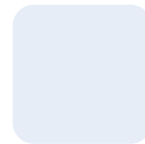


# 2004



# AD COMPLAINTS

# REPORT



## WHAT'S IN THIS REPORT

This report contains statistical information about consumer complaints submitted to Advertising Standards Canada in 2004 for review under the *Canadian Code of Advertising Standards*. Case summaries about complaints upheld by the National and Regional Consumer Response Councils from January 1, 2004 to December 31, 2004 are available on ASC's website ([www.adstandards.com](http://www.adstandards.com)).

### CONSUMER COMPLAINTS RECEIVED

- 1,540 complaints were received from consumers
- Of these, 81 complaints, concerning 55 advertisements, were found by the Consumer Response Councils to contravene the *Canadian Code of Advertising Standards*
- Television advertising attracted the highest number of complaints (939) followed by out-of-home advertising with 178 complaints

### CONSUMER HOT BUTTONS

- Top-of-mind consumer concerns, as reflected in their complaints to ASC, were:
- advertising with adult themes and sexual innuendo, particularly when appearing in media with broad exposure to children
  - concerns about allegedly inaccurate or misleading advertising messages
  - perceived depictions of overly aggressive driving and driving at excessively high speeds



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# 2004 YEAR IN REVIEW

In 2004, consumers submitted 1,540 complaints to ASC about 860 advertisements. Of these, the National and Regional Consumer Response Councils (Councils) upheld 81 complaints about 55 advertisements.

## COMPLAINTS SUMMARY FOR 2004 AND 2003

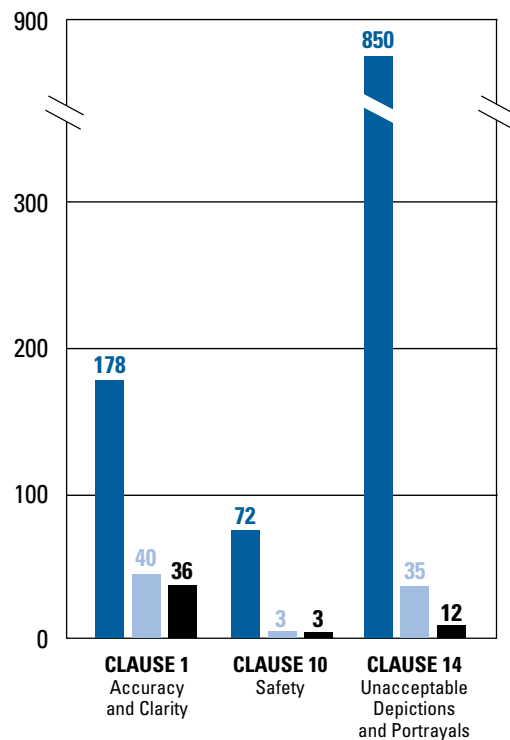
	2004	2003
Complaints received by ASC	1,540 (860 ads)	1,133 (716 ads)
	↓	↓
Complaints that met <i>Code</i> acceptance criteria	1,116 (560 ads)	860 (493 ads)
	↓	↓
Complaints that raised potential <i>Code</i> issues and forwarded to Councils	125 (87 ads)	226 (110 ads)
	↓	↓
Complaints upheld by Councils	81 (55 ads)	131 (57 ads)

## COMPLAINTS BY CODE CLAUSES

Consumer complaints that met *Code* acceptance criteria most frequently involved Clause 1, 10 or 14. Consistent with previous years, a greater number of consumers' complaints (850) were reviewed under Clause 14 (Unacceptable Depictions and Portrayals) than under any other *Code* clause. Councils upheld 35 complaints about 12 advertisements under Clause 14.

Under Clause 1 (Accuracy and Clarity), 178 complaints were reviewed. Of these, 40 complaints, concerning 36 advertisements, were upheld by Councils.

