

ADVISORY ON ENVIRONMENTAL CLAIMS ADVERTISING: WHEN GREEN IS NOT REALLY GREEN

Concerns about the environment and global warming are in the public's mind as never before, and advertisements that include environmental claims are becoming more and more prevalent.

In their desire to convince consumers that a product causes no harm and may even benefit the environment, making claims that don't exaggerate a product's benefit or minimize its negative impact must seem to many advertisers to be like a high-wire act without a safety net.

This Advisory is intended 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*.

While ASC is only now starting to hear complaints from consumers about advertisements they believe make misleading environmental claims, this issue is not new in other jurisdictions, such as the UK.

Examples, in the past year, of "green" claims that the UK's Advertising Standards Authority found were misleading included:

- a claim by an energy company about the impact of planting trees to offset carbon emissions produced by its customers,
- claims by automobile manufacturers that were found to suggest that the carbon emissions produced by their vehicles were lower than those of other vehicles,
- a claim by an energy company that its direct mail was produced with paper that was "100 per cent environmentally friendly."

For additional examples of claims that were found in the UK to be misleading and violated UK advertising industry codes, please look at recent adjudications of the UK's Advertising Standards Authority at www.asa.org.uk.

In Canada, in most cases, allegedly misleading environmental claims are evaluated under Clause 1 (Accuracy and Clarity) of the *Canadian Code of Advertising Standards*. That clause provides, in part:

"(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.

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

(c) All pertinent details of an advertised offer must be clearly and understandably stated.

(d) Disclaimers and asterisked or footnoted information

must not contradict more prominent aspects of the message and should be located and presented in such a manner as to be clearly visible and/or audible.

(e) Both in principle and practice, all advertising claims and representations must be supportable..."

Whether any particular "green" claim actually raises an issue under Clause 1 depends on various factors.

These include:

1. Does the environmental benefit claimed for the product appear to be supported by science-based evidence?
2. Is the scientific evidence that is being used to substantiate the claim generally well-recognized and accepted by authorities on the subject?
3. Is the advertisement unbalanced by singling out one environmentally positive attribute of the product while ignoring other characteristics or issues that may be harmful to the environment?
4. Does the advertisement make absolute and unqualified claims, such as "environmentally friendly" or "not harmful to the environment"? Or does the advertiser qualify its claims by appropriately communicating a product's limitations?

Consumers have a difficult time finding reliable information on which to base buying decisions about products that make claims about environmental benefits. "Green" advertising is a useful way to communicate important information to consumers who want to make responsible and environmentally conscious choices between competing products that claim to respect the environment. Following the advice and comments in this advisory can help advertisers make "green" claims that are truthful, fair, accurate and in compliance with the *Code*.

Additional guidance about environment impact statements that are acceptable 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.

Canada's Competition Bureau has partnered with the CSA to develop a best practices guide for self-declared environmental claims. In addition to serving as a best practices guide for self-declared environmental claims, the document will also provide assistance to industry and advertisers in complying with the *Competition Act*, the *Consumer Packaging and Labelling Act* and the *Textile Labelling Act*. The Guide is expected to be released in spring 2008.