

2009 YEAR IN REVIEW

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This report contains statistical information about consumer complaints submitted to Advertising Standards Canada in 2009 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, 2009, to December 31, 2009, are available on ASC's website (www.adstandards.com).



Advertising Standards Canada
Les normes canadiennes de la publicité

In 2009 consumers submitted 1,228 complaints to ASC — up 9.7 per cent from 2008.

Of the total complaints received, 1,034 complaints met the criteria for acceptance under the *Canadian Code of Advertising Standards (Code)*. The balance of 194 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included complaints in which no specific advertisement was identified, and complaints about advertisements that were no longer current, or did not otherwise meet the *Code* definition of advertising.

COMPLAINTS SUMMARY FOR 2008 AND 2009

	2008	2009
Complaints received by ASC	1,119 (778 ads)	1,228 (760 ads)
	↓	↓
Complaints that met <i>Code</i> acceptance criteria	801 (554 ads)	1,034 (624 ads)
	↓	↓
Complaints that raised potential <i>Code</i> issues and were forwarded to Council	194 (88 ads)	133 (89 ads)
	↓	↓
Complaints upheld by Council	126 (66 ads)	80 (56 ads)

COMPLAINTS BY CODE CLAUSE

Of the 1,034 complaints that were pursued, almost all involved concerns relating to the following *Code* clauses:

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

Complaints that raised issues under one or more *Code* clauses were forwarded to ASC's independent, volunteer national and regional Consumer Response Councils (Councils) for adjudication. During the year, the Councils reviewed 133 complaints and upheld 80 complaints about 56 advertisements.

While ASC received 109 more complaints in 2009 than in 2008, the Councils found that ten fewer advertisements contravened the *Code* year over year (56 in 2009 compared to 66 in 2008).

Clause 14 (Unacceptable Depictions and Portrayals)

Consistent with historical patterns, more than half of the pursued complaints (541) related to Clause 14 (Unacceptable Depictions and Portrayals). However, most of these involved matters of personal taste or preference and did not raise issues under any of the provisions of this clause.

Councils ultimately upheld 13 complaints about five advertisements under Clause 14. Among these were advertisements that were found to denigrate women and/or offend general standards of public decency.

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

In 2009, ASC reviewed 434 complaints alleging misleading or inaccurate advertising under Clause 1 (Accuracy and Clarity) and Clause 3 (Price Claims).

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" or "election advertising," which are excluded from the application of this *Code*.

Excluded Media

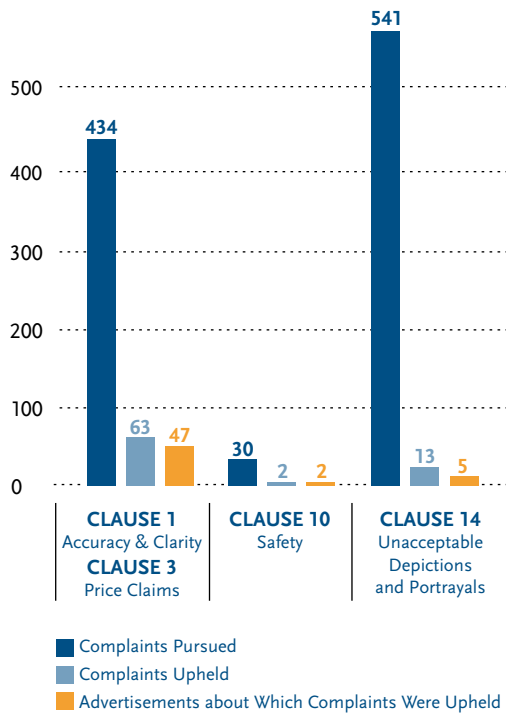
The following are excluded from the definition of "medium" and the application of the *Code*:

- 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.

Of these, Councils upheld 63 complaints about 47 advertisements. These primarily included advertisements for products that were unavailable during the promotional period, and advertisements that omitted relevant information or did not clearly state all pertinent details of an offer.

