



Annual Ad Complaints Report
2016 Year in Review



Advertising Standards Canada
Les normes canadiennes de la publicité

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ASC

Advertising Standards Canada

Advertising Standards Canada (ASC) is the national, independent, not-for-profit advertising self-regulatory body. We are committed to fostering community confidence in advertising and to ensuring the integrity and viability of advertising in Canada through responsible industry self-regulation. ASC administers the *Canadian Code of Advertising Standards*, the principal instrument of advertising self-regulation in Canada, and a national mechanism for accepting and responding to consumers' complaints about advertising.

AN EFFECTIVE CONSUMER RESPONSE MECHANISM IS ESSENTIAL TO MAINTAINING PUBLIC CONFIDENCE IN ADVERTISING.

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 Canadian media.

Reporting on complaints upheld by ASC's independent Standards 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*.

This 2016 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 2016.

For more information about complaints upheld by Councils from January 1, 2016 to December 31, 2016, see the Case Summaries published on our web site at:

adstandards.com/complaints2016

A Guide to ASC's Resources Online

To learn more about the *Canadian Code of Advertising Standards, Interpretation Guidelines* and the *Consumer Complaint Procedure*, visit:

adstandards.com

Online resources include:

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

2016 Highlights



1,639

complaints received
about 1,237 advertisements

1,108

complaints involving 856 advertisements
met the *Code* acceptance criteria



178

complaints involving
171 advertisements
administratively resolved



86

complaints referred to Councils
about 51 advertisements

44



complaints about 30 advertisements upheld
by Councils – 4% of complaints pursued

2016 Year In Review

Overview

In 2016, consumers submitted 1,639 complaints to ASC. Of these, 1,108 complaints met the criteria for acceptance under the *Canadian Code of Advertising Standards (Code)*. The remaining 531 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 foreign advertising or political or election advertising; and complaints about

advertisements that did not meet the *Code* definition of advertising.

During 2016, the independent Councils adjudicated 86 complaints about 51 advertisements. Of these, 44 complaints were upheld about 30 advertisements. Case Summaries of these upheld complaints can be found at:

adstandards.com/complaints2016

COMPLAINTS SUMMARY	2016 COMPLAINTS	ADS/CASES
Received by ASC	1639	1237
Met <i>Code</i> acceptance criteria	1108	856
Administratively resolved by staff	178	171
Raised potential <i>Code</i> issues & forwarded to Councils	86	51
Upheld by Councils	44	30

Administratively Resolved Complaints

ASC uses a streamlined procedure to handle simple, non-complicated complaints, such as price errors and other inaccuracies in retail advertising. Complaints that raise issues under Clause 1 (Accuracy and Clarity) and/or Clause 3 (Price Claims) will be 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.

In 2016, 178 complaints about 171 advertisements were Administratively Resolved by ASC staff.

Since this procedure was introduced in 2013, it has resulted in over 400 advertisements being withdrawn and/or corrected by the involved advertisers.

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 1,108 complaints that met the *Code* acceptance criteria, most involved concerns relating to:

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

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

In 2016, ASC reviewed 652 complaints (about 575 advertisements) alleging misleading or inaccurate advertising (Clauses 1 and/or 3). Ultimately, Councils upheld 25 complaints about 23 advertisements.

These involved advertisements that omitted relevant information, did not clearly state all pertinent details of an offer, and contained unsubstantiated claims.

Clause 14 (Unacceptable Depictions and Portrayals)

Most complaints evaluated under Clause 14 involve subjective matters of personal taste or preference and do not ultimately raise issues under the *Code*.

406 complaints about 207 advertisements were reviewed under Clause 14. Of these, Councils adjudicated and upheld 14 complaints about two advertisements. These involved advertisements that Councils found demeaned women. The balance did not meet the threshold to raise issues under this clause.

Clause 10 (Safety)

A total of 47 complaints about 40 advertisements involved safety concerns, and two were upheld by Councils about two advertisements.

Other Code Clauses

Clause 2 (Disguised Advertising Techniques)

16 complaints about 14 advertisements were reviewed under this clause, and four were upheld by Councils about three advertisements.

Clause 4 (Bait and Switch)

23 complaints were reviewed about 16 advertisements, and three were upheld by Councils about three advertisements.

Clause 5 (Guarantees)

Three complaints were reviewed about three advertisements, and one was upheld by Councils about one advertisement.

Clause 8 (Professional and Scientific Claims)

25 complaints were reviewed about 24 advertisements, and four were upheld by Councils about three advertisements.

