

Most of the complaints upheld under this clause involved advertisements that Councils found to be inaccurate, omitted relevant information, or lacked clarity.

2003 saw the fewest number of complaints submitted under Clause 10 (Safety) than in any of the last five years – 33. Of these, 4 were upheld about 3 ads.

### Complaints by Product Category

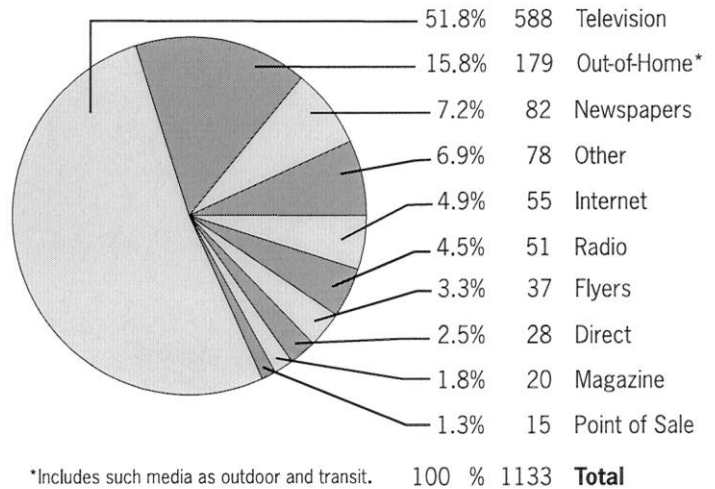
In 2003, more complaints about advertisements in the Retail category were received from consumers than any other category – 186. This was followed by advertising in the Food category, which generated 124 complaints, and the Personal & Proprietary category, which attracted 100 complaints. Last year's leader – the Media category, was a distant eighth with 55.

### Complaints by Media

In 2003, advertising on television garnered the most complaints (588). The out-of-home medium, which attracted the highest number of complaints in 2002, was second, with 179 complaints. In third place was newspaper advertising with

82 complaints. Complaints about advertising on the Internet have been increasing since 1999 when ASC received a handful of complaints. In 2003, 55 complaints were submitted about Internet advertising. Most of these related to price advertising by online retailers.

### 2003 COMPLAINTS RECEIVED - MEDIA DISTRIBUTION



## PRICE ADVERTISING ISSUES

### After-Rebate Pricing

Increasingly, consumers are voicing concerns about allegedly misleading price advertising that uses language in offers such as “regular price”, “manufacturer’s rebate”, “after rebate pricing”, “credit”, and “savings”, in such ways as to leave consumers confused about the real end-cost to them for the advertised goods or services. In several cases, in order to receive the so-called “credit”, customers had to purchase extra services in addition to the purchased goods.

Consumers also complained to ASC they had been misled by certain advertisements because:

- The disclaimer or explanatory language was hard to find, difficult or too small to read, and confusing at best, or non-existent at worst.
- Where and how sales taxes applied to these offers and whether taxes were calculated on the pre-rebate price or on

the after-rebate cost to the consumer, was not clearly explained.

In 2003, Council upheld a number of complaints about unclear after-rebate price advertising under the provisions of Clause 1 of the *Canadian Code of Advertising Standards (Code)*.

“...in order to receive the so-called ‘credit’, customers had to purchase extra services...”

Certain principles have emerged from recent Council decisions that can provide guidance to advertisers and information to consumers. For example, it is acceptable in advertising to state a “savings” in relation to the “original price” if there was an original price and it was correctly stated. However, in Council’s view, it is unacceptable under the *Code* if the claimed savings are linked to a “special price” that is artificial and unattainable in real dollar terms.

“...at what point in the order, payment and delivery process does a consumer know, for sure, what the product is going to cost the consumer if that cost was different from the advertised price?”

reserved the right to correct the price at any time.

Council expressed its serious reservation and concern about disclaimer language like this. If accepted at face value, it appeared to Council that the advertiser was telling its prospective customers not to rely on the accuracy of any product-related information on its Website; and that the

advertiser would not be accountable to customers if the Website information was incorrect.

The following checklist is intended to help advertisers develop “after-rebate” advertising that complies with Clause 1 of the *Code*.

- Is the advertised, special after-rebate price attainable by those who take advantage of the offer; or is it artificial?
- Is the starting price clearly and correctly disclosed?
- Is the method of calculating the special price clearly illustrated?
- Are key terms, conditions and limits of the offer clearly, prominently and understandably presented?
- Does asterisked or footnoted information contradict more prominent aspects of the advertised offer?

## Buyer Beware

In this past year, a number of other consumer complaints resulted from retail-style advertising on the Web in which disclaimer, or qualifying, language was very difficult to find, and when found, was hard to believe.

Typical of this kind of advertisement was a disclaimer that read:

*“The prices [on our website] are subject to error.”*

The advertisement went on to state that since the advertiser wouldn’t sell products at incorrectly stated prices the advertiser

In Council’s view, advertising of this kind raised a number of consumer issues that need to be addressed by advertisers in their advertisements. Among them is the question (unanswered in this ad) whether a sale is consummated (at the advertised price) when the product is delivered to the consumer’s home; or when the advertiser accepts both the order and payment (by credit card) via the Web. Or, is the “deal” made at some other time? In other words, at what point in the order, payment, and delivery process does a consumer know, for sure, what the product is going to cost the consumer if that cost was different from the advertised price?

The principle derived from Council’s decision in this case warrants being restated in this year-end report. Council disagreed with the advertiser’s contention that the final price is the price in effect when the product is delivered to the consumer’s home. In Council’s view, consumers are entitled to expect that their purchase is consummated when the advertiser accepts the customer’s Web-placed order and payment. If advertisers have a different policy on retail selling via the Internet, at the very least they should make a clear statement of their policy, legibly written and presented, in a location that is very close to the price offer or linked to it by some obvious means (such as an asterisk or other symbol). Where applicable, advertisers on the Internet are obligated to inform their readers in unequivocal language and in an obvious way that the advertiser’s Website offer is extremely restricted and limited. In other words, in cases like these, advertisers should be warning buyers to beware.

It was important to Council for advertisers on the Web to understand that under the *Code* the standards governing Website advertising, while they may not be higher standards, are by no means lower or different from the standards applicable to advertising in television, print, or any other media.