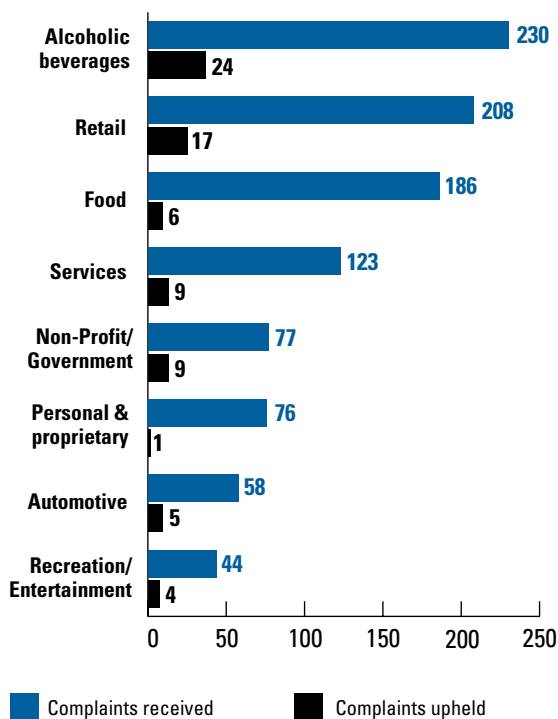
Finally, 72 complaints were reviewed under Clause 10 (Safety). Three complaints were upheld by Councils concerning three advertisements.



- Complaints received
- Complaints upheld
- Advertisements about which complaints were upheld

### COMPLAINTS BY CATEGORY\*

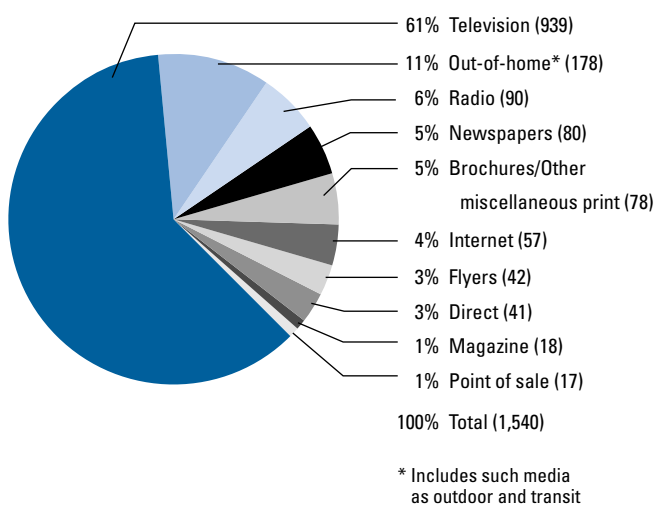
Alcoholic beverage advertising garnered the highest number of complaints from consumers – a total of 230 complaints. Retail advertising followed with 208 complaints. In third place was food advertising with 186 complaints.



\* Top eight of 16 categories.

### COMPLAINTS BY MEDIA

Television attracted the most complaints in 2004 with 939 complaints. Advertising in the out-of-home medium garnered 178 complaints, followed by advertising on radio with 90 complaints.



### 2004 consumer concerns

Sparked, perhaps, by high-profile incidents in the mass media, such as Janet Jackson’s “wardrobe malfunction” during the 2004 Super Bowl broadcast, ASC received more complaints from consumers than ever about adult-themed and sexually-explicit advertising — particularly when it reached their children through mainstream media. Many of these complainants contended that such advertising not only pushed, but irrevocably crossed, the boundaries of mainstream taste. In fact, since 1999, this has been the dominant concern expressed to ASC through consumers’ complaints.

In 2004, ASC also received many complaints from consumers expressing their concerns about the depictions in advertisements of certain groups, such as senior citizens. Such depictions, often intended by their creators to be humorous, edgy and targeted to a specific demographic, were sometimes perceived as stereotypical or derogatory by persons outside the target audience.

