

SOCIETAL ETHICS AND LEGAL SYSTEM FACING CONTEMPORARY MARKETING STRATEGIES: AN AUSTRALIAN INSIGHT

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Abstract. An integral function of Australian market economy is the process of matching products/services with customers' needs, desires and preferences.

This process is greatly facilitated by advertising. Advertising not only provides information for the consumers but may also be used by the advertiser to bring subconscious consumer preferences or inchoate desires to the surface and to stimulate the demand for consumption. In carrying out these tasks, the advertiser must decide the pitch of the advertisement, the appropriate media to be used, the budget, the degree of exposure of the advertisement, market segmentation and claims to be made for the product (Goldring et al, 1987).

Australian firms, irrespective of their size, rely heavily on advertising to market their products and services. The degree to which firms see the crucial role of advertising in their overall marketing mix, is clearly reflected in their annual allocation of advertising expenditure. "In 1997, total Australian advertising expenditures were \$ 7.5 billion on advertising" (Miller and Layton, 2000, p.590)

All creative and imaginative forms of enticements and inducements being considered in the development of advertising strategies by these firms in an attempt to evoke favourable consumers' responses for their offerings.

Over time, some firms have come under increasing criticism by some sections of the community for their inappropriate promotional strategies which are seen as out of step with general community values and standards. Further in some instances, it is alleged that these firms have not only miscarried their social responsibility, but they have also breached the law covering Trade Practices operative in Australia and New Zealand. Such misguided corporate behaviour has also sparked negative consumerism concern. which if no corrective measure is adopted, will strategically harm the firm profit and viability.

This research paper attempts to explore in some detail, aspects of advertising strategies within contemporary management paradigm. The paper will also shed light on corporate ethics /social responsibility. Finally, this paper will address legal obligations and consumerism concerns surrounding firms operating within the Australian society.

Keywords: Business Ethics, Advertising, Promotions, Law, Consumerism, Environment.

1. The world of advertising

A professional definition for advertising as stated by Jefkins. F (1973), "advertising presents the most persuasive possible selling message to the right prospects for the product or service at the lowest possible price". This emphasises that advertising should be created and planned in order to achieve maximum results for the least cost. The most significant objective of advertising is to "sell" (Ekelund, R.B., 1988). Thus advertising is any paid form of non-personal advertising and promotion of goods or services or to accept a point of view. (McCarthy, E. J et al., 1994) (Dirksen, C. J., et al., 1973).

The most important characteristic of advertising as a marketing tool is that it can use an identical message to reach a large number of people simultaneously. Its

use is to make people aware of things they need or may want by introducing new products, describing new uses and improved features of familiar ones. With economic growth, the importance of advertising increases because more consumers have substantial incomes and advertising can achieve results. (McCarthy, E. J. et al., 1994).

Advertising is multidimensional and can be viewed as a form of communication, as a portion of an economic system, and as a device for financing the mass media. As a form of communication the advertising message or advertisement is passed to the intended audience through various media. This media includes: newspapers, television, magazines, radio, billboards and direct mail. As a component of an economic system, advertising plays a major role in developed countries and the free market system. In a free market system the orientation of manufacturers is directed

towards consumer needs and wants. As a means of financing the mass media, advertising provides a substantial percentage of the total revenue. Commercial media is entirely funded by advertising (Sandage, C. H. et al., 1975).

Advertising is part of the demand creation process. There are three forms of demand creation: personal selling, advertising and sales promotion. The advertising segment of this process can be further divided by the type of demand for the product. Such demands are:

- * Pioneering advertising, which attempts to develop a primary demand for a product category rather than a specific brand;
- * Competitive advertising, this attempts to develop a selective demand for a specific brand;
- * Reminder advertising, attempts to keep the brand name fresh in the consumer's mind. (McCarthy, E. J. et al., 1994) (Dirksen, C. J., et al, 1973)

Advertising campaigns involve selecting the appropriate media and message for effectiveness in promoting the product. The effectiveness of promotion is dependent upon the best available communication medium and message, in selecting these promotion objectives, target markets and the available funds should be kept in mind. Thus, effective advertising requires a well defined set of objectives to avoid useless efforts. Before advertising can commence market research is necessary to define the target market. The advertising plan should always keep in mind the available funds to avoid wasting both the advertising process and money. (McCarthy, E. J. et al., 1994) (Sandage, C.H., et al., 1975).

