretation;
- be true not only in relation to the final product, but also shall take into consideration all relevant aspects of the product life cycle in order to identify the potential for one impact to be increased in the process of decreasing another;
- not, either directly or by implication, suggest an environmental improvement which does not exist, nor shall it exaggerate the environmental aspect of the product to which the claim relates;
- not be made if, despite the claim being literally true, it is likely to be misinterpreted by purchasers or is misleading through the omission of relevant facts; and
- if a comparative assertion of the environmental superiority or improvement is made, be specific and make clear the basis for the comparison. Comparisons must always be accurate and verifiable.

As described above, the Nestlé Waters advertisement's claims violate each of these requirements.

“Bottled water is the most environmentally responsible consumer product in the world”

As noted above, the vast majority of discarded plastics are either buried in landfills or burned. Both of these alternatives either pollute groundwater through the release of phthalates and other toxic additives or will release toxic pollutants such as nitrogen, sulphur, and carbon oxides into the air – contributing to climate change and acid rain.¹¹

Increased sales of bottled water have translated into a frightening number of plastic bottles, an increasing demand for non-renewable resources, and a devastating release of toxic chemicals into the air and water – all major contributors to global warming and acid rain.¹² The “100% recyclable PET plastic” bottles are still made from fossil fuels and chemicals and during the production of plastics, substantial amounts of toxic chemicals (e.g. ethylene oxide, benzene and xylenes) are released into the air and the water supply. Studies show that many of the toxic chemicals released in plastic production can cause cancer and birth defects and damage the nervous system, blood, kidneys and immune systems. These chemicals can also cause serious damage to ecosystems.¹³

¹¹ See *Inside the Bottle*, n. 5 above, at p. 70.

¹² *Ibid.*, at p. 67.

¹³ Harry S. Cole and Kenneth A. Brown, “Advantage Glass! Switching to Plastic is An Environmental Mistake, A Study Documenting the Environmental Advantages of Glass Over Plastic Containers Based on Published Information” (Glass Packaging Institute, Sept. 1993), as cited in *Inside the Bottle*, *ibid.*, at p. 68.

There are also many questions about the health risks of chemical migration from plastic packaging into beverages (“leaching”). A number of serious peer-reviewed studies have clearly shown that chemicals can migrate from plastic containers into beverage products.¹⁴ According to the Heidelberg study, there is substantial leaching of antimony (a suspected carcinogen, listed as a priority pollutant by the U.S. EPA and similar bodies in the European Union) from PET containers into the water that is bottled. In one set of tests, the water bottled in PET containers contained between 95 and 165 times more antimony than the original source of water.¹⁵

Furthermore, the companies that supply raw materials for the production of plastics often have dirty track records when it comes to releasing chemicals that have negative environmental and human health effects and when it comes to releasing carbon monoxide, nitrogen oxides and volatile organic compound emissions. The plants that then produce the plastics are no cleaner than those supplying the raw materials. Carbon dioxide emissions from plastic bottle production are a major source of global warming, while sulfur dioxide and nitrogen oxides are both ingredients that contribute to the formation of acid rain.¹⁶

Section 1(e) of the *Code* requires that, both in principle and practice, all advertising claims and representations be supportable. It states:

Both in principle and practice, all advertising claims and representations must be supportable. If the support on which an advertised claim or representation depends is test or survey data, such data must be reasonably competent and reliable, reflecting accepted principles of research design and execution that characterize the current state of the art. At the same time, however, such research should be economically and technically feasible, with due recognition of the various costs of doing business.

If Nestlé Waters is to claim that bottled water is the most environmentally responsible consumer product in the world, it must be able to support this statement. It must also be able to support that this is the case whether “environmentally responsible” is being measured by water volume, plastic/oil usage or carbon footprint. Related to this concern is section 6 of the *Code* which states that “Advertisements must not, unfairly, discredit, disparage or attack other products or services or exaggerate the nature or importance of competitive differences.”

¹⁴ M.G. Evandri, P. Tucci and P. Bolle, “Toxicological evaluation of commercial mineral water bottled in polyethylene terephthalate: a cytogenetic approach with *Allium cepa*,” 17:12 *Food Additives and Contaminants* (2000), at pp. 1037 and 1045, available at <<http://www.mindfully.org/Plastic/Polyethylene/PET-Mineral-Water1dec00.htm>>, as cited in *Inside the Bottle*, *ibid.*, at p. 68.

¹⁵ William Shoty, Michael Krachler and Bin Chen, “Contamination of Canadian and European bottled waters with antimony from PET containers,” 8 *Journal of Environmental Monitoring* (2006), at 288-292, as cited in *Inside the Bottle*, *ibid.*, at p. 69.

¹⁶ *Inside the Bottle*, *ibid.*, at p. 69.

An obvious place to communicate its claims would be the Nestlé Waters website (found at <www.nestle-watersna.com>). This website was searched on November 13, 2008 for information substantiating its claims. The website presents various claims as to water reduction, packaging reduction, water use, and an Environmental Management System, and includes company statements such as “Nestlé’s Worldwide Commitment to the Environment”, a fact sheet, Nestlé Waters North America Environmental Commitment, and the 2008 Nestlé Water North America Corporate Citizenship Report. In no place does the company compare its performance to any other consumer packaged product.

By definition, however, “consumer packaged goods” are:

... consumable goods such as food and beverages, footwear and apparel, tobacco and cleaning products. In general, [these] are things that get used up and have to be replaced frequently, in contrast to items that people usually keep for a long time, such as cars and furniture.¹⁷

In other words, this type of product is inherently not an environmentally responsible type of good.

