

*Recommendations:*

- 4.5 The Committee recommends that the *Competition Act* be amended to allow a court, in proceedings connected with misleading advertising, to order an offender to issue a corrective advertisement. The court should have authority to prescribe the methods of making a corrective advertisement, as well as its content, form, frequency and duration.
- 4.6 The Committee further recommends that the corrective advertising remedy referred to in recommendation 4.5 be available in connection with both consent agreements (see recommendation 4.7) and criminal proceedings.

3. *Consent Procedures*

As mentioned earlier, many witnesses consider the criminal process to be a slow, inefficient means of dealing with most misleading advertising cases. They would like to see less formal, more cost-effective processes in place. One suggestion to the Committee was the "assurance of voluntary compliance" (AVC) or a consent order, whereby alleged offenders would agree to stop a misleading practice and to engage in remedial action, if necessary. This procedure would bypass criminal prosecution by authorizing the Director of Investigation and Research to accept a written undertaking instead.

In the United States, the use of consent orders is widespread. In fact, the vast majority of deceptive advertising cases at the federal level in the U.S. are resolved through this means. Pursuant to the Federal Trade Commission's consent order procedure, an advertiser enters into an agreement with the FTC whereby, among other things, he agrees to cease advertising in a certain manner, admits certain facts and conclusions of law and waives further procedural steps and all rights to judicial review. Consent orders are often combined with orders for affirmative disclosure or corrective advertising.

The various provincial trade practices statutes provide for informal procedures whereby a person can undertake to refrain from engaging in a particular activity by submitting a written assurance of voluntary compliance. Some statutes also allow remedies such as corrective advertising to be included in an AVC.