Advertising is only a part of promotion and the promotional mix is only one element of the entire marketing mix. Thus, the successfulness of advertising is dependent upon the entire marketing mix not on advertising alone. Although advertising is only part of the marketing mix, unethical practices can have a damning effect on the company. As consumers determine the successfulness of a company and advertising is the form of communication between company and consumer, if consumers view advertising practices as unethical the company will suffer.

A company's advertising effort will be regulated firstly by law. Australian law provides a guide for the acceptable practices in advertising which all companies must abide by to avoid hefty fines. Due to the fact that consumers determine the success of a company, advertising should also coincide with the values of the

consumer. Consumers therefore, play a major role in regulating the ethical practices of companies.

2. Ethics

Ethics can be defined as a conception of right and wrong conduct. It is concerned with human relationships in how we think about and act towards each other. Ethics can be both formal and informal and basically a system of conduct. (Barnhart, C. et al., 1989). Thus, they vary from one cultural, religious, racial, age or educational group to another. (Dunn, S. W. et al., 1986).

The system of conduct derived from ethics is learnt through:

1. Family groups: which play a role in the development of individual ethical beliefs, such beliefs are learnt through both family experience and family influence.
2. Religious beliefs: shape the learnt system of conduct via behavioural guidelines set out by individual religions.
3. Educational systems: like religions also shape individual perceptions towards right and wrong.
4. Reflection of social values: for example, as expressed through media, coincide with the other three areas of learnt ethics to further influence individual beliefs towards right and wrong (Sae, 2005).

Due to these varying influences upon societal make up, when viewing differing cultural ethics it should be within the context of the cultural value system. That is, a system of ethical relativism should be used to gain an understanding of the value system in question. For example, in Australia women are used in advertising in a provocative way to sell products where, this practice would not fit into the value system of other particular cultures, such as the traditional Islamic culture.

2.1. Business Ethics

Business ethics are primarily shaped by societal ethics. This trend is seen by looking at the definition of business ethics. Business ethics is considered a non-mandatory system of certain standards of behaviour (Crawford, J. W. 1974) Dirksen et al explains business ethics as commercial behaviour guided by a slowly accumulated set of guides which have been found to be necessary for the continuous conduct of commercial relationships.

The set of guides will depend upon the historical influences.

For businesses to exist in the economic world it is necessary to incorporate ethical behaviour into business practices. The major reasons for the need of ethical business practices are:

- * to prevent businesses from abusing the rights of the general public. For example, some business practices can cause harm to consumers through the production of defective products, it is the ethical responsibility of these companies to recall such products.
- * to protect employees from being subjected to unethical practices. For example, sales representatives should not be given quotas that may provoke them to partake in unethical dealings.
- * to ensure businesses remain economically viable by complying to the value system in which they operate. That is, for businesses to be successful they must abide by the established ethics of society.
- * to protect business itself from unethical practices of employees. For example, if a business has its own set of ethical guidelines employees will be unable to harm the good name of the business. Such ethical guidelines also provide security against unethical competitors.
- * to motivate ethical employees for greater work performance. That is, employees will be proud to be a company member. (Jefkins, F., 1973).
- * ethical employees result in ethical practices hence, if individuals are guided by high ethical and moral standards the business will follow this trend of high standards (Sandage, C. H. et al., 1975).