For Nestlé Waters to claim that its bottled water product is environmentally superior to any other consumer packaged goods in the world is simply an absurd blanket statement that is not supportable. In contravention of the *Advisory*, there is no science-based evidence presented to support the claim that bottled water is the most environmentally responsible consumer product in the world whether measured by water volume, plastic/oil usage or carbon footprint.

The fact that the company makes this claim without attempting to substantiate it indicates that it has not made efforts to comply with the guidelines set by Canada’s Competition Bureau and the Canadian Standards Association to ensure environmental claims are specific and verifiable as addressed further in our letter.

This claim violates clause 5.3 of CAN/CSA-ISO 14021 by making multiple environmental claims that are vague, non-specific and which broadly imply that Nestlé’s product is environmentally beneficial (or at the very least, environmentally benign). These claims of Nestlé Pure Life being the most environmentally responsible consumer product in the world is not accompanied by any statements that provide support for the claim. The *Guide* states at p. 9 that:

Claims relating to the environmental performance of a product or its features that are not supported by adequate and proper tests or that are false or misleading in a material respect are prohibited in Canada. The general impression conveyed by the claim, as well as its literal meaning, shall be taken into account when determining whether an environmental claim is false or misleading in a material respect.

¹⁷ See SearchCRM.com Definitions (accessed Nov 13/08), available at <http://searchcrm.techtarget.com/sDefinition/0,,sid11_gci947395,00.htm>.

Claims such as “environmentally friendly” or “ecological (eco)” are vague claims that should be reserved for products whose life cycles have been thoroughly examined and verified. These claims imply that a product is environmentally benign or beneficial.

It is important to note that clause 6.5.1 of CAN/CSA-ISO 14021 states that a self-declared environmental claim can only be considered verifiable if such verification can be made without access to confidential business information. Claims that can only be verified with confidential business information must not be used.

Finally, comparisons in comparative claims can only be made (1) using a published standard or recognized test method; and (2) against comparable products serving similar functions, supplied by the same or another producer, currently or recently in the same marketplace (CAN/CSA-ISO 14021, clause 6.3.1). This is reiterated in Article 6 of the *Code*, which states:

Advertisements must not, unfairly, discredit, disparage or attack other products, services, advertisements or companies, or exaggerate the nature or importance of competitive differences.

Comparing bottled water to all other consumer packaged goods in the world clearly violates this requirement as it simply is not verifiable in any way nor does the company even attempt to do so.

“Nestlé Pure Life is a Healthy, Eco-Friendly Choice”

Nestlé Waters’ water-use track record is also cause for concern for a company that claims to provide the “most environmentally responsible consumer product in the world” and assures consumers that Nestlé Pure Life is an “Eco-Friendly” choice.

In 2003, it is estimated that Nestlé Waters withdrew a total of 1,862,486,080 gallons (this equals 2820 Olympic sized swimming pools) for its bottled water production in the U.S. alone. Nestlé Waters takes most of its water from underground sources and claims that it “collect[s] as much as the spring can safely support.”¹⁸

Serious concerns have also been raised about Nestlé Waters’ water takings in areas that are prone to drought conditions in other regions. In Florida, for example, Nestlé Waters bottles its Zephyrhills product with water taken from the Crystal Springs that feeds the Hillsborough River, one of Tampa’s main sources of drinking water. In 2000-2001, when a drought hit the region, Nestlé Waters continued to push for a permit to increase its water takings from 301,000 gallons to 1.8 million gallons per day. In Brazil, where Nestlé Waters bottles the Pure Life brand, the company reportedly was responsible for

¹⁸ See Arrowhead Water Official Website, available at <<https://eservice.arrowheadwater.com/service/help/environment.aspx>>, as cited in *Inside the Bottle*, n. 5 above, at p. 29.

drying up the Magnesiana, one of the main springs in the Agulhas Negras (Black Needles) area.¹⁹

“Nestlé Pure Life is a Healthy, Eco-Friendly Choice” is an absolute and unqualified claim contrary to the *Advisory*. Nestlé Waters has not qualified its claims by appropriately communicating the product’s limitations. Another statement that is vague and likely to be misunderstood by consumers is that “most water bottles avoid landfill sites and are recycled”. What constitutes “most” in this scenario – 99%, 51% or 5.5%?

This claim also violates clause 5.3 of CAN/CSA-ISO 14021 (as described above) in that it is vague, non-specific and broadly implies that Nestlé Waters’ product is environmentally beneficial (or at the very least, environmentally benign). This claim again is not accompanied by any statements that provide support for the claim, in violation of the *Guide*.

V. CONCLUSIONS

In summary, the available evidence shows that most water bottles do not avoid landfill sites or are recycled, bottled water is not an environmentally responsible consumer product, and Nestlé Pure Life is not an eco-friendly choice.

In the face of this, Nestlé Waters’ claims are materially misleading. Nestlé Waters’ misuse of environmental claims in its advertising is an egregious case of deception at a particularly sensitive time when citizens and local governments across Canada are giving careful attention and study to the impact of bottled water on their environment. In our opinion, this makes Nestlé Waters’ performance even more objectionable. We would, therefore, ask that should Advertising Standards Canada’s examination support our complaint, the Council give due consideration to recourse of a significant nature, including the following measures:

- A declaration by the Council that Nestlé Waters’ advertisement was misleading and infringed standards of honesty, truth, accuracy, fairness and propriety in advertising;
- A request to Nestlé Waters to publicly retract, in the same media in which it was circulated, the statements made in the advertisement;
- A request that Nestlé Waters refrain from making any further unsubstantiated claims regarding the sustainability or environmental impacts of its products.

¹⁹ See *Inside the Bottle*, *ibid.*, at p. 29.

We look forward to hearing from you.



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