



***GUIDELINES FOR THE USE OF COMPARATIVE ADVERTISING
GUIDELINES FOR THE USE OF RESEARCH AND SURVEY DATA
TO SUPPORT COMPARATIVE ADVERTISING CLAIMS***

CONTRIBUTORS

Advertising Standards Canada is grateful to the following industry leaders from the advertising, legal, and research sectors, who provided their advice and input to this revision to the *Guidelines for the Use of Comparative Advertising* and *Guidelines for the Use of Research and Survey Data to Support Comparative Advertising Claims*.

Ruth Corbin (Project Leader)
Turkan Akturk
Rosanne Angotti
Catherine Bate
Greg Biehn
Tim Bowen
Jim Bruce
Danielle Bush
Janet Cameron
Barbara Case
Sherry Casey
Joseph Chan
Sarah Chenoweth
Ray Chepesiuk
John Coyne

Paul Dillon
Dan Edmondstone
Rafe Engle
Doris Fielding
Brian Fraser
Anna Frost-Hunt
Arlan Gates
Eric Glass
Mary Griffith
Chris Hamilton
Marylou Hilliard
Gillian Humphreys
John Jenkins
Michele Kay
Rob Kwinter

Patti Lartigue
Dayle Linton
Tom Maich
Scott Megginson
Barry Milavsky
Kelly Moffatt
James B. Musgrove
Carol Newell
Jayne Payette
Brenda Pritchard
Suzanne Raitt
Ruth Rapoport
Bob Reaume
Gina Remy

Carol Ritter
Linda Roulet
Andrea Rush
Catherine Shand
Trish Simmie
Clare Smith
Johanne Trudeau
Susan Vogt
Sandra Wheaton
Tim Wilson
Tim Wingrove
Gerry Wright
Jani Yates
Robert Zielinski

ADVERTISING STANDARDS CANADA

175 Bloor Street East
South Tower, Suite 1801
Toronto, Ontario M4W 3R8
Telephone: 416 961-6311
Fax: 416 961-7904

2015 Peel Street
Suite 915
Montreal, Quebec H3A 1T8
Telephone: 514 931-8060
Fax: 514 931-2797

E-mail: info@adstandards.com Web: www.adstandards.com

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TABLE OF CONTENTS

INTRODUCTION... 1

Definitions... 1

Exclusions... 1

GUIDELINES FOR THE USE OF COMPARATIVE ADVERTISING... 2

GUIDELINES FOR THE USE OF RESEARCH AND SURVEY DATA TO SUPPORT COMPARATIVE ADVERTISING CLAIMS... 3

4.1 Introduction... 3

4.2 Stages of use for consumer research and survey data... 3

4.3 Types of Claims... 3

4.4 Testing perceived meaning or general impression of factual claims... 3

4.5 Principles of Validity for Comparative Advertising Research... 4

4.6 Principles of Reliability for Comparative Advertising Research... 4

4.7 Documentation... 6

INTRODUCTION



Advertising Standards Canada (ASC) first published the *Guidelines for the Use of Comparative Advertising* and *Guidelines for the Use of Research and Survey Data to Support Comparative Advertising Claims* in 1982. They were designed to assist advertisers to develop comparative advertising that was consistent with the provisions of the *Canadian Code of Advertising Standards (Code)*. The *Code* is the advertising industry’s principal instrument of advertising self-regulation.

First published in 1963, and regularly updated to keep it contemporary, the *Code* is administered by ASC, the industry body committed to creating and maintaining community confidence in advertising. The *Code* sets the criteria for acceptable advertising, and forms the basis upon which advertising is evaluated in response to complaints by consumers, members of the trade, or special interest groups. (The *Code* is accessible on ASC’s website at www.adstandards.com, or may be requested from ASC.)

The *Guidelines for the Use of Comparative Advertising* and *Guidelines for the Use of Research and Survey Data to Support Comparative Advertising Claims* that follow are intended to assist users in understanding and applying the *Code*. It is important to note, however, that the *Code* takes precedence over the *Guidelines*. Failure to follow the provisions of the *Guidelines* will not, in and of itself, be deemed to be a breach of the *Code*.