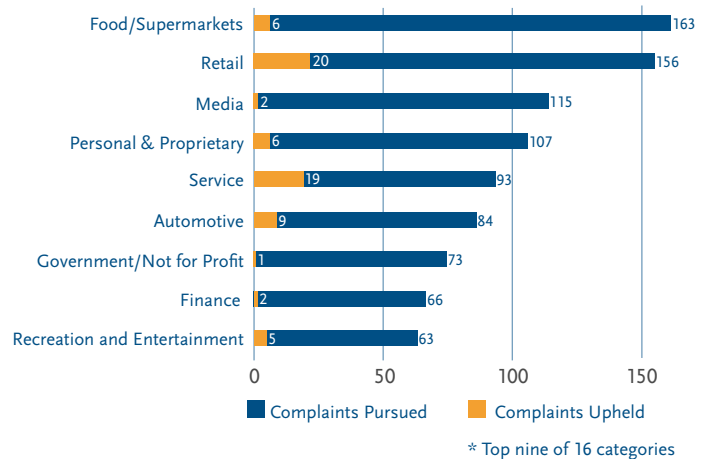
Clause 10 (Safety)

Councils reviewed 30 complaints under Clause 10 (Safety). Of these complaints, two were upheld about two advertisements.



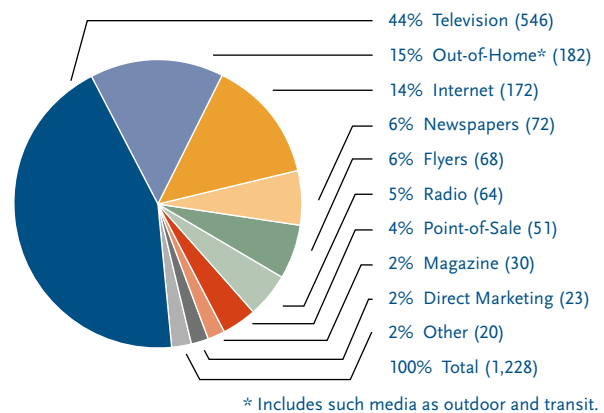
COMPLAINTS BY CATEGORY OF ADVERTISING*

In 2009, food advertising (including advertising by food manufacturers, food retailers and restaurants) generated more complaints than any other category (163). Retail advertising followed with 156 complaints, and 115 complaints pertained to advertising by media organizations.



COMPLAINTS BY MEDIA

As always, advertising on television generated the highest number of complaints by far at 546. Advertising in the out-of-home medium, including billboard and transit advertising, came in second place with 182 complaints. In third place was advertising on the Internet, with 172 complaints.



LOOKING BACK: A DECADE OF CONSUMER COMPLAINTS

Consumers submitted more complaints to Advertising Standards Canada (ASC) in the past ten years than in any other decade since the inception of the *Canadian Code of Advertising Standards (Code)* in 1963.

In the years spanning 2000 to 2009, consumers submitted an annual average of almost 1,300 complaints about advertising to ASC. However, the actual number of complaints submitted varied considerably from year to year. This variance can be attributed to the fact that it only takes one controversial advertisement to elicit numerous consumer complaints. In fact, in 2002, a year in which ASC received 1,828 complaints – an all-time high – two out-of-home advertisements together generated more than 600 complaints.

Notwithstanding spikes in total complaints in certain years, the number of advertisements about which consumers submitted complaints was relatively consistent from year to year – averaging about 800.

Of the complaints filed by consumers over the decade, about ten percent were upheld by the national and regional Consumer Response Councils (Councils). These independent, volunteer Councils are responsible for adjudicating consumers’ complaints about advertisements that raise issues under the *Code*. Overall, of the total number of advertisements that

garnered complaints over the past ten years, eight per cent were found by Councils to contravene the *Code*.

COMPLAINTS BY CATEGORY OF ADVERTISING

Advertising by retailers generated the highest total number of complaints over the decade, and was the most complained about category in six of the last ten years.

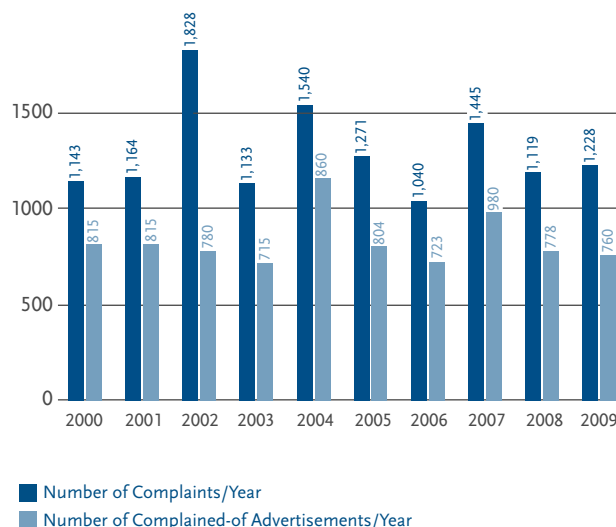
The next highest volume of complaints was generated by food advertising, (including advertising by food manufacturers, food retailers and restaurants).