Finally, as in 2003, many consumers expressed concerns about perceived depictions in television commercials of overly aggressive driving and driving at excessively high speeds. These complainants cited safety concerns that impressionable novice drivers might be prompted to imitate such behaviour.

# THE CONSUMER COMPLAINT PROCEDURE – AN OVERVIEW

## THE CANADIAN CODE OF ADVERTISING STANDARDS – THE BASIS FOR ADJUDICATION OF CONSUMER COMPLAINTS

The *Code* sets the standards for acceptable advertising and forms the basis for the review and adjudication of consumer complaints about advertising. Since it was first published in 1963, the *Code* has been regularly updated to ensure that it remains vital, current, and relevant in a contemporary context.

## AN OVERVIEW OF HOW COMPLAINTS ARE HANDLED

1. ASC staff review the advertisement against the clauses of the *Code*.
2. If a potential issue is identified under a clause of the *Code* (other than Clause 10 or 14), the advertiser is asked to respond to ASC regarding the merits of the complaint.
3. ASC staff review the advertiser's response. If a *Code* issue remains, the complaint is forwarded to one of the independent Consumer Response Councils for adjudication.
4. If a Council determines that an advertisement violates a clause of the *Code*, the advertiser is asked to amend or withdraw the advertisement.
5. The *Code* provides a process for advertisers or consumers who wish to appeal a Council decision.
6. Upheld complaints are publicly reported in ASC's quarterly *Ad Complaints Reports*.

## ENSURING OBJECTIVE, INDEPENDENT COMPLAINT ADJUDICATION – THE CONSUMER RESPONSE COUNCILS

While ASC administers the process by which consumers submit their written complaints about advertisements, those complaints that raise potential issues under the *Code* are reviewed and adjudicated by independent volunteer bodies known as the Consumer Response Councils. There are five Consumer Response Councils across Canada in Halifax, Montreal, Toronto, Calgary, and Vancouver.

### Facilitating direct communication between advertisers and consumers

For complaints that raise potential issues under Clause 10 (*Safety*) or Clause 14 (*Unacceptable Depictions and Portrayals*), the advertiser is given the opportunity to respond to consumers in writing. Our experience tells us that complaints can often be resolved when the advertiser has the opportunity to share its insights directly with the consumer. The advertiser will respond directly to the consumer if the consumer has given ASC express permission to forward his or her name to the advertiser. Otherwise, the advertiser responds to ASC, which forwards the response to the consumer. If the consumer is not satisfied with the advertiser's response, he or she may request a Council review.

# THE CANADIAN CODE OF ADVERTISING STANDARDS

## 1. ACCURACY AND CLARITY

(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. 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.

(f) The entity that is the advertiser in an advocacy advertisement must be clearly identified as the advertiser in either or both the audio or video portion of the advocacy advertisement.

## 2. DISGUISED ADVERTISING TECHNIQUES

No advertisement shall be presented in a format or style that conceals its commercial intent.

## 3. PRICE CLAIMS

(a) No advertisement shall include deceptive price claims or discounts, unrealistic price comparisons or exaggerated

claims as to worth or value. "Regular Price", "Suggested Retail Price", "Manufacturer's List Price" and "Fair Market Value" are deceptive terms when used by an advertiser to indicate a savings, unless they represent prices at which, in the market place where the advertisement appears, the advertiser actually sold a substantial volume of the advertised product or service within a reasonable period of time (such as six months) immediately before or after making the representation in the advertisement; or offered the product or service for sale in good faith for a substantial period of time (such as six months) immediately before or after making the representation in the advertisement.

(b) Where price discounts are offered, qualifying statements such as "up to", "XX off", etc., must be in easily readable type, in close proximity to the prices quoted and, where practical, legitimate regular prices must be included.

(c) Prices quoted in advertisements in Canadian media, other than in Canadian funds, must be so identified.

