

ANNUAL AD COMPLAINTS REPORT 2013 YEAR IN REVIEW

The 2013 Complaints Report contains statistical information about complaints submitted to ASC in 2013 for review under the *Canadian Code of Advertising Standards (Code)*. Case summaries about complaints upheld by the Councils from January 1, 2013 to December 31, 2013, are available on our website at: adstandards.com/code

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INTRODUCTION

At Advertising Standards Canada (ASC) we recognize that an effective consumer response mechanism is essential to maintaining public confidence in advertising. Through ASC's *Consumer Complaint Procedure*, we accept and respond to consumers' complaints about advertising appearing in the Canadian media.

Reporting on complaints upheld by ASC's independent Standards Councils (Councils) is an important part of the process. The Complaint Case Summaries provide invaluable learning for both the advertising industry and the public regarding how Councils interpret and apply the *Canadian Code of Advertising Standards (Code)*.

This 2013 Ad Complaints Report provides an account of the number of consumer complaints received and investigated over the past year, information about the types of complaints upheld, and insights regarding consumer concerns in 2013.

2013 HIGHLIGHTS

- ASC received a total of 1,286 consumer complaints regarding 1075 advertisements.
- Councils reviewed 100 complaints that raised issues under the *Canadian Code of Advertising Standards*.
- A total of 79 complaints about 50 advertisements were upheld by Councils.
- ASC staff administratively resolved 45 complaints involving 45 advertisements.
- Consumers' complaints alleging inaccurate or misleading advertising represented 36% per cent of all complaints.
- Retail advertising garnered the highest number of complaints – 178.

CODE DEFINITION OF ADVERTISING

"Advertising" is defined as any message (the content of which is controlled directly or indirectly by the advertiser) expressed in any language and communicated in any medium (except those listed under Exclusions) to Canadians with the intent to influence their choice, opinion or behaviour.

EXCLUSIONS

Political and Election Advertising: Canadians are entitled to expect that "political advertising" and "election advertising" will respect the standards articulated in the *Code*. However, it is not intended that the *Code* govern or restrict the free expression of public opinion or ideas through "political advertising" publicly recognized to exist in Canada or elsewhere, or "election advertising," which are excluded from the application of this *Code*.

Media: The following are excluded from the definition of "medium" and the application of the *Code*:

- foreign media (namely media that originate outside Canada and contain the advertising in question) unless the advertiser is a Canadian person or entity; and
- packaging, wrappers and labels.

2013 YEAR IN REVIEW

OVERVIEW

In 2013, consumers submitted 1,286 complaints to ASC, consistent with the previous year's complaint volume (1310). Of the total complaints received, 823 met the criteria for acceptance under the *Canadian Code of Advertising Standards (Code)*. The remaining 463 complaints could not be pursued because they did not fall within the *Code* acceptance criteria. These included: complaints in which no specific advertisement was identified; complaints about advertisements that were no longer current; complaints about political or election advertising; and complaints about advertisements that did not meet the *Code* definition of advertising.

During 2013, the independent Councils adjudicated 100 complaints about 71 advertisements. Of these, 79 complaints were upheld and 50 advertisements were found to contravene one or more *Code* clauses. Complaint Case Summaries can be found at: adstandards.com/adcomplaintsreport.

An additional 45 complaints about 45 advertisements were Administratively Resolved by ASC staff.

TWO-YEAR COMPLAINTS SUMMARY

	2013	2012
Received by ASC	1,286 (1,075 ads)	1,310 (1,057 ads)
	↓	↓
Met <i>Code</i> acceptance criteria	823 (678 ads)	854 (688 ads)
	↓	↓
Complaints administratively resolved by staff	45 (45 ads)	n/a n/a
	↓	↓
Raised potential <i>Code</i> issues and forwarded to Councils	100 (71 ads)	141 (112 ads)
	↓	↓
Complaints upheld by Councils	79 (50 ads)	116 (87 ads)