Advertising by service providers represented the third highest number of complaints over the decade.

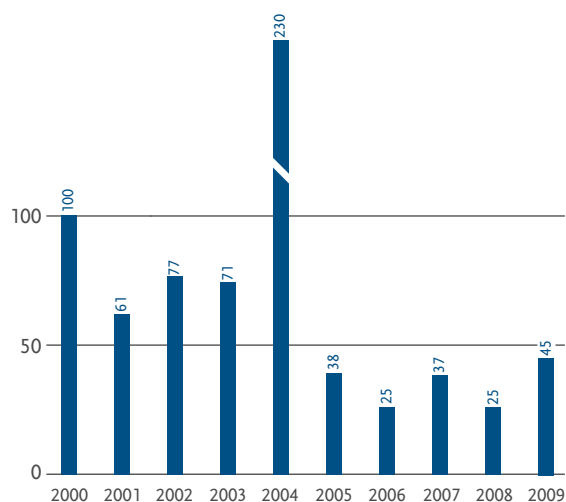
In viewing the complaint statistics over the decade, of particular note was the decline in complaints about alcoholic beverage advertising. From 2005 to 2009, the number of complaints from consumers about alcoholic beverage advertising was significantly lower than it was in the first half of the decade. Complaints about this category peaked in 2004, when consumers submitted the highest number of complaints ever about alcoholic beverage advertising (230). Their concerns related to several commercials that consumers contended depicted highly inappropriate behaviour and derogatory depictions of women. Since 2004, the alcoholic beverage category has generated no more than 45 complaints in any year.

NUMBER OF COMPLAINTS/YEAR TO ASC – 2000-2009

YEAR	COMPLAINTS	ADS
2000	1143	815
2001	1164	815
2002	1828	780
2003	1133	715
2004	1540	860
2005	1271	804
2006	1040	723
2007	1445	980
2008	1119	778
2009	1228	760



NUMBER OF COMPLAINTS RE ALCOHOLIC BEVERAGE ADVERTISEMENTS – 2000-2009



COMPLAINTS BY MEDIA

Given its extensive reach, it is not surprising that television advertising generated more complaints than advertising in any other medium representing approximately 63 per cent of all complaints received over the decade.

At 20 per cent, advertising in the out-of-home medium generated the second highest volume of complaints in the past 10 years. Most of these complaints related to depictions in advertisements that consumers considered to be inappropriate.

Throughout the decade, society has witnessed a dramatic surge in Internet usage. A January 2009 report by Ipsos Reid notes that 82 per cent of Canadians have home Internet access versus only 6 per cent in 1995. The pervasiveness of the Internet is clearly reflected in ASC's complaint statistics. In 2000, ASC received only a handful of complaints about advertising on the Internet. By the end of the decade, complaints about this category represented 14 per cent of the total complaint volume.

In 2000, when ASC first began tracking complaints about advertising on the Internet, ASC anticipated a high volume of complaints about unsolicited SPAM email and advertising on off-shore websites, both of which fall outside of the purview of the *Code*. That has not proven to be the case. Complaints submitted about Internet advertising most frequently reflected concerns about inaccuracies in advertising, and offers or promotions on Canadian advertisers' websites.

CHANGING CONSUMER CONCERNS

Marked economic uncertainty and anxiety has characterized society during past ten years. The decade began with high tech dot-com industry failures and ended with the global economic downturn and recession. Events in the intervening years such as terrorist attacks, SARS and potential global pandemics contributed to Canadians' concerns and anxiety about their financial security, their personal safety and their families' well being.

Concerns about what their children were viewing and exposed to in advertising were clearly reflected in consumers' complaints to ASC over the past 10 years. In the first half of the decade, consumers' complaints often reflected a longing for a kinder, gentler society, and a desire for advertising to impart positive messages. Frequently cited concerns involved advertisements that consumers alleged depicted aggressive, violent, or unsafe behaviour. Concerns about adult-themed advertising, sexual innuendo, and partial nudity in advertising in family-oriented mainstream media, such as television and out-of-home were also continuing themes in consumers' complaints.