Today's businesses have become highly specialized. Each department focuses on a distinctive area. For example, marketing is one key area of business within which a specialized set of ethical guidelines are present. Some businesses avoid ethical criticism can also be avoided by joining such organizations as the Australian Marketing Institute which has its own Code of Professional Conduct that members must abide by. (McCarthy, E. J. et al., 1994). Within marketing, like business, there are many area. One of these areas within marketing is advertising.

2.2. Ethics in Advertising

Advertising ethics are important because it is people communicating with other people about products and services which one group supplies to fulfill the needs and desires of a larger group. Thus, if the communication is not ethical it will lead to dissatisfaction of

customers. Also, unethical advertising gives the business negative associations with members of society. (Crawford, J. W., 1974).

Untruthful Advertising

It is difficult to define untruthful advertising as defining a line between truth and untruth is difficult. This is because some statements are obviously true and some obviously untrue while, other may be vague and hence, determination of truth and untruth is not possible. The advertiser must not only take into account laws when preparing the advertisement but also the way in which the message will be interpreted by the public as truthful. (Sandage, C. H., 1975).

The effectiveness of advertising will be lost if it generates an impression in the buyer that is not supported by the results obtained from use of the product. For example, many weight loss drinks have negative results but advertisements that promote such a product can ultimately create a bad impression in the consumers mind.

Untruthful advertising is not only damaging to the name of the product, but may also be ethically unacceptable to the consumer. Practices such as this, that are ethically unacceptable have a negative effect on the company's name, hindering further success of existing and futuristic products.

Stereotypes

Over the years there has been an increase in the use of well known figures for the promotion of products. These figures have become stereotypes for the product being promoted. This practice influences the purchase of products by consumers, due to a desire to be like the stereotype regardless of the usefulness of the product. (Consumer and Corporate Affairs, 1983) (Dirksen, C. J., et al., 1973).

Some advertisers use unethical methods to obtain suitable figures. Such techniques used by advertisers are called "testimonial rackets". One example of such a technique is the payment of large sums of money to well known people for their participation in promotional activities. This money is used to obtain their participation rather than them actually using the product and gaining benefit. (Sandage, C. H. et al., 1975). For example, the Palmolive soap ad focuses on Demi Moore rather than the product in question, the product is an updated formulation and hence, she could not have used it all her life.

Many companies using high status people for promotion realize this use has a negative effect on society yet still insist on using them. These people focus on profit rather than their effects on society. Such objectives show a poor marketing function due

to the lack of care for consumer interests. For example, the use of high status models in teenage magazines has contributed to the increased frequency of eating disorders in this age group.

Misleading Names and Labels

Misleading names and labels tends to give a wrong impression of quality or origin of a product. The use of such names or labels is intended to trick the consumer into purchase of the product by characteristics not representative of the entire product. An example of misleading labels that confuses the origin of products are, those marked "Made in Australia", when the actual product components are imported. Due to the increasing concern of product origin in Australia, the companies that take part in such practices are capitalising on this fact, while the consumer is being lead to believe their money is staying in the country when it is actually going overseas. It can be argued that this may be an unethical act because consumers are placing their faith in the company by buying their products.

Often the names used by companies also confuse consumers as to the real manufacturer of the product. The use of confusing names by companies is often done in an attempt to profit from the success of the imitated company (Sandage, C.H. et al., 1975). For example in Australia the name "Country Kettle Chips" was imitated with "Kettle Chips". These names make it difficult for consumers to decipher which product is the desired one for purchase. Thus, consumers often identify the chips by the cooking process (kettle) not by the name. This make duplicate purchases of the product by name difficult for the consumer. The use of confusing names is not in the best interest of consumers or the businesses being imitated. Therefore, this imitation process could be considered an unethical act towards consumers and businesses. Should companies have the right to move in and benefit from the success of other companies?

Misrepresentative and Unfair Advertising

The term deception in advertising is difficult to define. There is a general agreement amongst advertisers, that advertising should not be dishonest or misleading and should provide relevant information for potential consumers. Therefore, to classify an advertisement as deceptive, it must be considered what creates deception. (Dunn, S.W. et al., 1986). Deception could be classed as anything that creates a wrong impression in the minds of reasonable consumers, and if this misimpression relates to a material feature of the advertised product.