DEFINITIONS

Comparative advertising is advertising (as defined in the *Code*) that compares the advertiser’s products or services, and the products or services of one or more identifiable organization(s) or of the marketplace as a whole, concerning, for example, product or service characteristics, value, performance, consumer preference, market share, sales origin, or availability.

Advertising is defined in the *Code* as any message (the content of which is controlled directly or indirectly by the advertiser) expressed in any language and communicated in any medium to Canadians with the intent to influence their choice, opinion or behaviour. Excluded from the definition of “medium” and the application of the *Code* are:

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

EXCLUSIONS

The *Guidelines for the Use of Comparative Advertising* and *Guidelines for the Use of Research and Survey Data to Support Comparative Advertising Claims* are intended to be compatible with, but not replace, the many laws and regulations that govern advertising in Canada. As well, these *Guidelines* do not apply to comparative advertising that is specifically regulated elsewhere – for example: advertising related to comparative therapeutic claims for pharmaceutical products; and comparative advertising related to nutritional content of food and beverages regulated under the *Food and Drugs Act*.



GUIDELINES FOR THE USE OF COMPARATIVE ADVERTISING

3.1 | The comparison must be a fair and factual comparison of similar properties, features, ingredients, benefits or performance between one product or service and one or more other products or services. An advertisement must not create an unsupportable negative general impression of the compared-to product or service beyond the factual comparison being made.

For example, it would not meet the standard:

- To make a comparison with a competitor's product that is no longer on the market.
- To make a claim that a product will last longer than a competitor's product when the products are of different sizes.
- To suggest that a competitor's product is significantly smaller or less substantial when the difference is barely discernible to consumers.

3.2 | Other products or services must not be unfairly discredited or disparaged by a claim specifically made in an advertisement.

For example, it would not meet the standard:

- To make an unsubstantiated claim that "Service X's technology is inferior to Service Y's", when it is not.
- To claim that a competitor, who is new to a market, is less reliable than the advertiser, simply because it is new to the market.
- To make an unsubstantiated claim that a competitor's product is less dependable than the advertiser's.

3.3 | Other products or services must not be unfairly discredited or disparaged through the general impression conveyed by an advertisement. Advertisements should avoid visual imagery that might leave an unwarranted negative general impression of other products or services.

For example, it would be unfairly discrediting or disparaging:

- To imply overall product inferiority by showing a consumer tasting the other product and grimacing to indicate dislike or disgust.
- To show another product being abused or in an

abused state, such as being thrown, trampled, distorted.

- To show another product used in a way other than as recommended by the manufacturer.
- To exaggerate the difficulty of using another product or service, when the difference is barely discernible to consumers.

3.4 | Selected comparisons of specific features or attributes should not be used to claim or imply overall superiority, without factual support that such a link is justified.

For example, it would not meet the standard:

- To claim a product is "better" or "best" based only on sales results.
- To claim overall superiority of performance by a spot remover when research data only prove superiority in eliminating two of many different types of stains.
- To claim "better value" for an unconcentrated laundry product, based on its bigger box and volume, when the concentrated product, for the same cost, can deliver the same or more wash loads.

3.5 | Statements about compared products or services delivered through a testimonial or by a spokesperson should be clearly presented as an individual opinion, unless reliable and valid research or survey data exists to support such statements or claims.

3.6 | For comparative advertising claims that depend on research or survey data for their support, it is recommended that advertisers follow ASC's *Guidelines for the Use of Research and Survey Data to Support Comparative Advertising Claims*.

3.7 | Advertisers involved in a trade dispute conducted pursuant to ASC's *Trade Dispute Procedure* must provide to ASC adequate support for their advertising claims when requested to do so by ASC. Such support may also be requested by ASC in connection with a consumer's complaint pursuant to ASC's *Consumer Complaint Procedure*.