Consumers' concerns as reflected in their complaints to ASC in the second half of the decade looked quite different from the first. With the economic downturn, and Canadians' increasing insecurity about finances and employment, consumers became more value conscious – comparing prices and searching for deals and discounts. And they scrutinized advertising, particularly retail advertising, with a greater critical eye.

During this period, ASC heard more often from consumers when they did not get a product or service at the advertised sale price or discount; when they found an advertised product to be unavailable; when they found an offer to be unclear; when disclaimers were difficult to read; and when important limitations on advertised offers were not fully or clearly disclosed.

In addition, in the second half of the decade, more complaints were reviewed by ASC about allegedly misleading advertising under Clause 1 (Accuracy and Clarity) than in the previous five years combined. In fact, 34 per cent of complaints were reviewed by ASC under Clause 1 during 2005 to 2009 compared to 17 per cent of complaints that were reviewed from 2000 – 2004.

With the economic climate remaining uncertain for the foreseeable future, it is anticipated that consumer scepticism will continue to grow, together with complaints about allegedly inaccurate and misleading advertising.

NEW CODE INTERPRETATION GUIDELINE RE MOTOR VEHICLE ADVERTISING

In September 2009, ASC published *Interpretation Guideline #4 – Alleged Infractions of Clauses #10 or #14: Motor Vehicle Advertising*. This new Guideline provides guidance to motor vehicle manufacturers and their advertising agencies in the production of advertising that is creative and effective, while respecting road safety concerns and conforming to the provisions of the *Canadian Code of Advertising Standards*. The Guideline includes eight broad principles in the form of questions that encompass such issues as speeding, aggressive and unsafe behaviour, and depictions of races and rallies.

The publication of this Guideline represents the culmination of the efforts of a joint government and industry working group following the adoption of legislative measures by Quebec. This legislation obliged the Société de l'assurance automobile du Québec (SAAQ) to “in collaboration with automobile

manufacturers, advertising agencies and highway safety stakeholders to...establish guidelines aimed at prohibiting any advertisement that portrays a road vehicle and conveys a careless attitude with respect to road safety by presenting situations that encourage reckless, dangerous or prohibited practices or behaviour.”

Led by the SAAQ, members of the working group included ASC, the Canadian Council of Motor Transport Administrators, the Canadian Vehicle Manufacturers' Association, the Association of International Automobile Manufacturers of Canada, the Association of Canadian Advertisers and the Association des agences de publicité du Québec, as well as several Canadian jurisdictions (Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, Yukon, and Transport Canada.)

For full text of the Guideline, see Page 10.

KEEPING THE CODE CURRENT

The *Canadian Code of Advertising Standards (Code)*, the principal instrument of advertising self-regulation, sets the standards for advertising that is truthful, fair and accurate. The *Code* is used to review and adjudicate consumer complaints about advertising.

Representing the culmination of the efforts of a partnership among major advertising industry and media organizations, the *Code* was first published in 1963. The leading industry associations that developed the *Code* recognized the power of advertising as an economic driver and influencer of consumer choice, and understood the need to harness this force in an ethical and responsible manner. Thus, the *Code* was created as the industry standard for acceptable advertising.

A quote from the background of the 1963 *Code* expressed the original creators' intent:

“For Canadian industry, advertising represents a potent communications and selling force. In a highly competitive economy, it is the advertiser's primary tool in persuading consumers to purchase the country's output of goods and services...At the same time, the steady growth of advertising volume brings with it some special responsibilities to Canadian families. The average citizen is now exposed to several hundred advertising messages a day... Through the adoption

of this new [Code], the participating organizations undertake to apply the highest ethical standards to the preparation and execution of Canadian advertising. It is their desire to further heighten the believability and integrity of advertising in Canada and thereby make it an even more effective influence in the economic growth of the nation.”

Over the years, ASC, on behalf of the advertising industry, has regularly updated the *Code* to keep it relevant and contemporary. Of particular note was the introduction of Interpretation Guidelines, designed to enhance industry and public understanding of the interpretation and application of the clauses of the *Code*.