This is a difficult area for advertisers to understand. There are laws that provide guidelines for the advertising process, however it is necessary for personal judgment on the correctness of advertisements. The difficulty arises through the way advertisements that were once acceptable are today, questioned or considered deceptive. (McCarthy, E. C., et al., 1994). Therefore, it is important businesses to maintain an awareness of changing societal standards, to ensure that advertisements are ethical.

Deliberate deception is quite rare. The reason for the rarity of deception is believed to be caused by consumers rejecting the products and claims made by the deceptive company. This is most true by advertisements that include information that consumers can easily verify, for example prices and freshness of food. (Dunn, S.W., et al., 1986). While it is known that deceptive advertising does occur, there is a lack of evidence to show how often it does occur. There is also a lack of evidence to show if sales are increased to a higher level with deceptive advertising than with non-deceptive advertising.

Classification of unfair advertising is dependent upon individual beliefs within the value system. Some consumer organizations feel that it is unfair to parents that advertisements be directed towards children. Other people believe that, it is unfair practice to promote materialism by persuading consumers to purchase goods that they don't really need or want. (McCarthy, E. J., et al., 1994). It is necessary for companies to be aware of unfair advertising because unfairness can have a negative effect on a particular company.

Exaggeration

Many critics believe puffery should also be considered as a part of deception. Puffery is defined as the description of a product that exaggerates its' qualities. Like acting, advertising has to be larger and louder than life. Critics believe that puffery or exaggeration oppresses consumers with false beliefs about the product. However, from a consumers point of view, much of this exaggeration is ignored. (Sandage, C. H. et al., 1975) (Dunn, S. W. et al., 1986) (Jefkins, F. 1973). Therefore, legitimate exaggeration is quite acceptable for promoting a product. An example of legitimate exaggeration is "Beer is Best", "You can't say no to CC's". Reasonable consumers would not necessarily be deceived by such statements. This is different from deliberately tricking people into purchasing useless or bad propositions. For example, saying that a paint stripper will remove pain instantly when it actually removes paint within hours, is deliberately tricking the consumer.

When exaggerating the product, often the advertiser is uncertain as to whether the exaggeration is actually true and whether it will occur. However, for it to be ethically acceptable there must be some truth within the statement. For example, a number of facial creams today, state they will reduce aging and make you look younger. To a certain extent this statement is true, as the majority of aging creams contain SPF 15 + and it is known that that SPF 15+ reduces the aging effects of the sun. This benefit, which is dependent on exposure to the sun, has been exaggerated to say decrease aging.

Bad Taste in Advertising

Bad taste in advertising is quite common and often inconsiderate of the consumer, whether they be a reader, listener, or viewer. Such forms of bad taste can be observed through the constant use of sex symbols and unrestrained referral to many personal bodily functions. Many sectors of the public classify this form of advertising as offensive. (Crawford, J. W. 1974) (Sandage, C. H. et al., 1975) (Dunn, S. W. et al., 1986). If the public is offended by the advertising used, the advertiser may find out through decreased sales due to disapproval. (Dirksen, C. J., et al., 1973). For example, the original "New Wide Bodied Camry" ad featured a pregnant lady and the company found out about the disapproval due to the ad being banned.

When using television and radio, the advertiser often forgets the types and situation of listeners and viewers at the time of the advertisement. For instance, ads that the older generation find offensive at dinner, the younger generation may find amusing and artistic. (Dirksen, C. J. et al., 1973) (Sandage, C. H. et al., 1975) (Dunn, S. W. et al., 1986). This implies, that advertisers need to be aware of the sector to which the ad is directed and the time frame required to reach this sector. For example, advertisements for condoms are directed at the sexually active sector of the population, therefore advertising this commercial later in the night would be appropriate, than around dinner time when young children watch the television.

