



CANADIAN WATER QUALITY ASSOCIATION

Water Quality Industry

Product Promotion Guidelines

June 1996

Canadian Water Quality Association
295 The West Mall, Suite 330
Toronto, ON M9C 4Z4
Telephone: (416) 695-3068
Fax: (416) 695-2945

e-mail: k.wong@cwqa.com

website: www.cwqa.com

**Water Quality Industry
Product Promotion Guidelines**

JUNE 1996

CANADIAN WATER QUALITY ASSOCIATION

WATER QUALITY INDUSTRY PRODUCT PROMOTION GUIDELINES

PROMULGATION AND PURPOSE

The promulgation of these guidelines at this time are prompted by concerns expressed to CWQA by various agencies of the federal and provincial governments and by members of the water treatment industry that the general level of industry advertising and promotional claims often fall below acceptable norms of accuracy and completeness. Although CWQA is not necessarily in complete agreement with these expressions, it nevertheless believes it should respond to them on behalf of the industry in a positive and effective manner. It is hoped that this response will also stimulate companies in the water treatment industry to undertake a thorough and comprehensive review of their promotional material.

The sole purpose of these voluntary guidelines is to provide guidance to companies in the point-of-use water treatment industry in their efforts to minimize the likelihood that their advertising and other promotional material will mislead the public. They are not intended to provide all or any part of the wording of anyone's specific promotional material. Furthermore, these are not the only guidelines that could be written. They are merely designed to provide a general framework within which more accurate and informative advertising, promotional and sales presentation material can be prepared in order to avoid misleading consumers about the capabilities of water treatment products.

Companies in the point-of-use water treatment industry are fully aware that they cannot, acting either through CWQA or otherwise, agree on matters relating to the form or content of their promotional material or their policies in these areas. Promotional material, including advertising and sales presentation material, is a key element in competition and must be left to each individual company to develop for itself.

These guidelines were prepared by CWQA's staff and legal counsel. They were not drafted or dictated by any enforcement agency. Publication of the Guidelines were authorized by the CWQA Board of Directors. Adherence to these guidelines is not guarantee that an individual company's promotional material will be immune from subsequent proceedings instituted by any private party or government entity.

GUIDELINES

A. General Provisions

- 1) Product performance and product benefit claims shall be based on factual data obtained from tests conducted by professionally competent personnel following established test procedures which data is in existence at the time such claims are made.
- 2) Those who develop or disseminate product promotion materials shall be responsible for providing recent, reputable, verifiable, factual substantiation for the product performance or product benefit claims made in the materials.
- 3) Statements which are untrue, misleading, deceptive, fraudulent, falsely disparaging of competitors or others or which constitute insincere offers to sell shall not be used.
- 4) All pictures, exhibits, graphs or other graphic portrayals used in product promotion material shall be clearly and unambiguously truthful.

EXAMPLE:

Photographs or drawings or other means of graphically demonstrating polluted surface or groundwater (e.g. a skull and crossbones) which imply that they represent the quality of water being delivered to consumers' taps by their local water supplier should not be used.

- 5) Sweeping absolute statements should not be made if they are not true or applicable in all situations which they purport to cover.

EXAMPLES:

- a. Statements such as "Filter device will make water free of all waterborne bacteria, instantly rendering the water safe for human consumption".
- b. Statements that hard water is the reason for all water problems and, that water softeners are always the solution: e.g. "Hard water is the cause of your maintenance problems".
- c. Statements such as water softening is "a boon to plumbing" or is "the answer" to a multitude of problems. Such statements are misleading because the benefits of softening vary and are based on a number of factors including type of pipe materials (i.e. copper, galvanized), water quality, size of pipe, amount of oxygen and water velocity.
- d. Stating or implying that the water flowing from a water treatment unit is "pure" unless the word "pure" is clearly and accurately defined.

COMMENT: The substantial definitional problems with the words "pure", "purification", "purifier" or other derivatives of the word "pure" dictate that such words be used only with extreme caution. Their capacity to mislead consumers is considerable. These words have been both used and defined in a variety of ways.

