

CANADIAN MARKETING & ADVERTISING LAW GUIDE

1. GENERAL IMPRESSION/TONE

- What is the overall impression?
- Are claims literally true but misleading?
- Have you considered the copy in the context of illustrations and other creative context?

2. PRICE/SAVINGS CLAIMS

- Are you making market price comparisons? Are competitor claims accurate?
- Are you "drip" pricing? Are there any hidden costs?
- Do your pricing claims pass the ordinary selling price legal tests (time or volume)?

3. DISCLAIMERS

- Are disclaimers used to clarify, rather than contradict, the main message?
- Are they legible, easily found and clearly linked to the main message?
- Have you considered what the ad will look like in the final size and format?

4. ANTI-SPAM

- Do you have express or implied consent to send the message (e.g. email or text/SMS)?
- Does an exception apply?
- Does your consent language and message include the prescribed disclosure requirements and a valid unsubscribe?

5. REGULATED PRODUCTS/SERVICES

- Is the product or service subject to category-specific advertising requirements or prohibitions?
- Does it need pre-clearance? For example; cannabis, personal care products, cosmetics, food, alcohol, financial services, children's advertising, electronics, etc.
- Are there any provincial/regional restrictions or requirements?

6. INFLUENCERS AND TESTIMONIALS

- Do you need to disclose a material connection?
- Does the representation reflect the true, honest and current belief/opinion of the reviewer, based on actual use?
- Are there any product regulatory considerations?
- Do you have permission/authorization from the person and/or organization?

7. INTELLECTUAL PROPERTY AND CLEARANCES

- Should you take steps to protect the work?
- Have you confirmed that images, photographs, voices, trade-marks, logos, tag-lines, names and other aspects of the ad will not infringe on other parties' intellectual property, personality or privacy rights?

8. PRIVACY

- What personal information is being collected and used? Is anything being transferred or disclosed, for example to your advertising agency or promotional partner?
- Do you have adequate consent? Does your PrivacyPolicy disclose this?

9. SUBSTANTIATING CLAIMS

- Do you have sufficient evidence to substantiate any claims?
- Do you have adequate and proper testing that matches claims about market position, performance, efficacy or length of life of a product?

10. CONTESTS

- Is it open in Quebec?
- Are you including contest mini rules in all advertising? (8 rules including; value, chances to win, no purchase required, skill testing questions, etc)
- Have you drafted long rules? Do you want to require winners to sign a release (e.g. type of prize, publicity, etc.)?
- Are you complying with social media platform requirements?

FOR MORE INFORMATION, REACH OUT TO:

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