There are currently four Interpretation Guidelines, the full text of which can be found beginning on Page 8 of this Report.

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)

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

The *Canadian Code of Advertising Standards (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 current and relevant.

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 online *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.

FOR CLAUSE 10 OR 14 COMPLAINTS 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.

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 appear to condone, or directly encourage, bullying; 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.

CODE INTERPRETATION GUIDELINES

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

INTERPRETATION GUIDELINE #1 – ALLEGED INFRACTIONS OF CLAUSES 10 OR 14: ELEMENTS OF HUMOUR AND FANTASY

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 – ADVERTISING TO CHILDREN

1.1 As used in Clause 12 of the *Code*, the phrase “advertising that is directed to children,” (advertising to children), includes a commercial message on behalf of a product or service for which children are the only users or form a substantial part of the market as users, and the message (i.e. language, selling points, visuals) is presented in a manner that is directed primarily to children under the age of 12.

1.2 Advertising to children that appears in any medium (other than the media specifically excluded under the *Code* from the definition “medium” and from the application of the *Code*), shall be deemed to violate Clause 12 of the *Code* if the advertising does not comply with any of the following principles or practices:

a. Food Product Advertising to Children

- i. Food product advertising addressed to children must not be inconsistent with the pertinent provisions of the *Food and Drugs Act* and *Regulations* and the Canadian Food Inspection Agency’s *Guide to Food Labelling and Advertising*. This *Code Interpretation 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)

b. Healthy Active Living

- i. Advertising to children for a product or service should encourage responsible use of the advertised product or service with a view toward the healthy development of the child.
- ii. Advertising of food products should not discourage or disparage healthy lifestyle choices or the consumption of fruits or vegetables, or other foods recommended for increased consumption in Canada’s Food Guide to Healthy Eating, and in Health Canada’s nutrition policies and recommendations applicable to children under 12.

c. Excessive Consumption

- i. The amount of product featured in food advertising to children should not be excessive or more than would be reasonable to acquire, use or, where applicable, consume, by a person in the situation depicted.
- ii. If an advertisement depicts food being consumed by a person in the advertisement, or suggests that the food will be consumed, the quantity of food shown should not exceed the labelled serving size on the Nutrition Facts Panel (where no such serving size is applicable, the quantity of food shown should not exceed a single serving size that would be appropriate for consumption by a person of the age depicted).

d. Factual Presentation

- i. Audio or visual presentations must not exaggerate service, product or premium characteristics, such as performance, speed, size, colour, durability, etc.
- ii. The relative size of the product must be clearly established.
- iii. When showing results from a drawing, construction, craft or modelling toy or kit, the results should be reasonably attainable by an average child.
- iv. The words “new,” “introducing,” “introduces” or similar words may be used in the same context in any children’s advertising for a period of up to one year only.

e. Product Prohibitions

- i. Products not intended for use by children may not be advertised either directly or through promotions that are primarily child-oriented.
- ii. Drug products, including vitamins, may not be advertised to children, with the exception of children’s fluoride toothpastes.

f. Avoiding Undue Pressure

- i. Children must not be directly urged to purchase or to ask their parents to make inquiries or purchases.

g. Price and Purchase Terms

- i. Price and purchase terms, when used in advertising directed to children, must be clear and complete. When parts or accessories that a child might reasonably suppose to be part of the normal purchase are available only at extra cost, this must be clearly communicated.
- ii. The costs of goods, articles or services in advertising directed to children must not be minimised as by the use of “only,” “just,” “bargain price,” “lowest price(s),” etc.
- iii. The statement “it has to be put together” or a similar phrase in language easily understood by children must be included when it might normally be assumed that an article feature in advertising directed to children would be delivered assembled.
- iv. When more than one product is featured in advertising directed to children, it must be made clear in the advertising which products are sold separately (this includes accessories).

h. Comparison Claims

- i. In advertising to children no comparison may be made with a competitor's product or service when the effect is to diminish the value of other products or services.

i. Safety

- i. Adults or children must not be portrayed in clearly unsafe acts or situations except where the message primarily and obviously promotes safety.
- ii. Products must not be shown being used in an unsafe or dangerous manner (e.g. tossing a food item into the air and attempting to catch it in the mouth, etc.).