In many cases the product is not the problem of poor taste, it is the advertising used to promote the product. For example, advertisements emphasising the exciting parts of a show, even though these parts are only minor. Basically, taste is defined as a personal thing and what is bad taste to one, may not be bad taste to another. This can be seen through the generations, as what was offensive to grand parents may not be offensive to the present generation. (Sandage, C. H. et al., 1975) (Dirksen, C. J. et al., 1973). For example, in the old days it was unacceptable to society for

couples to live in a defacto relationship, however today it is more accepted practice. The objectionable changes in generation, is also shown by the advertising of women's sanitary products. In the 1960's these weren't advertised and were considered a very private issue.

It is unrealistic of society to expect the advertising industry to avert every ad that someone would consider as bad taste, or even to expect the industry to evaluate taste. However, society can expect the advertising industry to partake in ethical practices of abiding by the accepted rules of decency and taste of the audience they wish to aim the advertisement toward.

Self Regulation

It has been shown that truthful advertising is more beneficial, when the majority of the industry ensures the elimination of false and misleading advertising. This encourages advertisers to accept government regulations. However, some advertisers go further by establishing a self regulating program. These programs follow the guidelines of the government but they assess their advertisements to ensure they coincide with the government and set company standards. (Sandage, C. H. et al., 1975) (McCarthy, E. J. et al., 1994).

The self regulation approach is to increase the status of the company and ensure public trust within the products and advertisements. This is an attempt of eliminating all poor practices and bad taste within their own or their members advertising practices. Self regulation will be guided by advertising laws within the country in question. Australian laws governing advertising have developed over many years and now relate to specific areas.

3. Law and advertising

The basic goal of advertising regulation is to increase the accuracy and amount of information available to consumers. Originally this goal was pursued mostly through legal prohibitions. This was enforced upon making of false representations and other deceptive practices. (Stern, L.W. et al., 1984). With the expansion of Australia's economy, there has been an increase in the number of products offered to consumers. Thus, it was seen to be necessary to assist consumers in making informed purchase decisions by introducing more laws. (Donald, 1978). Laws dealing with advertising are mainly focused at the Federal level and are enforced by the Trade Practices Commission.

The present form of the Trade Practices Act can be better understood by looking at the history of its formation. In 1906 the Australian Industries Preservation Act was formed by the Australian Federal Parliament, this was basically a copy of the American Sherman Act 1890. The Australian Industries Preservation Act prohibited monopoly and reduction of Trade. (Donald, 1978). The 1906 Act became disused and was revived in the early 1960's by 1965 this act had been completely disregarded. By the late 1950's there was a need for new regulations. The Federal Attorney General in 1963, published a list of existing detrimental trading practices as part of his proposals for legislation to control trade practices and monopolies. This list revealed all of the standard restrictive practices which include: price fixing, selective boycotts, resale price maintenance, discriminatory pricing and trade association restrictions. (Donald, 1978). This then became the Trade Practices Act of 1965 and although the act was criticized as being weak, it was also seen as unnecessarily cautious.

Under the 1965 act, it was proved that there was a need for change in three main areas. These three areas:

1. The examination of collusive price fixing.
2. The slow rate of case by case enforcement through bureaucratic agencies.
3. The need for an integrated law covering the range of methods by which competition may be reduced.

The next stage in the development of Australian advertising law was in 1971 when the pressure for control of resale price maintenance increased. Discount stores were on the rise. Amendments to the 1965 Act occurred immediately when the supply of goods to discount department stores began. (Stern, L.W. et al., 1984).

The 1974 Act was the next step in Australia's trading law history. It saw the return of direct prohibition of horizontal and vertical arrangements but only if they were likely to have an impact on competition. A stricter rule was enforced for price fixing and also one for a supplier forcing a sale to the third party. (Donald, 1978). The Trade Practices Commission was established and was used to determine and give authorisation to arrangements or mergers even if it affected competition. The present Act commenced on the 1st July 1977. It is basically the 1974 Act with amendments. (Stern, L.W. 1984). No only does the Trade Practices Act protect consumers, it also states law by which corporate agencies must abide by when promoting/advertising their goods and services.