GUIDELINES FOR THE USE OF RESEARCH AND SURVEY DATA TO SUPPORT COMPARATIVE ADVERTISING CLAIMS

4.1 INTRODUCTION

When a comparative claim is planned or advertised, or when a trade dispute is submitted to ASC under its *Trade Dispute Procedure*, survey data may be helpful or necessary. *The Guidelines for the Use of Survey and Research Data to Support Comparative Advertising Claims* are intended to be compatible with the code(s) of conduct adopted by the Marketing Research and Intelligence Association of Canada (www.mria-arim.ca).

The Guidelines for the Use of Research and Survey Data to Support Comparative Advertising Claims apply to all methodologies by which research and survey data may be collected, and provide standards to meet a high burden of proof for supporting comparative advertising claims.

4.2 STAGES OF USE FOR CONSUMER RESEARCH AND SURVEY DATA

Advertisers should consider using research to support comparative advertising claims in at least three instances:

- At the stage of investigating whether a comparative claim is justified.
- To provide support for a specific comparative claim made in an advertisement.
- To provide research evidence in connection with a trade dispute pursuant to ASC's *Trade Dispute Procedure*.

Research support should be considered at the earliest stage of planning a comparative claim.

4.3 TYPES OF CLAIMS

All comparative advertising claims must be supportable. However, some may require consumer survey data support and some may not. Comparative claims may be considered in the following two categories:

- Claims dealing in consumer preference or perceptions are the ones most likely to require consumer survey data for support.
- Claims of objective fact are more likely to derive their support from other types of data, such as

laboratory or sales data. However, researching the impression conveyed to consumers by the factual claim may help to provide evidence that the claim is being fairly and correctly interpreted.

The paragraphs below deal with each of the categories in turn.

Comparative claims, such as “most people prefer the taste of Brand X”, or “most people can tell the difference”, are the types of explicit claims of preference or perception that need the support of consumer survey data or consumer taste tests. Reference to “most people” in a mass-media comparative advertising claim, such as “most people prefer the taste of Brand X”, requires evidence of a majority of consumers supporting that view. A more focussed claim, such as “women prefer Brand H” or “kids like it best”, requires appropriately narrowed research.

The category of factual claims may start with laboratory rather than consumer data. For example, “Brand Y contains double the bacteria” is obviously a claim that can be factually verified. However, even factual claims may need to be subjected to tests of consumer reaction. These would ensure that consumers understand the claim as presented or intended, and that there is no unwarranted overall negative impression conveyed about the other brand or service. In the example above, an unfair impression may be created that Brand Y poses health risks and should be avoided. Thus, research may need to be conducted on the *perceived meaning* of a claim, or *general impression* conveyed by a claim. The research should be preserved as evidence that the message was clearly conveyed and not unfairly perceived.

4.4 TESTING PERCEIVED MEANING OR GENERAL IMPRESSION OF FACTUAL CLAIMS

Research evidence may be warranted to test how consumers interpret factual claims.

For example:

- Do consumers interpret or understand the claims literally; or, alternatively, do consumers draw from

the claim a different negative inference about the other product or service?

- What inferences are to be drawn from the setting in which a product or service is presented – for example: in a messy kitchen; at a party with loud music? How does the context affect audience understanding, interpretation or general impression?
- Does the same message convey different impressions to the receiving audience when expressed in French versus English?
- Are there other language and cultural issues that result in differing perceptions?
- Does the same message convey different impressions when expressed to different demographic segments/groups?

4.5 PRINCIPLES OF VALIDITY FOR COMPARATIVE ADVERTISING RESEARCH

Research to support a specific comparative claim against another product or service should follow published standards of the market research industry, or generally accepted industry practices.

The assessment of comparative advertising research should be based on two principles: validity and reliability. Validity refers to the extent that the survey adequately measures what it is supposed to measure, such as consumer preference between two products or services, or overall impression of a competitor’s advertisement, or any other requirement of the research mandate.