COMPLAINTS BY CODE CLAUSE

The *Code* sets the standards for acceptable advertising and provides the basis for the review and adjudication of consumer complaints about advertising. Of the 823 complaints that met the *Code* acceptance criteria, most involved concerns relating to the following *Code* clauses:

- Clause 1 (Accuracy and Clarity) and Clause 3 (Price Claims)
- Clause 10 (Safety)
- Clause 14 (Unacceptable Depictions and Portrayals)

Clause 1 (Accuracy and Clarity) and Clause 3 (Price Claims)

In 2013, ASC reviewed 467 complaints alleging misleading or inaccurate advertising (Clauses 1 and 3). Ultimately, Councils upheld 63 complaints about 42 advertisements. These involved advertisements: for products that were

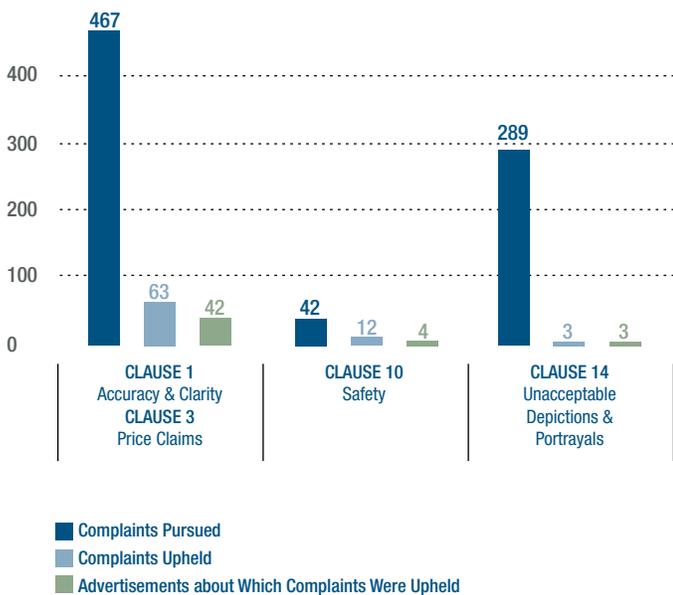
unavailable during a promotional period; that omitted relevant information; that did not clearly state all pertinent details of an offer; or that contained unsubstantiated claims.

Clause 14 (Unacceptable Depictions and Portrayals)

Typically, most complaints reviewed under this clause involve subjective matters of personal taste or preference and do not ultimately raise issues under the Code. 2013 was no exception. Of the 289 complaints reviewed under Clause 14, Councils adjudicated and upheld three about three advertisements. The balance did not meet the threshold to raise issues under this clause.

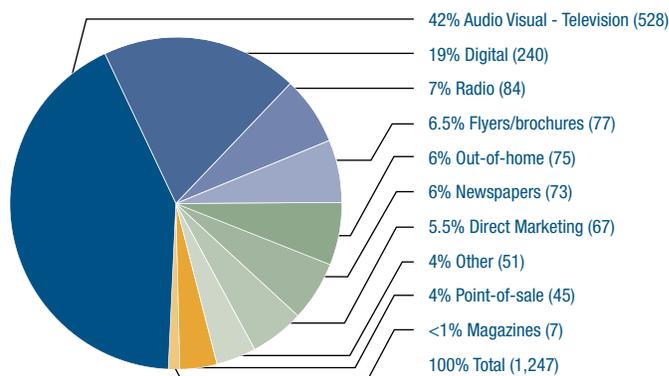
Clause 10 (Safety)

A total of 42 complaints involved safety concerns and 12 were upheld about four advertisements.



COMPLAINTS BY MEDIA

Due to its broad reach, advertising on television, with 528 complaints, garnered the highest number of complaints of any medium. Digital advertising generated the second highest number of complaints (240). Advertising on the radio followed with 84 complaints.



COMPLAINTS BY CATEGORY OF ADVERTISING*

Consistent with previous years, retail advertising generated more complaints than any other category of advertising (178). This was followed closely by complaints about advertising in the Service category, which attracted 148 complaints. Third, with 108 complaints, was advertising in the Food category, which includes manufacturers, retailers and restaurants.