The Trade Practices Act has defined many aspects of advertising and has established rules by which advertisers can promote their products. An important aspect of advertising that is often abused, is that of false advertising or deceptive Acts or Practices. The term false advertising means "an advertisement other than labeling that is misleading in a material respect", but also the extent to which the advertisement fails to reveal the facts about the product. (Stern, L.W. et al., 1984). Thus, false advertising is illegal as is the failing to disclose material facts.

The Trade Practices Commission determines whether an advertisement is deceptive. It is classified as deceptive if:

1. The advertisement has the tendency or capacity to deceive a significant number of consumers.
2. Facts that are material or important to consumers and their purchasing decisions are excluded.
3. False representations are made to consumers. (Stern, L.W. et al., 1984).

The net effect of the interaction of these rules is to allow the Trade Practices Commission to have considerable discretion in determining whether a deceptive Act or Practice has occurred. These standards and principles were initially developed in 1975 and are receiving renewed emphasis.

Advertisers must carefully evaluate their advertising to ensure that all expressed information and implied representation to the consumer, are true and that any false statements are eliminated or properly qualified. This can cause advertisers to become uncertain as to what can be legally said in an advertisement, thus encouraging advertisers to use forms of advertising that express no facial representations or at least no information that can be condemned as false. The Trade Practices Commission labels this advertising "as puffing an advertisement".

Puffing has been defined as "the use of advertising that praises an item with subjective opinions, exaggeration and generally stating no specific facts, such as, "Coke a Cola is the real thing". This form of advertising is viewed as acceptable to law enforcement agencies. (Stern, L.W. et al., 1984).

The Trade Practices Commission also has the authority to prevent unfair acts or practices. They began to use this authority when a rule was proposed to include a health warning in connection with cigarette marketing. (Donald, 1978). The Trade Practices Commission identified three factors that it considered when determining whether a practice was unfair. Such factors are:

1. Injury to consumer
2. Public policy
3. The immoral, unethical or oppressive nature of the practice. (Stern, L.W. et al., 1984)

In 1972 these three criteria were given approval by the Supreme Court.

High pressure selling is also considered by the Trade Practices Commission as unfair. For example, the use of high pressure tactics aimed at elderly persons and designed to induce them to buy thousands of dollars worth of dance lessons, has been classed as unfair. (Stern, L.W. et al., 1984).

The Trade Practices Commission has developed the "Reasonable Basis" doctrine. Under this doctrine it is unfair to make an affirmative product claim without having a reasonable basis to believe the claim is true. (Donald, 1978). The Trade Practices Commission uses the reasonable basis rule to force advertisers to supply them with all of the evidence that supports any advertising claims. If they feel that the advertising claims are not justified in the materials submitted, a formal prosecution may commence. (Stern, L.W. et al., 1984).

When companies make scientific claims in advertising about specific products, they must be backed by some kind of clinical or scientific trials. For example, a cream "Biometrics" was introduced to the market with a claim that a specific amount of fat reduction could occur in the thigh area, however there was no clinical evidence to support this and hence, was removed from the market. If the Trade Practices Commission believe that these trials have not been undertaken significantly, then they have the power to find the claim to be false or deceptive.

Once the Trade Practices Commission has determined that a corporation has engaged in an act or practice that violates the Trade Practice Act, the Trade Practices Commission has the power to enter an appropriate remedial order against the firm. Not only can the Trade Practices Commission order the firm to cease the illegal advertising but can also engage in a number of actions against the guilty firm. (Stern, L.W. et al., 1984).