With respect to validity, ASC endorses the following principles, among others:

- (a) It is not always necessary that surveys replicate exactly the way or place in which a product or service is used or sold. However, care should be taken that the survey situation does not withhold cues that are necessary for a clear understanding by the consumer of the claims that are being made. Not to be overlooked is the fact that consumer reactions to “rough art” or to a “storyboard” for a planned commercial may be different than their reactions to the finished

commercial. Such research considerations are a matter for professional judgement exercised at the time the research is designed.

(b) Where product comparison tests are conducted, the length of time of trial should be sufficient to meet the objectives of the test. Where superior efficacy or preferred taste is claimed, product tests should be done “blind”, meaning that brand names of the products being compared are not disclosed or otherwise implied to consumers.

(c) Surveys should avoid using: leading or loaded questions; questions that respondents are unlikely or unable to answer accurately; or questions or product exposures that contain potential order bias. Whenever a claim is made that an element of the advertisement “causes” a particular impression, a scientific control condition, or other appropriate element of research design, should be used to justify an inference of cause-and-effect.

(d) Opinion research should allow for “don’t know/no opinion” answers to be given. Whether or not the “don’t know/no opinion” response option is made explicit in the question, or merely accepted if volunteered, is a design matter for professional judgement and debate.

4.6 PRINCIPLES OF RELIABILITY FOR COMPARATIVE ADVERTISING RESEARCH

Reliability is another standard against which research is evaluated. Only if research is considered reliable can generalizations be made from the research to the overall population to which an advertisement is targeted. Reliability refers technically to the reproducibility of the research — the extent to which the same results would be obtained by conducting the research with another representative sample of people on another occasion. Research intended to support a claim should be based on a representative sample of the pertinent population, with sufficient size to permit reasonably accurate inferences to be drawn.

The general standards for reliable research are those followed and published by the previously identified industry associations for market research

professionals in Canada.

In certain instances discussed below, ASC's *Guidelines for the Use of Research and Survey Data to Support Advertising Claims* may be more specific than those presently offered by the Canadian market research industry's more general-purpose publications.

(a) Choice of pertinent population

Research data must be based on the population or type of person about whom a claim is made, or to whom a claim is targeted. For example, if a claim is made that “nine out of ten teenage boys prefer Brand X”, then the survey testing that claim should obviously be conducted with teenage boys. If an advertisement is targeted to mothers and claims that “your kids are safer in our Halloween costumes”, whether or not this advertisement unfairly implies that other costumes are *dangerous* should be tested among the target group for the advertisement — namely mothers of children of an age to be going out on Halloween. The appropriate group for testing a comparative claim is referred to as the “pertinent population”. It must be chosen with careful attention to the nature of the proof required.

(b) Obtaining a representative sample

When a claim is made about a large population of Canadians, it is not feasible to gather input about perceptions or impressions by surveying the entire population. Therefore, a sample must be taken. There are different types of sampling techniques suited to different types of claims. The goal is to obtain a sample that is *representative* of the overall population to which the advertisement is targeted. *Random sampling* should almost always be introduced at some stage of the research. Random sampling refers to the fact that every prospective survey respondent within an identifiable group has an equal, or at least a determinable probability of being selected to participate. Random sampling can be implemented through random digit dialling on the telephone, systematically random block starts in door-to-door interviewing, stratified random sampling for screening respondents, or other published methods consistent with the use of inferential statistics.

Perfect random sampling is almost never possible. Accepted industry practices are a permissible substitute. For example, mall surveys are a necessary convenience for many product display tests, although not

every Canadian may be found in a mall with equal or even known probability. Even when mall surveys are used, techniques of randomness can be applied — for example: by carefully selecting the times of day at which interviews are conducted; by training interviewers not to be biased in their selection of interviewees in malls; and by applying other techniques designed to obtain a defensibly broad and unbiased representation of shoppers. Representativeness of the sample can be enhanced by demographic balancing.

Focus groups and other types of qualitative research are generally not regarded by research professionals as being representative or statistically projectable.