CONSUMER CONCERNS AND COMPLAINT TRENDS

In December 2013, ASC released results of a national online survey it commissioned to examine consumer perspectives and attitudes towards advertising (adstandards.com/2013research).

The research showed that while Canadians understand that advertising exists to persuade, they expect advertising to do so in a truthful manner. In fact, when asked to choose,

UNDERSTANDING AD COMPLAINTS: A GUIDE TO ASC'S RESOURCES ONLINE

To read and learn about the *Canadian Code of Advertising Standards*, *Interpretation Guidelines* and the Consumer Complaints Process, visit: adstandards.com. Resources include:

- [Canadian Code of Advertising Standards](#)
- [Interpretation Guidelines](#)
- [ASC Advisories](#)
- [Ad Complaints Reporting](#) (including [Complaint Case Summaries](#))
- [Consumer Complaints Online Submission Form](#)

ADMINISTRATIVELY RESOLVED COMPLAINTS

In 2013, ASC introduced a streamlined procedure for simple, non-complicated complaints, such as price errors in retail advertising. Complaints that raise issues under Clauses 1 (Accuracy and Clarity) and/or Clause 3 (Price Claims) are Administratively Resolved by ASC staff if the advertiser promptly withdraws the advertisement and takes corrective action after being notified of the complaint by ASC. Complaints handled in this manner are not forwarded to Councils for adjudication.

by a large margin, survey respondents said they were more concerned with advertising they found misleading (85%), than personally offensive (15%).

These insights are confirmed in the complaints submitted to ASC during 2013. For the third year in a row more complaints were submitted by consumers about allegedly misleading advertising (467), than allegedly offensive advertising (289).

The following themes emerged from 2013 complaints. These included concerns about:

- advertisements that omitted important terms of an offer, i.e. fees, costs, conditions,
- illegibility of disclaimers, particularly in automobile commercials, and
- exaggerated health claims.

Summaries of complaints that raised these issues and were upheld by Councils can be found in 2013 Complaint Case Summaries in ASC's *Ad Complaints Reports* (adstandards.com/adcomplaintsreport)

Examples of complaints alleging exaggerated health claims follow below.

Exaggerated Health Claims

In 2013, ASC noted a significant increase in the number of complaints submitted about claims by complementary and alternative medicine practitioners and service providers, particularly in online advertising. Several complaints were adjudicated and upheld by Councils. These case adjudications provide important learning for advertisers regarding claim substantiation.

If an advertiser publishes an efficacy claim that is taken from a third party source, it is essential that the advertiser possesses valid and robust support for the claim as required under Clause 1(e) and Clause 8 (Scientific and Professional Claims) of the *Code*.

1. Accuracy and Clarity

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.

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.

Advertiser: Maya Abdominal and Uterine Therapy in Ottawa

Industry: Service

Region: National

Media: Internet

Complaint(s): 1

Description: On its website, a Maya therapist claimed that Maya Abdominal and Uterine Therapy could relieve certain medical conditions, including impotence and cancer of the cervix, uterus, colon or bladder.

Complaint: The complainant alleged the claims could not be substantiated and were misleading.

Decision: The advertiser responded by stating the treatment claims on its website originated from a third party that had accredited the advertiser to perform the Maya Abdominal Therapy technique. In Council's evaluation, however, by including the claims on the advertiser's website, the advertiser adopted the claims as its own.

Because no substantiation for the claims was provided by the advertiser to Council, Council found that the advertisement contained unsubstantiated claims.

Infraction: Clauses 1(e) and 8.

Appeal Decision: On an appeal, the advertiser submitted testimonials by other Maya Therapy practitioners and teachers in support of the claims. These were considered by the Appeal Panel, but were not found sufficiently robust to adequately substantiate the advertised claims. The Appeal Panel, therefore, confirmed the original Council decision.

