

The Committee recognizes that problems can arise with the use of consent procedures. AVCs might be employed in inappropriate situations, merely to suggest a strong enforcement record. Indeed, in the United States the FTC's tendency to inflate enforcement statistics through the use of AVCs was one of the principal reasons why in the late 1970s it abandoned them in favour of a more stringent procedure. It is also feared that regulators might adopt a "heavy-handed" approach to use of consent procedures by coercing advertisers into voluntary compliance with threats of prosecution.

The Committee is of the view that these problems can be minimized if not avoided through the development and publication of an enforcement and compliance policy which would include guidelines for the use of consent procedures.

Recommendation:

- 4.9 The Committee recommends that the Director of Investigation and Research develop and publish guidelines for the use of consent procedures in connection with misleading advertising and deceptive marketing practices offences.**

C. Other Administrative Techniques

Some witnesses suggested other administrative techniques for improving compliance with our misleading advertising laws. The most frequently mentioned were advertising substantiation and the promulgation of rules and regulations on various aspects of advertising. During its visit to Washington, D.C., the Committee gained some insight into the operation of these procedures in the United States and concluded that they might be of some value in the Canadian context. Accordingly, this portion of the report will be devoted to a discussion of these techniques.

1. Advertising Substantiation

Testimony before the Committee indicated that the adoption of a formal advertising substantiation policy by the Director of Investigation and Research would markedly enhance the ability of the Marketing Practices Branch to ensure compliance with the law.