j. Social Values

- i. A range of values that are inconsistent with the moral, ethical or legal standards of contemporary Canadian society must not be encouraged or portrayed.
- ii. Advertising to children must not imply that without the product the child will be open to ridicule or contempt; or that possession or use of a product makes the owner superior (this latter prohibition does not apply to true statements regarding educational or health benefits).

k. General

- i. Advertising to children must:
 - use age-appropriate language that is easily understandable by children of the age to whom the advertisement is directed;
 - refrain from using content that might result in harm to children;
 - collect only the information reasonably required to allow the child to engage in the activity, e.g. collect only the minimal amount of personal information sufficient to determine the winner(s) in contests, games or sweepstakes-type of advertising to children;
 - limit the advertiser's right to deal with anyone other than the parents or guardians of children who win a contest, game or sweepstake's promotion;
 - require children to obtain their parent's and/or guardian's permission before they provide any information; and make

reasonable efforts to ensure that parental consent is given;

- refrain from using the data collected from children to advertise and promote products or services other than those designed for/appropriate for children;
- not attempt to collect from children data related to the financial situation or to the privacy of any member of the family. Furthermore, advertisers must not, and must not ask for permission to, disclose personal information that may identify children to third parties without obtaining prior consent from parents or unless authorized by law. For this purpose, third parties do not include agents or others who provide support for operational purposes of a website and who do not use or disclose a child's personal information for any other purpose. (April 2006)

l. Assessment

- i. Each advertisement shall be judged on its individual merit. (January 2007)

INTERPRETATION GUIDELINE #3 – ENVIRONMENTAL CLAIMS

When evaluating complaints involving environmental claims that allegedly are misleading or deceptive, Council may, in exercising its judgment, take into account the standards proposed by the Competition Bureau and the Canadian Standards Association in the Special Publication PLUS 14021, *Environmental claims: A guide for industry and advertisers*. (November 2008)

INTERPRETATION GUIDELINE #4 – ALLEGED INFRACTIONS OF CLAUSES 10 OR 14: MOTOR VEHICLE ADVERTISING

4.1 When evaluating complaints about advertising involving depictions of motorized vehicles that allegedly contravene Clause 10 (Safety), Council will take into account the following questions:

- a. Does the depiction of the performance, power or acceleration of the vehicle convey the impression that it is acceptable to exceed speed limits?
- b. Does the depiction of a vehicle's handling ability involve potentially unsafe actions such as cutting in and out of traffic, excessively aggressive driving, or car chases in a residential setting?

- c. Does the depiction appear realistic or does it appear to be unreal, as in a fantasy-like scenario that is unlikely to be copied or emulated in real life?
- d. Would it be reasonable to interpret the depicted situation as condoning or encouraging unsafe driving practices?

4.2 When evaluating complaints involving depictions in automobile advertising that allegedly contravene Clause 10 (Safety) or Clause 14 (Unacceptable Depictions and Portrayals), Council also will take into account the following questions developed and endorsed by the Association of International Automobile Manufacturers of Canada and the Canadian Vehicle Manufacturers Association:

- a. Is the vehicle operated in violation of applicable laws or beyond reasonable speed under the circumstances taking into account the portrayed road, weather, traffic and surrounding conditions (e.g. children in the area,) or over usual speed limits in Canada?
- b. Does the depiction of the performance, power or acceleration and braking of the vehicle, taking into consideration the advertisement as a whole including visual (both images and text) and audio messages convey the impression that it is acceptable to exceed speed limits or to otherwise operate a vehicle unsafely or illegally?
- c. Does the depiction of racing and rallies, and of other competition environments, taking into consideration the advertisement as a whole including visual (both images and text) and audio messages, convey the impression that production vehicles could be driven like racing or competition vehicles on a public roadway?
- d. Is the advertisement encouraging or endorsing vehicle use that is aggressive, violent or injurious toward other road users, or that denigrates or disparages cautious behaviour when using a vehicle?
(September 2009)

NATIONAL CONSUMER RESPONSE COUNCIL

Rafe Engle (Chair), R.S. Engle Professional Corporation
Roberta Albert*
Peggy Barnwell*
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Norm Kirk*
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Michael Lio*
Sharon MacLeod, Unilever Canada
Heather Nobes, Visa Canada
Margo Northcote, creative consultant
Jayne Payette, Nestlé Canada Inc.
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†Alternate

* Public Representative

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