The defensibility of any sampling technique is ultimately a matter for professional judgement and debate. When participating in the resolution of controversies involving research data, ASC will consider the degree to which the sample is representative of the target population, evidence that any research techniques substituted for random sampling are capable of providing comparably reliable results, and the extent to which the industry accepts the research practices used.

(c) Sample size when sampling from a population

There is no single “correct” sample size. Each sample size has its own “margin of error”, within a specified “level of confidence”. When using a survey to estimate the proportion of a population that would give a particular response, the margin of error reflects the proximity of the sample result to the true population statistic. The larger the sample size, the smaller the margin of error, and the greater the likelihood that the true population statistic will be close to the sample result.

The level of confidence associated with a margin of error reflects the likelihood that the true population statistic falls within the margin of error. For example, a 95% confidence level means that if the study were replicated many more times, its results would fall within the margin of error in at least 95% of the replications.

The sample size must be clearly specified in the research report, together with its margin of error and associated confidence level.

ASC recommends:

- An overall sample size of not less than 300 for large

populations (which, for the estimate of a population proportion, produces a maximum margin of error of +/- 6% at a 95% confidence level).

- Sub-sample sizes of at least 100 each, for any sub-groups to which the advertiser wishes to make explicit reference. For example, if the advertiser wishes to highlight the special impact of an advertisement on youths between the ages of 13 and 18, the advertiser's research should include a minimum of 100 respondents within that age range.
- A sample size of at least 100 for any control condition introduced.
- For small populations, of less than 5000 in total, a sample size producing a margin of error of no greater than +/- 6 percentage points at a 95% confidence level.

(d) **Level of confidence in a statistical result**

When generalizing any statistical results from a sample to an overall population, within a certain level of confidence as defined above, ASC recommends using the standard of a 95% level of confidence, as per norms of published science. A 99% level of confidence obviously indicates stronger data and will be so recognized.

(e) **Geographic dispersion**

Where mall surveys or other in-person surveys are used to support a national claim, that is being contested, it is desirable to sample at least four out of Canada's five major marketing regions (i.e., British Columbia, Prairies, Ontario, Quebec, and Atlantic). Where a national claim includes a French-language version of the claim, one of the sampled markets must be francophone.

For national claims, where mail, internet or telephone surveys are used, it is conventional to sample all regions in Canada outside the Yukon, Nunavut, and Northwest Territories. The latter are conventionally regarded as being prohibitively expensive or technically unfeasible for sampling purposes.

Regardless of the survey method that is selected, in all cases the objective should be to select samples that are demographically representative of the pertinent population for the advertised product or service in each surveyed region.

Across regions, the data that result from research may be weighted, if necessary, to reflect the correct

proportional contribution that each region should have to the overall results. Weighting may also be used in accordance with industry practice to adjust for any other small sampling anomalies, when projecting survey results to the overall population. Weighting should be disclosed, whenever used.

(f) **Age of data**

The general rule governing acceptability of research evidence is that data must be reliable and valid at all times during which research-based comparative advertising claims are made. This requires that the relevant market conditions should be reasonably comparable to those when the data were collected. For example, emergent societal and environmental developments, new product entries, and competitive formula changes may influence the reliability or validity of the data.

4.7 DOCUMENTATION

When a trade dispute is submitted under ASC's *Trade Dispute Procedure*, presentation to ASC of research results to support comparative advertising claims should be accompanied by the following documentation:

- Identification of the sponsor, the project director, and the company providing the field services.
- The mandate and objectives for the research.
- The pertinent population.
- Sampling methodology, sample size, eligibility requirements.
- Implementation medium (telephone, mail, internet, mail, door-to-door).
- Start and end dates of field work.
- The full questionnaire used.
- Tabulated results for all questions that ASC deems pertinent to the comparative advertising claims, including indication of any weighting used.
- Statement of margin of error and level of confidence for the research results concerning the comparative claim(s) in dispute or under review.

As well, other documentation required by market research industry standards should be made available upon request by ASC.

Confidentiality issues relating to all such documentation will be governed by ASC's *Trade Dispute Procedure*.