- e. Statements which imply that all plumbing systems and water using appliances are subject to immediate and serious scale problems in all types of water. e.g. "With _____ water, gone are the problems of scale."
 - f. Language which overstates the kind of degree of problems caused by municipally treated water.
 - g. Claims that state or imply scientific certainty regarding the relationship, if any, between chronic illness and water quality.
 - h. Claims that state or imply scientific certainty regarding corrosion and the effect of any industry product on corrosion.
- 6) Advertisements or other promotional materials shall be true and accurate in their entirety. It is recognized that the net overall effect of such materials could be inaccurate and misleading, although each sentence standing alone and separately considered, is literal true.
- 7) Material facts shall not be omitted from or used in advertising or promotional material if the effect would be to mislead or to misrepresent.
- 8) Words or terms more commonly used in a context substantially different from their use in particular promotional material should not only be used accurately but should be qualified or further denied with such materials to avoid confusion and possible misrepresentation.

EXAMPLE:

Statements such as "softening protects investments" and "water softening is one investment that protects all others" raise many questions: i.e. What is an investment? What "investments" are protected? And how is an "investment" protected and, to what degree?

- 9) Statements about the performance attributes or benefits claimed for a product should be qualified or limited to proven facts, particularly when the attributes or benefits claimed are not readily apparent to or verifiable to consumers. In these latter cases, the claimed attributes or benefits should be described and qualified in terms more complete, comprehensive and detailed than claims of those that are readily apparent.

EXAMPLES:

- a. It would be proper to state, if accurate, that water softening generally eliminates unsightly rings and residue on dishes. However, it would not usually be sufficient to merely state that water softeners increase appliance efficiency.
 - b. Statements regarding percentage or amounts of removal of particular matter or chemicals should be explained and/or qualified so that consumers are made aware of circumstances under which such removal can be obtained.
 - c. Statements regarding percentages or amounts of fuel or energy savings should be explained and/or qualified so that consumers are made generally aware of the circumstances under which the percentages or amounts of savings can be expected to be obtained.
- 10) Promotional claims which describe a problem and offer a solution should clearly and accurately identify the circumstances under which the problem is likely to arise.

B. Warranties

- 1) The unqualified term "warranty" shall not be used in advertising.
- 2) When the term "warranty" is used in oral or written representations, the following disclosures should be made clearly and conspicuously.
 - a) The nature and extent of the warranty, including the following:
 - i. the materials, services, workmanship or characteristics warranted or excluded;
 - ii. the warranty's duration, and;
 - iii. what must be done by the customer before the warrantor will fulfil the obligations.

- b) The manner in which the advertiser will perform under the warranty, e.g. repair, replacement or refunds. If either the advertiser or the customer has an option as to what may satisfy the warranty, this shall be clearly disclosed and;
 - c) The warrantor's identity, to avoid confusion as to whether a supplier, manufacturer or the advertiser is the warrantor.
- 3) Warranties providing for adjustments on a pro-rate basis shall clearly disclose how such adjustments will be pro-rated. If adjustments are based on a price other than that paid by the purchaser, full disclosure must be made of such facts.
- 4) If "lifetime" or similar warranties relate to any life other than that of the purchaser or original user, the life referred to must be clearly disclosed. If "lifetime" or similar warranties relate to a component part of the product rather than the complete product, that component part must be clearly identified while making it clear that the "lifetime" warranty does not apply to the product as a whole.
- 5) The manner in which a warranty is used frequently constitute representation of a material fact. Not only is the advertiser bound by his warranty but he is also making a representation that his statements are consistent with the general rules and prohibitions against false and deceptive advertising. e.g. "warranted to reduce heating bills 30% or we pay the difference" is not only a warranty for the warrantor to undertake to perform (pay the difference) under the warranty's terms; the advertiser has also assumed responsibility for the truth of the entire claim that is made; i.e. that heating bills will be reduced by 30%.