Clause 9 (Imitation)

Two complaints were reviewed and upheld by Councils about two advertisements.

Clause 11 (Superstitions and Fears)

16 complaints were reviewed about three advertisements. One complaint was upheld by Councils about one advertisement.

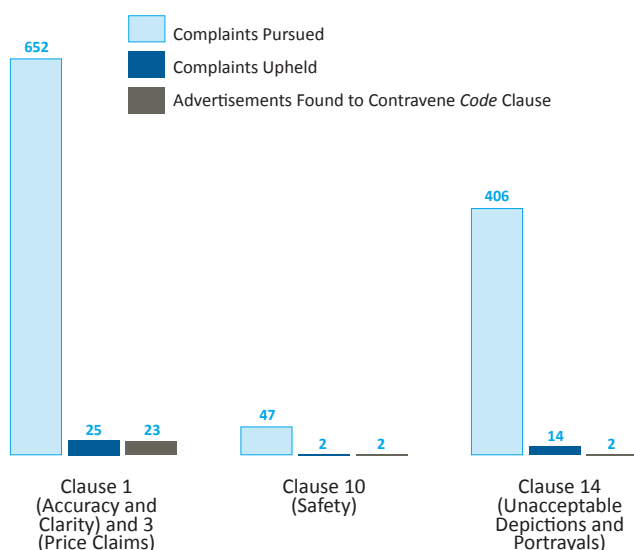
Clause 12 (Advertising to Children)

Two complaints were reviewed about two advertisements. None were adjudicated by Councils.

2016 Consumer Complaints Case Summaries:

adstandards.com/complaints2016

Complaints by Key Code Clauses

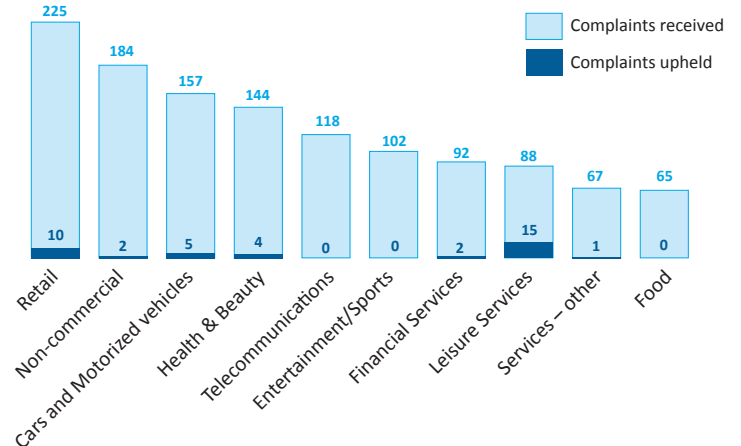


Complaints by Category of Advertising

As in most previous years, ASC received the highest number of complaints about retail advertising, which attracted 225 complaints. This was followed by 184 complaints about advertising by non-commercial entities, including governments, advocacy and other non-for-profit organizations. Third, with 157 complaints, was advertising for cars, motorized vehicles and automotive products/services.

Complaints by Category

Top ten categories

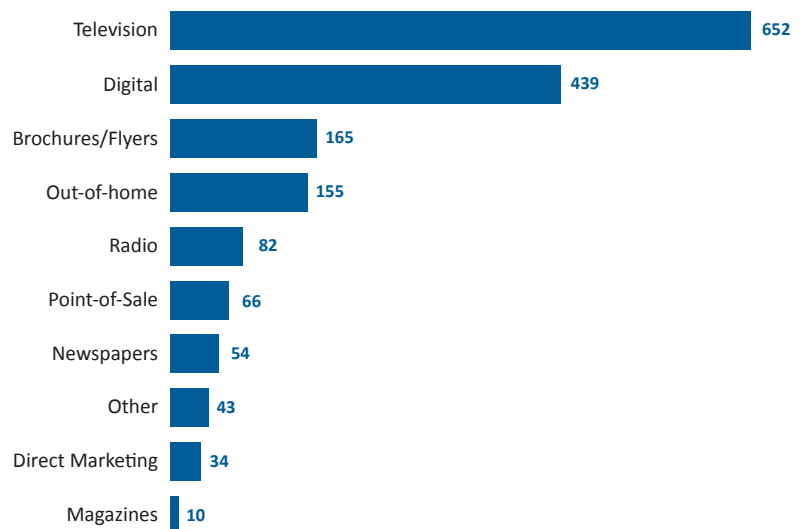


Complaints by Media

Advertising on television, with 652 complaints, garnered the highest number of complaints of any medium. Digital advertising generated the second highest number of complaints (439). Complaints regarding advertising in this category primarily related to advertising on advertiser-owned websites. Advertising in flyers and brochures followed with 165 complaints.

