

CHAPTER 3 - INDUSTRY SELF-REGULATION OF ADVERTISING

Self-regulation by industry is an important component of the regulation of advertising in Canada whose impetus has come from both industry and government. One notable example of government influence was the creation in 1975 of the Pharmaceutical Advertising Advisory Board in response to the federal government's concern about misleading advertising in the pharmaceutical industry. Witnesses from another self-regulatory body, the Canadian Advertising Foundation (CAF), stressed that, although it develops and administers a number of self-regulatory codes that deal with misleading advertising, it does not initiate them. It acts as a regulator for the segments of industry that require it.¹

Perhaps the most important self-regulatory code is the Canadian Code of Advertising Standards (the "Code"), which is administered by the Advertising Standards Council (ASC), an arm of the CAF. Among other things, this Code is concerned with the accuracy and fairness of the impression created by an advertisement. It stipulates that "advertisements may not contain inaccurate or deceptive claims or statements, either direct or implied, with regard to price, availability or performance of a product or service."² Representatives of the CAF noted that the Code is supported by all segments of the advertising industry and is widely recognized by government. The Association of Canadian Advertisers, an organization representing corporations responsible for some 80% of the total volume of national advertising, told the Committee that it endorses this Code and requires its members to adhere to it.³

The ASC is composed of representatives of the media, advertisers and advertising agencies, consumer groups and other members of the public. It regularly adjudicates upon complaints dealing with misleading advertising. In response to a valid complaint, the ASC can request that an advertisement be amended or withdrawn by an advertiser. If the advertiser refuses to comply, the ASC can ask the media not to carry the advertisement. According to the CAF, the media, by acting as the ultimate enforcers of the Code, give the CAF's regulatory scheme credibility and clout.⁴

Other organizations also administer codes of ethics that touch upon misleading advertising. The CCBBB's Code of Advertising prohibits the use of advertisements that are "untrue, misleading, deceptive, fraudulent, untruthfully disparaging of competitors, or insincere offers to sell."⁵ The Canadian Direct Marketing Association (CDMA) has formulated a Code of