## 4. BAIT AND SWITCH

Advertisements must not misrepresent the consumer's opportunity to purchase the goods and services at the terms presented. If supply of the sale item is limited, or the seller can fulfil only limited demand, this must be clearly stated in the advertisement.

## 5. GUARANTEES

No advertisement shall offer a guarantee or warranty, unless the guarantee or warranty is fully explained as to conditions and limits and the name of the guarantor or warrantor is provided, or it is indicated where such information may be obtained.

## 6. COMPARATIVE ADVERTISING

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

## 7. TESTIMONIALS

Testimonials, endorsements or representations of opinion or preference, must reflect the genuine, reasonably current opinion of the individual(s), group or organization making such representations, and must be based upon adequate information about or experience with the product or service being advertised, and must not otherwise be deceptive.

## 8. PROFESSIONAL OR SCIENTIFIC CLAIMS

Advertisements must not distort the true meaning of statements made by professionals or scientific authorities. Advertising claims must not imply that they have a scientific basis that they do not truly possess. Any scientific, professional or authoritative claims or statements must be applicable to the Canadian context, unless otherwise clearly stated.

## 9. IMITATION

No advertiser shall imitate the copy, slogans or illustrations of another advertiser in such a manner as to mislead the consumer.

## 10. SAFETY

Advertisements must not without reason, justifiable on educational or social grounds, display a disregard for safety by depicting situations that might reasonably be interpreted as encouraging unsafe or dangerous practices, or acts.

## 11. SUPERSTITION AND FEARS

Advertisements must not exploit superstitions or play upon fears to mislead the consumer.

## 12. ADVERTISING TO CHILDREN

Advertising that is directed to children must not exploit their credulity, lack of experience or their sense of loyalty, and must not present information or illustrations that might result in their physical, emotional or moral harm.

Child-directed advertising in the broadcast media is separately regulated by the *Broadcast Code for Advertising to Children*, also administered by ASC. Advertising to children in Quebec is prohibited by the *Quebec Consumer Protection Act*.

## 13. ADVERTISING TO MINORS

Products prohibited from sale to minors must not be advertised in such a way as to appeal particularly to persons under legal age, and people featured in advertisements for such products must be, and clearly seen to be, adults under the law.

## 14. UNACCEPTABLE DEPICTIONS AND PORTRAYALS

It is recognized that advertisements may be distasteful without necessarily conflicting with the provisions of this clause 14; and the fact that a particular product or service may be offensive to some people is not sufficient grounds for objecting to an advertisement for that product or service. Advertisements shall not:

- (a) condone any form of personal discrimination, including that based upon race, national origin, religion, sex or age;
- (b) appear in a realistic manner to exploit, condone or incite violence; nor directly encourage, or exhibit obvious indifference to, unlawful behaviour;
- (c) demean, denigrate or disparage any identifiable person, group of persons, firm, organization, industrial or commercial activity, profession, product or service or attempt to bring it or them into public contempt or ridicule;
- (d) undermine human dignity; or display obvious indifference to, or encourage, gratuitously and without merit, conduct or attitudes that offend the standards of public decency prevailing among a significant segment of the population.

**The Code is supplemented by *Interpretation Guidelines* that enhance industry and public understanding of the interpretation and application of the Code's 14 clauses.**

### ***Interpretation Guideline #1***

In assessing impression(s) likely to be conveyed by an advertisement, Council shall take into consideration the use and application in the advertisement(s) of such elements as humour and fantasy. (May 2003)

### ***Interpretation Guideline #2***

Food product advertising addressed to children that is inconsistent with the pertinent provisions of the *Food and Drugs Act and Regulations*, or the Canadian Food Inspection Agency's *Guide to Food Labelling and Advertising* shall be deemed to violate Clause 12 (Advertising to Children). This *Guideline* is intended, among other purposes, to ensure that advertisements representing mealtime clearly and adequately depict the role of the product within the framework of a balanced diet, and snack foods are clearly presented as such, not as substitutes for meals. (April 2004)

# NATIONAL AND REGIONAL CONSUMER RESPONSE COUNCILS

## NATIONAL CONSUMER RESPONSE COUNCIL

The National Consumer Response Council, based in Toronto, Ontario, adjudicates consumers' complaints that raise a potential *Code* issue concerning national English-language advertisements.