One of the most powerful forms of orders that the Trade Practices Commission can engage in is "Affirmative Disclosure" orders. Often the Trade Practices Commission finds that claims are deceptive as they contain information that is only partially true or incomplete. When this occurs the Trade Practices Commission can prohibit the firm from making the representation until they include the disclosure. These disclosure orders are not only effective in stamping out

this form of illegal advertising but also helps consumers form accurate perceptions about the goods or services and their characteristics (Stern, L.W. et al., 1984).

The second type of order that can be brought against a company by the Trade Practices Commission is known as "Corrective Advertising". This concept occurs when the Trade Practices Commission finds that an advertisement is deceptive and the advertiser is required, in future advertising to admit that the claims made in past advertising were false. These orders can harm the reputation of a firm and this illegal advertising is not often infringed upon. (Stern, L.W. et al., 1984).

"Multiple Product Orders" are the third kind of order given by the Trade Practices Commission. These orders are given when a firm has a history of repeated deliberate false advertising. The Trade Practices Commission will not only order the firm to refrain from making false claims in future advertising for a particular product but for all products sold by the firm. (Stern, L. W. et al., 1984).

A large number of areas have been considered by the Trade Practices Commission in its' rule making process. The following are some of these areas:

1. The terms used in standard-form consumer credit contracts.
2. Warranty preface in the mobile home industry.
3. Disclosures and contract provisions in the vocational school industry.
4. Advertising and labeling of protein supplements.

4. Sale of hearing aids

In 1982 a rule to regulate food advertising was abandoned. Certain advertising practices have come under great scrutiny by the Trade Practices Commission and so some rules and regulations have been formulated specifically from these. (Donald, 1978).

One specific regulation relates to deceptive demonstrations or mock ups. This form of advertising involves the advertiser using deceptive techniques in visual advertising. This is in order to:

1. Trick the consumer into believing the superiority of the product by extreme exaggeration.
2. Achieve better visual effects by using products other than the ones being advertised.

Some examples of these are, the Cambells Soup Company wanted to convey the impression that it's vegetable soup contained a large quantity of solids and

so when filming or photographing the soup in a bowl, they first filled it with glass marbles convey the impression that the entire contents of the bowl consisted of solids that came with that soup. This impression was false and the practice was condemned as violative of the Trade Practices Act. Also, the practices substituting mashed potatoes for ice-cream, or clear plastics cubes for ice cubes in commercial photography, as the heat generated by lighting can cause the frozen products to melt, can sometimes be a viable alternative if the advertisement portrays the joys of consuming the product and hence, no apparent deception of the consumer exist. However, it is illegal if it is depicting the texture of the product. (Stern, L. W., 1984).

The Trade Practices Commission has also looked closely at the use of endorsements and testimonials as they believe these enhance the risk of deceiving purchasers, due to the importance that purchasers attach to advertisements using this technique. In 1980, guidelines were set to determine the scale of deceptiveness of certain advertising practices. (Donald 1978). The line between an endorsement and an ordinary commendation of the product being advertised by the sponsor is not always clear. If a well known personality is used in an advertisement for a product which, relates to the personality's field of expertise, then an endorsement is likely to exist. However, if an unfamiliar person is used in the advertisement no endorsement will be implied and consumers recognise that this person is just communicating the sponsors view of the product. When a well known person is used in advertising several limitations apply. The endorsement must reflect the honest opinion, belief or experience of the endorser. The endorser must not make claims about the product that could not be substantiated under the Trade Practices Act "reasonable basis" requirement. Both the advertiser and the endorser can incur liability of violating this term. (Stern, L. W. et al., 1984).

When advertising depicts actual users of a product communicating their views, the Trade Practices Commission interprets this as representing both individuals as "actual consumers" and that their experiences are typical. The experiences portrayed must represent a significant proportion of the experiences of actual users of the product. An expert endorser is defined as "an individual, group or institution possessing as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals".