Advertiser: Spa

Industry: Service

Region: British Columbia

Media: Internet

Complaint(s): 1

Description: In an online advertisement, the advertiser claimed that one of its cosmetic facial services "actually reversed the aging process."

Complaint: The complainant alleged the advertisement was misleading.

Decision: The advertiser explained that, upon learning of the complaint, the claim was removed from its website. Given that the advertiser provided no information to support the challenged claim, Council found that the advertisement contained an unsubstantiated and, therefore, misleading claim.

Infraction: Clauses 1(a) and (e).

KEEPING THE *CODE* CURRENT

The *Canadian Code of Advertising Standards (Code)* is the principal instrument of advertising self-regulation. It sets the standards for advertising that is truthful, fair and accurate. First published in 1963, the *Code* was developed as a collaborative effort among major advertisers and the media that together recognized the power of advertising to influence consumer choice. To harness the influential force of advertising in an ethical and responsible manner, the *Code* was created by the industry to set the standards for acceptable advertising in Canada.

Following its introduction, the *Code* has been regularly updated to ensure it remains relevant and current. In 2000, *Interpretation Guidelines* were introduced to facilitate industry and public understanding of the interpretation and application of clauses of the *Code* as new consumer issues arise and societal expectations change. There are currently four *Interpretation Guidelines*.

Guideline #1	Alleged Infractions of Clauses 10 or 14: Elements of Humour and Fantasy (2003)
Guideline #2	Advertising to Children (2004, 2006, 2007)
Guideline #3	Environmental Claims (2008)
Guideline #4	Alleged Infractions of Clauses 10 or 14: Motor Vehicle Advertising (2009)

In 2013, minor amendments were made to the *Code* and the *Consumer Complaint Procedure*, effective February 1, 2014 to clarify:

- the definition of “political advertising”;
- Clause 1(d) re legibility of disclaimers;
- administratively resolved complaints; and
- the *Code* requirement for corrective action by retail advertisers.

CLARIFYING CODE DEFINITION OF “POLITICAL ADVERTISING”

To clarify that advertising about political issues in countries other than Canada constitutes “political advertising” and is therefore excluded from the ambit of the *Code*, the definition was amended to make it clear that the phrase “political advertising” extends to advertising about political issues existing in Canada or elsewhere.

CLARIFYING CLAUSE 1(D) RE LEGIBILITY OF DISCLAIMERS

ASC regularly receives complaints from consumers alleging that disclaimers, particularly those found in supers in automobile commercials, are illegible because they are too small and are not displayed for a sufficient period of time to enable them to be read and understood.

These complaints fall under Clause 1(d) of the *Code*, which provides that: “disclaimers and asterisked or footnoted information must not contradict more prominent aspects of the message and should be located and presented in such a

Space for this article provided by Advertising Standards Canada to the Litter Prevention Program

LATEST HOT BUTTON: LITTERING IN ADVERTISING
By Sheila White, founder, Litter Prevention Program

In this environmental age, portrayals of littering should be an absolute no-no in advertising. We, at the Litter Prevention Program believe advertisers pay far less attention to the hot-button topic of litter than this multi-billion dollar global problem deserves.

In fact, most advertising is unrealistically clean. You won't see roadside litter in a car commercial, plastic litter in a travel ad or trash bins in advertising for chewing gum. There's a disconnection between the product being promoted and the waste associated with it, unless you're marketing garbage bags.

We see nymphs skipping down to the beach, portable lattes and smoothies in hand. Hikers in the forest clutch their disposable coffee cups and picnickers and fast food and beverage partakers enjoy their meals with never a recycling container in sight.

'Recycling', 'sustainability' and 'zero waste' are today's popular corporate buzzwords. Frankly, we believe corporations fall down on their responsibility to address their product litter. Sometimes they slip up. The recent TV image of a disavowing smoker using a school stair instead of an ash receptacle to extinguish the cigarette butt inadvertently promotes littering. Plastic bottles strung along a beach sell us a water filter. Animated lottery tickets for a prominent charity float from the sky, littering a winding highway below. These images are gratuitous.