Roberta Albert\*  
Tim Binkley, Downtown Partners  
Renee Bozowsky\*  
Dave Champion, Best Buy Canada Ltd.  
Theresa Courneyea\*  
Geoff Craig, Unilever Canada  
Paul Dillon, Greyhound Canada  
Eleanor Friedland\*, Consumers Council of Canada  
Stephanie Guran, Viacom Outdoor  
Lorraine Hughes, OMD Canada  
Norm Kirk\*  
Stephen Lawson, Hudson's Bay Company  
Helena Lazar, Publicis  
Michael Lio\*, Lio & Associates  
Peter Miller, CHUM Television  
Peggy Molloy-Vickers\*, Sheridan College  
Margo Northcote  
Randy Otto, Pattison Outdoor Advertising  
Jayne Payette, Nestlé Canada Inc.  
Rick Pregent, FCB Canada Ltd.  
Suzanne Raitt, Canadian Newspaper Association  
Barbara Schreier\*  
Jeff Shinozaki, Coca-Cola Ltd.  
Gregory Skinner, Enterprise Creative Selling  
Teresa Tsuji, The Medical Post  
Angus Tucker, John St. Advertising  
Mark Wakefield, Unilever Canada  
Sandra Wheaton, Canadian Broadcasting Corporation

\* Public representative

## FRENCH CANADA CONSUMER RESPONSE COUNCIL

The French Canada Consumer Response Council, based in Montreal, Quebec, adjudicates consumers' complaints that raise a potential *Code* issue concerning national advertising in the French language or advertising that appears only in Quebec.

Raymonde Lavoie, Co-présidente/Co-Chair – DesArts Communication  
Marcel Saint-Germain, Co-président/Co-Chair  
Pierre Arthur† – La Presse  
Manon Beaudoin – Le Conseil québécois du commerce de détail  
Marie-Hélène Beaulieu\* – Option Consommateurs  
Ronald Béliard\* – Communautés culturelles  
Sylvie Bolduc – Palm Publicité Marketing  
René Carier – Publicité Club de Montréal  
Sylvie Chavanne† – TQS  
Philippe Comeau – LG2  
Paule Desautels† – Bell Canada  
Jannick Desforges\*† – Option Consommateurs  
Roma Desjardins\* – Association des consommateurs du Canada  
Sylvain Desrochers\* – Université de Montréal  
Denis Dompierre\* – Communications et Société  
Christiane Dubé – La Presse  
Geneviève Durocher\*† – Représentante Jeunesse  
Jeane Francoeur – Banque nationale du Canada  
Sylvie Gaudreau – TQS  
John D. Gill – Transcontinental Procom Inc.  
Mark Goren – Armada  
Trevor Ham – Playground  
Eve-Marie Hamel\*† – Représentante Jeunesse

Paul Hétu† – Association canadienne des annonceurs  
Renatka Krcova\* – Représentante Jeunesse  
Nancy Leggett-Bachand – Hebδος du Québec  
Guylaine Lehoux† – Gaz Métropolitain Inc.  
Pascal Léporé – Bureau d'éthique commerciale de Montréal Inc.  
Alykhanhthi Lynhiavu\*† – Communautés culturelles  
Ursula Mueller\* – Consommatrice de langue anglaise  
Jo-Ann Munro – Groupe Cossette Communication Inc.  
Bertrand Ouellet\*† – Communications et Société  
Françoise Pâquet† – Le Conseil québécois du commerce de détail  
Louis-Thomas Pelletier – Diesel Marketing Inc.  
Claude Perrault – Société Radio-Canada  
Guyane Perron† – Hebδος du Québec  
Stéphanie Poulin\*† – Option Consommateurs  
Christiane Sauvé\* – Consommatrice  
Yves St-Amand – Association des agences de publicité du Québec  
Isabelle Stébenne† – Palm Publicité Marketing  
Joëlle Turgeon† – Société Radio-Canada  
Rita Villeneuve\* – AFÉAS  
Jane Williams – Marketel / McCann-Erickson  
Sandra Wheaton† – Société Radio-Canada