C. Layouts and Illustrations

The composition of advertisements or other forms of product promotion layouts shall be such as to minimize the possibility of misleading the reader. For example, product performance claims or product benefit claims shall not be so placed in an advertisement or promotional material so as to give the impression that they apply to additional or different merchandise when such is not the fact.

D. Asterisks

An asterisk may be used to impart additional information about a word or term which is not in

itself inherently deceptive. The asterisk or other referenced symbols should not be used as a means of contradicting or substantially changing the meaning of statements or graphic portrayals.

E. Abbreviations

Commonly known abbreviations may be used in advertising however, abbreviations not generally known should be avoided.

F. Comparison/Disparagement of Competition

- 1) Advertising which deceptively or falsely disparages a competitor or competing products or services shall not be used.
- 2) Truthful comparisons using factual information may be useful to help consumers make informed buying decisions provided that:
 - a) All representations are consistent with the general rules and prohibitions against false and deceptive advertising.
 - b) All comparisons with competitive product's features or qualities which imply overall superiority are not based on an arbitrarily selected list of criteria which are met by the advertiser's or promoter's product and not by those of competitors;
 - c) The advertiser or promoter can substantiate all claims made about its products and services and those to which they are compared.

G. Testimonials and Endorsements

- 1) Prior to an advertiser's publishing or otherwise using an endorsement or testimonial (herein after both referred to as "endorsement"), the person whose endorsement is being used (endorser) should have previously made or published the contents of the endorsement or should have approved the contents and given permission for the advertiser's use of the endorsement.
- 2) An endorsement should be genuine, honest and sincere, should contain no misleading implications and should reflect the most current opinion of the person giving it.
- 3) The published or printed portion of an endorsement should fairly reflect the spirit and content of the complete endorsement.

- 4) A proper endorsement may be advertised although given for compensation. The receipt of compensation need not be disclosed unless the context or contents of the endorsement implies that there was no compensation given.

COMMENT: In general, advertising which uses endorsements is improper as being likely to mislead or confuse if:

- a) It is not genuine or does not actually represent the most current opinion of the endorser.
- b) It is not quoted in its entirety and thereby alters its overall meaning and impact;
- c) It contains representations or statements which are misleading or that while literally true, create deceptive implications; e.g.
 - i. An endorsement implies that the endorser used a product before endorsing it when he had not.
 - ii. An endorser endorses a company's complete line of products or services when either of the following is true:
 - the endorser had significant adverse experience with, or entertained reservations about any of the product line or;
 - the products or services used by the endorser do not fairly represent the breadth of diversity of the line.
 - iii. An endorsement implies an endorser's continued and satisfactory use or experience with a product when such is not, in fact, accurate.
- d) The endorser is not sufficiently qualified to express an opinion concerning the quality of the product or service being advertised or the results likely to be achieved by its use.
- e) Broad claims are made as to endorsements or approval by indefinitely large groups, e.g. "The Homeowners of Canada";
- f) An endorser has a pecuniary interest in the company whose product or service is being endorsed and this fact is not made known in the advertisement.

- g) The context or contents of an endorsement suggests that the endorser volunteered his services, e.g. out of concern about deteriorating industry standards when, in fact, he is not.
- h) The context or contents or an endorsement suggests that the endorsement implies that a member of a relevant professional or scientific community is exercising disinterested professional judgement or is speaking on behalf of such community when, in fact, he is not.
- i) The products or services used by an endorser were not representative of the goods or services in the circumstances in which a typical customer would use them.
- j) An endorsement is in the form of a publication of the results of a consumer survey and:
 - i. the survey questionnaire was biased such that the results of the survey do not accurately reflect consumer view or;
 - ii. the consumer views represented in the advertisement do not represent a fair sampling of those views expressed by persons surveyed.

CANADIAN WATER QUALITY ASSOCIATION

295 The West Mall, Suite 330, Toronto, Ontario

Phone: (416) 695-3068 Fax: (416) 695-2945

Email: k.wong@cwqa.com

Website: www.cwqa.com