Creative departments and agency leaders could do a world of good by screening ads to omit acts of littering. Corporations who hire them would serve society well by flexing the power of their advertising muscle to drive a generic campaign around litter prevention.

Sheila White is President of WORDS Media & Communications Inc. in Toronto and is founder of the Litter Prevention Program. For information contact, 416-321-0633 or email words@rogers.com.

manner as to be clearly visible and/or audible.”

To clarify the fact that disclaimers must not only be visible, but also legible, Clause 1(d) was amended to substitute the word “legible” for “visible.”

ADMINISTRATIVELY RESOLVED COMPLAINTS UNDER CLAUSES 1 AND 3

In 2013, ASC began handling some categories of complaints under the Administratively Resolved Complaints Procedure. This is intended to resolve simple, uncontested contraventions of *Code* Clauses 1 (Accuracy and Clarity) and/or Clause 3 (Price Claims), when the advertiser promptly acknowledges the breach and corrects the advertising by amending or permanently withdrawing the advertising.

Based on ASC's experience in handling many such cases and the involved advertisers' prompt remedial action, ASC simplified the process by amending the *Code* to enable complaints to be Administratively Resolved if the advertiser commits to ASC to permanently withdraw or amend an advertisement that appears to contravene the *Code*. As well, definitions were added for "correction advertisement" and "correction notice".

CLARIFYING CODE REQUIREMENT FOR CORRECTIVE ACTION BY RETAIL ADVERTISERS

When Council upholds a consumer complaint and finds that a retail advertisement contains an erroneous or misleading claim, the *Code* requires the retail advertiser to "provide a correction advertisement that appears in consumer-oriented media addressed to the same consumers to whom the misleading advertisement was originally directed."

In the case of errors in retail website advertising, Council has interpreted this *Code* requirement to mean that retailers must not only correct the error on the website, but also post a correction advertisement on the advertiser's website, to draw the mistake to attention of consumers.

Based on feedback from retail advertisers, the *Code* was amended to provide retail advertisers with options with respect to correcting an erroneous advertisement.

Now, in addition to withdrawing the original erroneous retail advertisement, an advertiser can either:

- a. post on its website a "correction advertisement", i.e. a new advertisement in which the advertiser corrects the error in the original retail advertising; or
- b. post on its website a "correction notice" that identifies the advertiser, and acknowledges and corrects the error(s) in the original retail advertising, or prominently display the "correction notice" at its retail outlet.

THE CONSUMER COMPLAINT PROCEDURE

Established by the Canadian advertising industry over 50 years ago, the *Consumer Complaint Procedure* provides Canadian consumers with a mechanism to submit written complaints about advertising currently running in Canadian media.

The *Consumer Complaint Procedure* includes the following steps.

1. COMPLAINT RECEIPT

Each written consumer complaint is reviewed by ASC against the *Canadian Code of Advertising Standards (Code)*.

2. PRELIMINARY REVIEW

ASC conducts a preliminary evaluation of the complaint.

If the complaint does not raise an issue under the *Code*, or if ASC cannot accept the complaint, ASC sends a letter of explanation. Details can be found in the Exclusions and Non-reviewable Complaints sections of the *Code*.

3. HOW COMPLAINTS ARE HANDLED

Complaints that raise *Code* issues are handled in different ways depending upon the nature of the complaint.

Complaints About Safety Issues (Clause 10) or Unacceptable Depictions and Portrayals (Clause 14)

The complaint is forwarded to the advertiser who is asked to respond directly to the consumer about the complaint. If, after receiving the advertiser's response, the consumer is not satisfied, the consumer can request a review by the Standards Council. Council is made up of senior representatives from the advertising industry and the public, who volunteer their time to support the consumer complaints process.

Complaints Under All Other Code Clauses

The advertiser is asked to comment, in writing to ASC, on the consumer's concerns. If there remains a concern under the *Code*, the matter will be forwarded to Council for a decision.