† Alternate

\* Public representative

**Complaints from consumers are directed to one of the following regional Councils if the advertisement relates to local or regional advertising in the vicinity of that Council office.**

## BRITISH COLUMBIA CONSUMER RESPONSE COUNCIL

Alexis Cylwa, Chair – Pacific Newspaper Group  
Pat Conway, Pattison Outdoor Advertising  
Christopher Gouglas, Best Buy Canada Ltd.  
John Leckie, Gowling Lafleur Henderson LLP  
Roy Lind, BC Newspaper Group  
Simone Lis, Better Business Bureau of Mainland BC\*  
Brett Manlove, Global BC  
Eric Ommundsen, Panorama Mountain Village  
Sheryl O'Toole\*  
Andeen Pitt, Wasserman & Partners Advertising  
Anne Steele\*  
Neil Sweeney, Labatt Breweries of Canada  
Robert Wyckham\*

## ALBERTA CONSUMER RESPONSE COUNCIL

Pat Sullivan, Chair – Highwood Communications  
Anne Byrne, Pattison Outdoor Advertising  
Gary Cobb, The Calgary Herald  
Shane Goth, Calder Bateman Communications  
Sandra Jonsson, CFCN Television  
Tim Loblaw\*, Southern Alberta Institute of Technology  
Keith Martin\*, Alberta Government Services  
Darrell Paul, CJAY 92 FM Radio  
Kate Reynolds-Braun, Calgary Learning Centre  
Paige Thomlinson, Chinook Centre  
Cathy Yost, Yost Production Services Ltd.

## ATLANTIC CONSUMER RESPONSE COUNCIL

Blair Hyslop, Chair – McCain International  
Michel Bertin, Radio-Canada – Television Sales  
Elizabeth Braid, SGCI Communications Inc.  
Jean Brousseau, GCP Bristol  
Jay Calnan, Metro Radio Group  
Rick Emberley, The Bristol Group  
Kelly L. Greenwood\*, Patterson Palmer  
Brian Jamieson, Extreme Communications, NB & PEI  
Denise Moore\*, Nova Scotia Advisory Council on the Status of Women  
Steve Poirier, Moosehead Breweries Ltd.  
Nancy G. Rubin\*, Stewart McKelvey Stirling Scales  
Tracey Thomas\*, Black Business Initiative

\* Public representative

## HOW TO SUBMIT A CONSUMER COMPLAINT

ASC responds to all consumer complaints in writing. Complaints can be submitted by completing ASC's *Online Complaint Submission Form* (available on our website) or via email, letter or fax. Here are the five steps to make a written complaint.

1. Include your name, mailing address, phone number and (if applicable) fax number.
2. Identify the product or service, including the advertiser or brand name.
3. Describe the advertisement. For print advertisements, enclose a copy if possible.
4. Identify where and when the advertisement appeared.
5. Describe your concern about the advertisement.

## HOW TO REACH US

### **Advertising Standards Canada**

175 Bloor Street East  
South Tower, Suite 1801  
Toronto, Ontario  
M4W 3R8

Fax: 416 961-7904  
Email: [info@adstandards.com](mailto:info@adstandards.com)  
Web: [www.adstandards.com](http://www.adstandards.com)

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Email: [info@normespub.com](mailto:info@normespub.com)  
Web: [www.normespub.com](http://www.normespub.com)

### **ASC's toll-free information line**

To learn more about the consumer complaints process, call our recorded information line at 1 877 656-8646.

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