Complaints by Media Type

Top ten media types

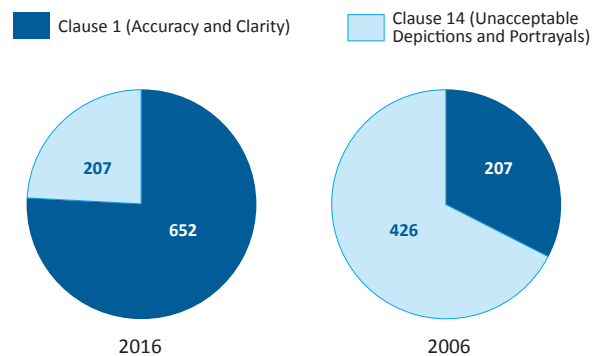


Consumer Concerns

Everyone has something to say about advertising, and ASC and its Councils consider consumers' complaints about advertising very carefully under the *Code*.

Over the past decade, ASC has seen a distinct shift in consumers' concerns about the advertisements they see, read and hear. Consumers today are concerned primarily about advertisements they believe are inaccurate or misleading, that do not clearly disclose all details and important conditions of an offer, and that contain unsubstantiated claims. By contrast, ten years ago their concerns were more about advertisements they found distasteful, offensive and/or derogatory.

Shifting Consumer Concerns



While consumers still express concerns to ASC about advertising they consider to be in poor taste or that push the boundaries of acceptability, they now do so less frequently.

As a result, fewer advertisements are found by ASC's Councils to contravene Clause 14 (Unacceptable Depictions and Portrayals) than in previous years.

In 2016, only two advertisements were found to contravene that clause. These involved advertisements by two Quebec advertisers that the Standards Council in Montreal found to demean women.

Clause 14 Unacceptable Depictions and Portrayals

Advertiser: L'Expert Carrossier Rive-Sud
Industry: Cars and Motorized Vehicles
Region: Quebec
Media: Newspaper
Complaint(s): 1

Description: In an advertisement for an auto repair business, a stylized image of a naked woman's body in the shape of a car was featured, with the emphasis on her buttocks.

Complaint(s): The complainant alleged the advertisement objectified women by using a woman's body in connection with automobile services, which have no connection to a woman's body.

Decision: Council agreed with the complainant that the advertisement inappropriately used a woman's body to promote services that have no connection with a woman's body. Council considered Guideline No. 3 of the *Gender Portrayal Guidelines*, which states that "advertising should avoid the inappropriate use or exploitation of sexuality of both women and men" and concluded that the advertisement demeaned and degraded women.

Infraction: Clause 14 (c).

Clause 14 (Unacceptable Depictions and Portrayals)

Advertiser: Restaurant
Industry: Restaurant
Region: Quebec
Media: Out-of-home
Complaint(s): 13

Description: A photograph of a meal was featured in an advertisement that included a vulgar expression of a sexual nature related to women.

Complaint: The complainants alleged that the advertisement humiliated and denigrated women.

Decision: Council agreed with the complainants finding that this advertisement both denigrated and demeaned women.

The advertiser is not identified in this case summary because it withdrew the advertisement before Council met to adjudicate the complaints.

Infraction: Clause 14 (c).

Keeping the Code Current – 2016 Amendments

The *Canadian Code of Advertising Standards (Code)* is the cornerstone of advertising self-regulation in Canada. It sets the standards for acceptable advertising. First published in 1963, the *Code* is regularly updated to ensure it is current and contemporary, and keeps pace with consumer and societal expectations.

Following a comprehensive review and consultation with ASC members and the public, ASC's Board of Directors approved a number of amendments to the *Code* that came into effect on October 3, 2016. The following describes the key changes.

Addition of an *Interpretation Guideline to Clause 7 (Testimonials)*

An increasingly popular marketing technique for advertisers is to use endorsers/reviewers/influencers to promote their brands. Consumers tend to trust recommendations by influencers. But do they know whether the blogs, posts and reviews they see on social media are genuine, or were they sponsored by a brand?

Clause 7 (Testimonials) of the *Code* requires that: "Testimonials, endorsements or other 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 identified product or service, and must not otherwise be deceptive."