Administratively Resolved Complaints About Accuracy and Clarity (Clause 1) or Price Claims (Clause 3)

ASC Administratively Resolves cases that involve an apparent contravention of either or both Clauses 1 and 3 without forwarding the case to Council if the advertiser has remedied the contravention by permanently withdrawing or appropriately amending the advertisement in question upon being advised of the complaint by ASC, and, in the case of retail advertising, by also publishing a corrective advertisement or correction notice.

4. COUNCIL REVIEW AND DECISION

Complaints forwarded to Council are carefully reviewed under the *Code*. If Council determines that the advertisement contravenes one or more clauses of the *Code*, Council will uphold the complaint. The advertiser is asked to amend or withdraw the advertisement.

Whether or not the complaint is upheld, ASC will inform the consumer and the advertiser, in writing, of Council's decision.

5. APPEALING A COUNCIL DECISION

If the consumer or advertiser disagrees with Council's decision, the consumer or advertiser can request an appeal within seven days of receiving the decision.

THE STANDARDS COUNCILS

ASC's independent, volunteer Standards Councils (Councils) play a vital role in ensuring objective and fair complaint adjudication. 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 Councils. The Councils include senior industry and public representatives from across Canada, who are committed to help ensure that Canadian advertising is truthful, fair and accurate.

STANDARDS COUNCILS

Rafe Engle (Chair), R.S. Engle Professional Corporation
Roberta Albert*

John Azevedo, Nintendo of Canada Ltd.

Peggy Barnwell*

Denise Barrett*

Tim Bowen, TMTC Consulting

Renee Bozowsky*
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Mike Darley, Canadian Broadcasting Corporation
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Jane Mackasey, Nestlé Canada Inc.
Yvonne Martin-Newcombe*
Margo Northcote, creative consultant
Sheryl O'Toole, Peoples Drug Mart
Andeen Pitt, Wasserman & Partners Advertising
Suzanne Raitt, Newspapers Canada
Nancy G. Rubin, Stewart McKelvey
Adam Seely, Pattison Outdoor Advertising
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Karol Stefanovska, Loblaw Inc.
Pat Sullivan*
Michelle St-Jacques, Unilever Canada Inc.
Teresa Tsuji, Rogers Healthcare Group
Robert Wyckham*
Ted Ykema, Pfizer Canada Inc.

LE CONSEIL DES NORMES

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Ronald Béliard*
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Philippe Comeau, LG2
Sylvain Desrochers*
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Lucienne Lemire*
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*Public Representative

HOW TO SUBMIT A CONSUMER COMPLAINT

If you have a concern about an ad you see or hear currently running in Canadian media, you can submit a complaint to ASC using the [Online Complaint Submission Form](#).

Note re Confidentiality: Your complaint and all correspondence between you and ASC about the complaint is confidential and may not be made public. ASC cannot accept or proceed with a complaint if confidentiality is not maintained by a complainant.

Be sure to provide the following information in your submission:

- Your name, complete mailing address and phone number.
- Explain the reason or basis for the complaint and, if known, the provision(s) of the *Code* that may apply.
- Identify the product or service being advertised.
- Identify the medium in which the advertisement appears (e.g. television, radio, online).
- For **Broadcast Advertisements:** identify the station, time and date on/at which you saw/heard the commercial and provide a brief description of the commercial.
- For **Online Advertisements:** identify the date of viewing, website, and include a print-out of the advertisement and other applicable web pages (if any).
- For **Out-of-home Advertisements**, such as outdoor, transit or similar advertisements: identify the date on and exact location at which you saw the advertisement. (Include a photograph if you can.)
- For **Print Advertisements:** identify the name and date of the publication(s) in which you saw the advertisement(s) and include a copy of the advertisement(s).
- For **Cinema Advertisements:** identify the title of the movie, the date of viewing, and the name and location of the movie theatre at which you saw the advertisement and provide a brief description of the advertisement.

To submit your complaint, complete the [Online Complaint Submission Form](#), or send your written complaint by fax to (416) 961-7904, or by mail to:

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