Requirements that exist when experts endorse a

product are:

1. The endorsed product must be within the area of the endorsers expertise.
2. That the expert endorsement is based on product qualities or features that are relevant and available for purchase.
3. That the endorsement must be based on actual use of the expertise represented or implied and the conclusion of the expert must be accurately portrayed. (Stern, L. W. et al., 1986). In addition to these requirements for endorsements the Trade Practices Commission requires that unexpected and potentially biasing connections between the Advertiser and the endorser must be disclosed. Such as of a celebrity owning an interest in the firm promoting the product and the public is not aware of this, failure to disclose this connection is deceptive (Donald, 1978).

Advertisements that feature the price of products have a great deal of regulation applied to them based on the theory that consumers place a great emphasis on the price of a product and are likely to be affected by even the slightest degree of inaccuracy regarding a pricing claim. (Donald, 1978).

The promotional practice of using "cents - off" labeling has been regulated by the Trade Practices Commission in the "Fair Packaging and Labeling Act". For a product to be advertised as being lower than the customary retail price, five different conditions must be satisfied:

1. The product must have been sold at the price in the recent past.
2. Price reduction must be genuine.
3. The regular price must be displayed.
4. The discount can not exceed three months within a twelve month period and at least thirty days must pass between promotions.
5. Sales must not exceed 50% of total volume during a twelve month period. (Stern. L.W. et al., 1984).

Also, under this act, for a products package to contain the term "introductory offer", the product must be new or changed in a significant and substantial respect and must not exceed six months in duration. To use the words "economy size", there must be:

1. The same brand available in another size.
2. No other package stating the same.
3. The saving to the consumer is at least 5%.

When stating that a price reduction has been made, the Trade Practices Commission requires that the price has been reduced from the companies actual price, not the competitors. (Stern, L. W. et al., 1984). Another practice which is illegal and regulations have been set, is known

as bait advertising. This where a product has been advertised at an extremely low price and coupled with sales techniques at the point of sale to discourage purchase of the advertised item and encourage purchase of higher priced alternatives. These practices have been generally condemned and the Trade Practices Commission have a rule that the product advertised must be significant quantities for the demand of consumers and the duration of time that the special has been advertised. (Stern, L. W. et al., 1984).

A recent technological development has led to legal requirements that prices actually be marked on each product. This use of universal product identification code has encouraged retailers not to mark prices on the products, but due to the consumer concerns about accuracy of prices charged during “check out” process, some states have enacted laws that require retailers to mark each product with its price. (Stern, L. W. et al., 1984).

Certain promotional activities promote warranties for products purchased. The Mognuson-Moss warranty Act requires that the terms of the warranty is available to the purchaser before sale. The Trade Practices Act has guidelines to determine whether advertising of warranties are deceptive. These are:

1. To use the words “lifetime guarantee” is considered to mean the remaining natural life of the purchasers or original user.
2. Statements about the life of a guarantee will be expected to last for that duration.
3. To use the term “satisfaction or your money back” or “ten days free trial” is taken as meaning that the full purchase price will be refunded at the option of the consumer. (Stern, L. W. et al., 1984).

When advertisements state credit conditions, the advertiser must be careful, not to state too little information about the conditions and contracts of the use of credit buying as it can be considered deceptive. Thus, if an advertisement states “charge it - you won’t be billed until February”, the advertisement must also disclose the periodic rate, expressed as an annual percentage rate and the numerous other charges or fees that may be impressed under credit plans. These conditions have now become Federal law. (Stern, L. W. et al., 1984).

It is the ethical responsibility of organisations to keep the best interest of consumers in mind when producing advertising campaigns. Laws have been developed in Australia to protect consumers from unreasonable advertising however, there is still need for companies to cover areas not otherwise covered by laws. The

laws provide a guideline for advertising but are not specific enough to cover all areas it is therefore, the responsibility of advertisers to ensure advertising is suited to the consumer’s expectations. For them to be successful companies not only need to follow the laws but also need to produce ethical advertising. It is beneficial for the company to advertise within the ethics established by society. It must be remembered that different societies have different ethical systems and therefore, will require a different advertising approach. This realisation assists companies in being successful in different cultural areas.

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