To help consumers know when a blog, post, or review has been sponsored, in 2016, ASC introduced a new *Interpretation Guideline* to the *Code* that requires clear and prominent disclosure of any material connection between an endorser/reviewer/influencer and the endorsed product or service. And, the disclosure must be made in close proximity to the representation.

Interpretation Guideline #5 – Testimonials, Endorsements and Reviews

The following provides guidance on disclosure that is required in order for a testimonial, endorsement, review or other representation (in any medium) to comply with Clause 7 of the *Canadian Code of Advertising Standards (Code)*.

A testimonial, endorsement, review or other representation must disclose any "material connection" between the endorser, reviewer, influencer or person making the representation and the "entity" (as defined in the *Code*) that makes the product or service available to the endorser, reviewer, influencer or person making the representation, except when that material connection is one that consumers would reasonably expect to exist, such as when a celebrity publicly endorses a product or service.

If such a material connection exists, that fact and the nature of the material connection must be clearly and prominently disclosed in close proximity to the representation about the product or service.

Examples of how to disclose material connections can be found in the *FTC's Guide to Testimonials & Endorsements*, available at www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf, and the Word of Mouth Marketing Association's White Paper – *Ethical Word of Mouth Marketing Disclosure Best Practices in Today's Regulatory Environment*, available at www.womma.org/free-womm-resources.

Amendment to Clause 14 (a) – Unacceptable Depictions and Portrayals

Subsection 14 (a) of the *Code* prohibits advertising that condones discrimination. To ensure that the *Code* is consistent with current societal norms and human rights legislation, the following classes were added to the prohibition on discriminatory advertising: “ethnic origin”, “gender identity”, “sexual orientation”, and “disability”.

Clause 14 (a) now reads: “*Advertisements shall not condone any form of personal discrimination, including discrimination based upon race, national or ethnic origin, religion, gender identity, sex or sexual orientation, age or disability.*”

Notifying Regulatory Bodies of Advertiser Non-Compliance

Since its inception, the *Code* has been widely supported by advertisers. In the rare case where an advertiser does not participate in the *Consumer Complaint Procedure* and/or does not comply with a decision of the Standards Council that its advertising contravened the *Code*, the *Consumer Complaint Procedure* provides that ASC:

- will advise the exhibiting media of the advertiser’s failure to co-operate and request media’s support in no longer exhibiting the advertising in question; and
- may publicly declare that the advertising in question and the advertiser have been found to contravene the *Code*.

To enhance ASC’s enforcement abilities, the *Consumer Complaint Procedure* was amended to enable ASC, in cases of non-compliance by an advertiser, to notify the appropriate regulatory body, e.g. the Competition Bureau or provincial consumer ministry, of the non-compliance.

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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.

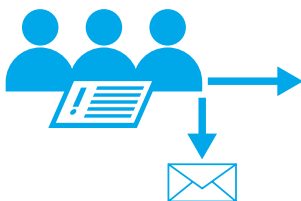
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1. Complaint Receipt

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

2



2. Preliminary Review

ASC conducts a preliminary evaluation of the complaint. If the complaint does not raise an issue under the *Code*, ASC sends a letter of explanation.

3



3. How Complaints are Handled

If the complaint raises an issue under the *Code*, the advertiser is requested to provide its comments on the complainant's concerns. If a *Code* issue remains, the complaint is forwarded to Council for adjudication.

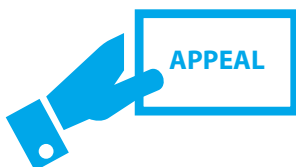
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4. Council Review and Decision

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 withdraw or amend the advertising.

5



5. Appealing a Council Decision

If the consumer or advertiser disagrees with Council's decision, the consumer or advertiser can request an appeal.

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.

The complete list of Standards Council representatives is available online.

To Submit a Consumer Complaint

If you have a concern about an ad you see or hear currently running in Canadian media, visit ASC's web site to learn about how to submit a consumer complaint.



Complaints can be submitted to ASC using the **Online Complaint Submission Form**

or



mail your written complaint to:

Advertising Standards Canada
175 Bloor St. East
South Tower, Suite 1801
Toronto, ON, M4W 3R8

Contact Information

Toronto Office

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

Phone: (416) 961-6311

info@adstandards.com
www.adstandards.com

Montreal Office

Advertising Standards Canada
2015 Peel Street
Suite 915
Montreal, Quebec H3A 1T8

Phone: (514) 931-8060

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